

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 265**

(By Senators Palumbo, Barnes, Laird and Plymale)

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[Originating in the Committee on the Judiciary;  
reported February 4, 2011.]

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A BILL to amend and reenact §62-12-17 of the Code of West Virginia, 1931, as amended, relating to terms and conditions of release upon parole generally; and authorizing Board of Parole, with the sentencing court's concurrence, to modify or waive restrictions relating to residing with or visiting minors.

*Be it enacted by the Legislature of West Virginia:*

That §62-12-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-17. Conditions of release on parole.**

- 1 (a) Release and supervision on parole of any person,
- 2 including the supervision by the Division of Corrections of

3 any person paroled by any other state or by the federal  
4 government, shall be upon the following conditions:

5 (1) That the parolee may not, during the period of his or  
6 her parole, violate any criminal law of this or any other state  
7 or of the United States;

8 (2) That he or she may not, during the period of his or her  
9 parole, leave the state without the consent of the division;

10 (3) That he or she shall comply with the rules prescribed by  
11 the division for his or her supervision by the parole officer;

12 (4) That in every case in which the parolee for a conviction  
13 is seeking parole from an offense against a child, defined in  
14 section twelve, article eight, chapter sixty-one of this code;  
15 or article eight-b or eight-d of said chapter, or similar  
16 convictions from other jurisdictions where the parolee is  
17 returning or attempting to return to this state pursuant to  
18 the provisions of article six, chapter twenty-eight of this  
19 code, the parolee may not live in the same residence as any  
20 minor child nor exercise visitation with any minor child nor  
21 may he or she have any contact with the victim of the  
22 offense: Provided, That the provisions of this subdivision  
23 may be modified or waived upon a finding by the Board of  
24 Parole, with the concurrence of the circuit court which  
25 sentenced the parolee, that such modification or waiver  
26 would be in the best interest of the child or children; and

27 (5) That the parolee, and all federal or foreign state  
28 probationers and parolees whose supervision may have been  
29 undertaken by this state, is required to pay a fee, based on  
30 his or her ability to pay, not to exceed \$40 per month to  
31 defray costs of supervision.

32 (b) The commissioner shall keep a record of all actions  
33 taken and account for moneys received. No provision of this  
34 section prohibits the division from collecting the fees and  
35 conducting the checks upon the effective date of this section.  
36 All moneys shall be deposited in a special account in the  
37 State Treasury to be known as the "Parolee's Supervision  
38 Fee Fund". Expenditures from the fund shall be for the  
39 purposes of providing parole supervision required by the  
40 provisions of this code and are not authorized from collec-  
41 tions but are to be made only in accordance with appropria-  
42 tion by the Legislature and in accordance with the provisions  
43 of article three, chapter twelve of this code and upon the  
44 fulfillment of the provisions set forth in article two, chapter  
45 five-a of this code. Amounts collected which are found, from  
46 time to time, to exceed the funds needed for purposes set  
47 forth in this article may be transferred to other accounts or  
48 funds and redesignated for other purposes by appropriation  
49 of the Legislature.

50 (c) The division shall consider the following factors in  
51 determining whether a parolee or probationer is financially  
52 able to pay the fee:

53 (1) Current income prospects for the parolee or proba-  
54 tioner, taking into account seasonal variations in income;

55 (2) Liquid assets of the parolee or probationer, assets of the  
56 parolee or probationer that may provide collateral to obtain  
57 funds and assets of the parolee or probationer that may be  
58 liquidated to provide funds to pay the fee;

59 (3) Fixed debts and obligations of the parolee or proba-  
60 tioner, including federal, state and local taxes and medical  
61 expenses;

62 (4) Child care, transportation and other reasonably  
63 necessary expenses of the parolee or probationer related to  
64 employment; and

65 (5) The reasonably foreseeable consequences for the  
66 parolee or probationer if a waiver of, or reduction in, the fee  
67 is denied.

68 (d) In addition, the division may impose, subject to modifi-  
69 cation at any time, any other conditions which the division  
70 considers advisable.