

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4276**

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[Reported February 5, 2018; Referred to the

Committee on the Judiciary.]



1 A BILL to amend and reenact §62-11A-1 of the Code of West Virginia, 1931, as amended, relating  
2 to allowing magistrates to grant work release privileges.

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

**ARTICLE 11A. RELEASE FOR WORK AND OTHER PURPOSES.**

**§62-11A-1. Release for work and other purposes by courts of record with criminal  
jurisdiction.**

1 (a) When a defendant is sentenced or committed for a term of one year or less by a court  
2 of record having criminal jurisdiction, the court may in its order grant to the defendant the privilege  
3 of leaving the jail during necessary and reasonable hours for any of the following purposes:

4 (1) To work at his or her employment;

5 (2) To seek employment;

6 (3) To conduct his or her own business or to engage in other self-employment, including  
7 housekeeping and attending to the needs of his or her family;

8 (4) To attend an educational institution;

9 (5) To obtain medical treatment;

10 (6) To devote time to any other purpose approved of or ordered by the court, including  
11 participation in the litter control program of the county unless the court specifically finds that this  
12 alternative service would be inappropriate.

13 (b) When a defendant is sentenced or committed for a term of one year or less by a  
14 magistrate of the state of West Virginia having criminal jurisdiction, the court may in its order grant  
15 to the defendant the privilege of leaving the jail during necessary and reasonable hours to work  
16 at his or her employment.

17 ~~(b)~~ (c) Whenever an inmate who has been granted the privilege of leaving the jail under  
18 this section is not engaged in the activity for which the leave is granted, he or she shall be confined  
19 in jail.

20           ~~(c)~~ (d) An inmate sentenced to ordinary confinement may petition the court at any time  
21 after sentence for the privilege of leaving jail under this section and may renew his or her petition  
22 in the discretion of the court. The court may withdraw the privilege at any time by order entered  
23 with or without notice.

24           ~~(d)~~ (e) If the inmate has been granted permission to leave the jail to seek or take  
25 employment, the court's probation officers or, if none, the jail shall assist him or her in obtaining  
26 suitable employment and in making certain that employment already obtained is suitable.  
27 Employment shall not be deemed suitable if the wages or working conditions or other  
28 circumstances present a danger of exploitation or of interference in a labor dispute in the  
29 establishment in which the inmate would be employed.

30           ~~(e)~~ (f) An inmate who is serving his or her sentence pursuant to this section shall be eligible  
31 for a reduction of his or her term for good behavior and faithful performance of duties in the same  
32 manner as if he or she had served his or her term in ordinary confinement.

33           ~~(f)~~ (g) The court shall not make an order granting the privilege of leaving the institution  
34 under this section unless it is satisfied that there are adequate facilities for the administration of  
35 such privilege in the jail or other institution in which the defendant will be confined.

36           ~~(g)~~ (h) In every case wherein the defendant has been convicted of an offense, defined in  
37 section twelve, article eight, chapter sixty-one of this code or in article eight-b or eight-d of said  
38 chapter against a child, the defendant shall not live in the same residence as any minor child, nor  
39 exercise visitation with any minor child and shall have no contact with the victim of the offense:  
40 *Provided*, That the defendant may petition the court of the circuit wherein he or she was so  
41 convicted for a modification of this term and condition of this probation and the burden shall rest  
42 upon the defendant to demonstrate that a modification is in the best interest of the child.

NOTE: The purpose of this bill is to allow magistrates to grant work release privileges.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.