

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 127**

SENATOR TRUMP, *original sponsor*

[Originating in the Committee on the Judiciary;

Reported on February 4, 2019]



1 A BILL to amend and reenact §62-12-6 of the Code of West Virginia, 1931, as amended, relating  
2 to the duty of probation officers to perform such alcohol and drug testing of litigants as  
3 directed by the circuit and family courts; and reporting results to the court.

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

**ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-6. Powers and duties of probation officers.**

1 (a) Each probation officer shall:

2 (1) Investigate all cases which the court refers to the officer for investigation and shall  
3 report in writing on each case;

4 (2) Conduct a standardized risk and needs assessment, using the instrument adopted by  
5 the Supreme Court of Appeals of West Virginia, for any probationer for whom an assessment has  
6 not been conducted either prior to placement on probation or by a specialized assessment officer.  
7 The results of all standardized risk and needs assessments are confidential;

8 (3) Supervise the probationer and enforce probation according to assessment and  
9 supervision standards adopted by the Supreme Court of Appeals of West Virginia;

10 (4) Furnish to each person released on probation under the officer's supervision a written  
11 statement of the probationer's conditions of probation together with a copy of the rules prescribed  
12 by the Supreme Court of Appeals of West Virginia;

13 (5) Stay informed concerning the conduct and condition of each probationer under the  
14 officer's supervision and report on the conduct and condition of each probationer in writing as  
15 often as the court requires;

16 (6) Use all practicable and suitable methods to aid and encourage the probationer to  
17 improve his or her conduct and condition;

18 (7) Perform random drug and alcohol testing on probationers under his or her supervision  
19 as directed by the circuit court; and perform such other alcohol and drug testing of litigants as the

20 circuit court or the family court may require, and report the results thereof to the court making the  
21 referral for testing;

22 (8) Maintain detailed work records; and

23 (9) Perform any other duties the court requires.

24 (b) The probation officer may, with or without an order or warrant, arrest any probationer  
25 as provided in §62-12-10 of this code, and arrest any person on supervised release when there  
26 is reasonable cause to believe that the person on supervised release has violated a condition of  
27 release. A person on supervised release who is arrested shall be brought before the court for a  
28 prompt and summary hearing.

29 (c) Notwithstanding any provision of this code to the contrary:

30 (1) Any probation officer appointed on or after July 1, 2002, may carry handguns in the  
31 course of the officer's official duties after meeting specialized qualifications established by the  
32 Governor's Committee on Crime, Delinquency, and Correction. The qualifications shall include  
33 the successful completion of handgun training, which is comparable to the handgun training  
34 provided to law-enforcement officers by the West Virginia State Police and includes a minimum  
35 of four hours of training in handgun safety.

36 (2) Probation officers may only carry handguns in the course of their official duties after  
37 meeting the specialized qualifications set forth in subdivision (1) of this subsection.

38 (3) Nothing in this subsection includes probation officers within the meaning of law-  
39 enforcement officers as defined in §30-29-1 of this code.

40 (d) The Supreme Court of Appeals of West Virginia may adopt a standardized risk and  
41 needs assessment with risk cut-off scores for use by probation officers, taking into consideration  
42 the assessment instrument adopted by the Division of Corrections and Rehabilitation under §62-  
43 12-13(h) of this code and the responsibility of the Division of Justice and Community Services to  
44 evaluate the use of the standardized risk and needs assessment. The results of any standardized  
45 risk and needs assessment are confidential.