

Senate Bill No. 307

(By Senators Cann, Williams, Cookman and Palumbo)

[Introduced January 9, 2014; referred to the Committee on
Government Organization; and then to the Committee on the
Judiciary.]

11 A BILL to amend and reenact §62-11C-5 and §62-11C-7 of the Code of
12 West Virginia, 1931, as amended; and to amend said code by
13 adding thereto a new article, designated §62-11F-1, §62-11F-2,
14 §62-11F-3, §62-11F-4 and §62-11F-5, all relating to
15 authorizing community corrections programs to operate pretrial
16 release program; permitting certain fees to be assessed to
17 county commissions; permitting certain fees to be assessed to
18 persons on pretrial release; stating applicability of pretrial
19 release programs; establishing guidelines for pretrial release
20 programs; providing for potential funding sources; requiring
21 community pretrial committees to recommend release of certain
22 persons facing criminal charges who are in regional jails
23 prior to adjudication; and setting forth the duties of

1 pretrial release programs.

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

3 That §62-11C-5 and §62-11C-7 of the Code of West Virginia,
4 1931, as amended, be amended and reenacted; and that said code be
5 amended by adding thereto a new article, designated §62-11F-1, §62-
6 11F-2, §62-11F-3, §62-11F-4 and §62-11F-5, all to read as follows:

7 **ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.**

8 **§62-11C-5. Establishment of programs.**

9 (a) Any county or combination of counties or a county or
10 counties and a Class I or II municipality may establish and operate
11 community corrections programs, as provided ~~for~~ in this section, to
12 be used both prior to trial as a condition of bond in circuit and
13 magistrate court, as well as an alternative sentencing option for
14 those offenders sentenced within the jurisdiction of the county or
15 counties which establish and operate the program: *Provided, That*
16 the chief judge must certify that the community corrections
17 facility is available for use in connection with the imposition of
18 pretrial bond conditions.

19 (b) Any county or combination of counties or a county or
20 counties and a Class I or II municipality that seek to establish
21 programs as authorized in this section shall submit plans and
22 specifications for the programs to be established, including
23 proposed budgets, for review and approval by the community

1 corrections subcommittee established in section three of this
2 article.

3 (c) Any county or combination of counties or a county or
4 counties and a Class I or II municipality may establish and operate
5 an approved community corrections program to provide alternative
6 sanctioning options for an offender who is convicted of an offense
7 for which he or she may be sentenced to a period of incarceration
8 in a county or regional jail or a state correctional facility and
9 for which probation or home incarceration may be imposed as an
10 alternative to incarceration.

11 (d) Community corrections programs authorized by subsection
12 (a) of this section may provide, but are not limited to, providing
13 any of the following services:

- 14 (1) Probation supervision programs;
- 15 (2) Day fine programs;
- 16 (3) Community service restitution programs;
- 17 (4) Home incarceration programs;
- 18 (5) Substance abuse treatment programs;
- 19 (6) Sex offender containment programs;
- 20 (7) Licensed domestic violence offender treatment programs;
- 21 (8) Day reporting centers;
- 22 (9) Educational or counseling programs;
- 23 (10) Drug courts; ~~or~~

1 (11) Community beautification and reclamation programs for
2 state highways, municipal, county and state parks and recreation
3 areas and community gardens; and

4 (12) Pretrial release programs.

5 (e) A county or combination of counties or a county or
6 counties and a Class I or II municipality which establish and
7 operate community corrections programs as provided ~~for~~ in this
8 section may contract with other counties to provide community
9 corrections services.

10 (f) For purposes of this section, the phrase "may be sentenced
11 to a period of incarceration" means that the statute defining the
12 offense provides for a period of incarceration as a possible
13 penalty.

14 (g) No provision of this article may be construed to allow a
15 person participating in or under the supervision of a community
16 corrections program to earn good time or any other reduction in
17 sentence.

18 **§62-11C-7. Supervision or participation fee.**

19 (a) A circuit judge, magistrate, municipal court judge or
20 community criminal justice board may require the payment of a
21 supervision or participation fee from any person required to be
22 supervised by or participate in a community corrections program.
23 The circuit judge, magistrate, municipal court judge or community

1 criminal justice board shall consider the person's ability to pay
2 in determining the imposition and amount of the fee.

3 (b) A circuit judge, magistrate or community criminal justice
4 board may require payment of a supervision or participation fee of
5 \$7 per person per day of pretrial supervision from the county
6 commission pursuant to a pretrial release program established
7 pursuant to article eleven-f of this chapter.

8 (c) A circuit judge, magistrate or community criminal justice
9 board may also require payment of a supervision or participation
10 fee of \$30 per month of pretrial supervision from the person under
11 supervision pursuant to a pretrial release program established
12 pursuant to article eleven-f of this chapter.

13 ~~(b)~~ (d) All fees ordered by the circuit court, magistrate
14 court, municipal court or community criminal justice board pursuant
15 to this section are to be paid to the community criminal justice
16 board, who shall remit the fees monthly to the treasurer of the
17 county designated as the fiscal agent for the board pursuant to
18 section six of this article.

19 **ARTICLE 11F. PRETRIAL RELEASE PROGRAMS.**

20 **§62-11F-1. Applicability.**

21 This article applies to adult defendants who have been charged
22 with one or more misdemeanors or felonies and are incarcerated in
23 a regional jail prior to adjudication.

1 **§62-11F-2. Establishment of pretrial release programs.**

2 (a) It is the purpose of pretrial release programs to employ
3 recommendations from the Council of State Government's Justice
4 Center's Analyses and Policy Options to Reduce Spending on
5 Corrections and Reinvest in Strategies to Increase Public Safety,
6 by providing for uniform statewide risk assessment and monitoring
7 of those released prior to trial, facilitating a statewide response
8 to the problem of overcrowded regional jails and costs to county
9 commissions.

10 (b) Any county, circuit or combination thereof which elects or
11 is required to establish a pretrial program pursuant to this
12 article shall establish a local community pretrial committee which
13 consists of a prosecutor, county commissioner, sheriff, executive
14 director of a community corrections program, chief probation
15 officer and a member of the criminal defense bar, or any of those
16 persons' designee. The committee shall meet, at a minimum, once
17 per week to review and recommend pretrial release of defendants to
18 the court.

19 (c) Pretrial release programs shall be funded by
20 appropriations made to the Supreme Court of Appeals for such
21 purpose.

22 **§62-11F-3. Pretrial release program guidelines.**

23 (a) The Supreme Court of Appeals of West Virginia has complete

1 oversight and authority over all pretrial services.

2 (b) The Supreme Court of Appeals of West Virginia shall
3 establish recommended guidelines for pretrial programs to use when
4 ordering pretrial release for defendants whose pretrial risk
5 assessment indicate that they are an appropriate candidate for
6 pretrial release.

7 (c) The Community Corrections Subcommittee of the Governor's
8 Committee on Crime, Delinquency and Corrections, pursuant to
9 section two, article eleven-c, chapter sixty-two of this code,
10 shall approve policy and funding for the development, maintenance
11 and evaluation of pretrial release programs. Any county, circuit
12 or combination thereof that establishes a pretrial program intended
13 to provide pretrial release services shall submit a grant proposal
14 to the Community Corrections Subcommittee of the Governor's
15 Committee on Crime, Delinquency and Correction for review and
16 approval.

17 **§62-11F-4. Pretrial release assessment.**

18 The Supreme Court of Appeals of West Virginia may adopt a
19 standardized pretrial risk assessment for use by pretrial release
20 programs to aid in making pretrial decisions under article one-c of
21 this chapter.

22 **§62-11F-5. Role of pretrial release programs.**

23 (a) A pretrial release program established by any county,

1 circuit or combination thereof, pursuant to this article, shall:

2 (1) Collect and present the necessary information, present
3 risk assessment and make release recommendations to the court.

4 (2) Present information to the court relating to the risk
5 defendants may pose in failing to appear in court or of threatening
6 the safety of the community or any other person and, consistent
7 with court policy, develop release recommendations responding to
8 risk;

9 (3) Develop and provide appropriate and effective supervision
10 for all persons released pending adjudication who are assigned
11 supervision as a condition of release;

12 (4) Monitor compliance of released defendants with the
13 requirements of assigned release conditions;

14 (5) Promptly inform the court of all apparent violations of
15 pretrial release conditions or arrests of persons released pending
16 trial, including those directly supervised by pretrial services as
17 well as those released under other forms of conditional release,
18 and recommend appropriate modifications of release conditions;

19 (6) Coordinate the services of other agencies, individuals or
20 organizations that may serve as custodians for released defendants,
21 and advise the court as to their appropriateness, availability,
22 reliability and capacity relating to pretrial release conditions;

23 (7) Review the status of detained defendants on ongoing basis

1 for any changes in eligibility for release options and facilitate
2 their release as soon as feasible and appropriate;

3 (8) Develop and operate an accurate information management
4 system to support prompt identification, information collections
5 and presentation, risk assessment, release conditions selection,
6 compliance monitoring and detention review functions essential to
7 an effective pretrial release program; and

8 (9) Remind persons released before trial of their court dates
9 to attempt to facilitate their court appearance.

10 (b) Pretrial release programs may monitor, supervise and
11 assist defendants released prior to trial.

NOTE: The purpose of this bill is authorize pretrial release programs to evaluate and supervise persons on pretrial release as part of a community corrections program.

Strike throughs indicate language that would be stricken from present code, and underscoring indicates new language that would be added.

§62-11F-1, §62-11F-2, §62-11F-3, §62-11F-4 and §62-11F-5 are new; therefore, strike-throughs and underscoring have been omitted.