

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 311

FISCAL
NOTE

BY SENATOR CLEMENTS, TRUMP, CLINE, HAMILTON,

WOELFEL, BALDWIN, AND MAYNARD

[Introduced January 13, 2020; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §62-4-16 of the Code of West Virginia, 1931, as amended, relating
 2 to court-ordered community service; and providing state and political subdivisions
 3 immunity from certain suits from individuals participating in court-ordered community
 4 service.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. RECOVERY OF FINES IN CRIMINAL CASES.

**§62-4-16. Community service work may be substituted in lieu of a fine in municipal court
and magistrate court; immunity from suit.**

1 (a) Notwithstanding any provision of this code to the contrary, a municipal judge or a
 2 magistrate may substitute in lieu of the imposition of a sentence of incarceration or imposition of
 3 a fine, substitute community service work for such incarceration or fine. Where community service
 4 work is ordered as a substitute on a sentence of incarceration an eight-hour work day shall
 5 extinguish one day of any sentence of incarceration. The minimum wage established by the
 6 prevailing federal minimum wage in effect at the time of sentencing is imposed shall be used to
 7 compute the amount of community service work necessary to extinguish the fine. In the discretion
 8 of the court, the sentence credits may run concurrently or consecutively.

9 (b) Any community service ordered pursuant to the provisions of this section shall be
 10 performed for government entities or charitable or nonprofit entities and be supervised by the
 11 chief of police of the municipality or his or her designee.

12 (c) Persons sentenced under the provisions of this section remain under the jurisdiction of
 13 the municipal court. The court may withdraw the community service sentence at any time by order
 14 entered with or without notice and order a person previously sentenced to community service to
 15 serve the term of incarceration or to pay the fine available to the court upon the person's
 16 conviction: *Provided*, That any community service work performed before the community service
 17 sentence is withdrawn shall be credited against any term of incarceration or fine imposed.

18 (d) The State of West Virginia and its political subdivisions are immune from legal actions

- 19 brought by individuals voluntarily participating in court-ordered community service, for liability for
20 injuries occurring while performing the community service.

NOTE: The purpose of this bill is to provide immunity to the state and political subdivisions from legal actions for liability for injury to a person while the person is performing voluntary community service ordered by a municipal court or magistrate.

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