

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 311

SENATORS CLEMENTS, TRUMP, CLINE, HAMILTON,
WOELFEL, BALDWIN, AND MAYNARD, *original sponsors*

[Originating in the Committee on the Judiciary;
reported on January 21, 2020]

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; designating supervisor of person sentenced to court-
3 ordered community service; and providing state and political subdivisions immunity from
4 certain suits from individuals participating in court-ordered community 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, community service work for such incarceration or fine. Where community service work is
4 ordered as a substitute on a sentence of incarceration, an eight-hour work day shall extinguish
5 one day of any sentence of incarceration. The minimum wage established by the prevailing
6 federal minimum wage in effect at the time sentencing is imposed shall be used to compute the
7 amount of community service work necessary to extinguish the fine. In the discretion of the court,
8 the sentence credits may run concurrently or consecutively. ~~and be supervised by the chief of~~
9 ~~police of the municipality of his or her designee.~~

10 (b) Any community service ordered pursuant to the provisions of this section shall be
11 performed for government entities or charitable or nonprofit entities.

12 (c) Any person who is sentenced to court-ordered community service under this section
13 by a municipal court shall be supervised by the chief of police, or his or her designee. Any person
14 who is sentenced to court-ordered community service under this section by a magistrate shall be
15 supervised by the sheriff or other person designated by the county commission.

16 ~~(e)~~ (d) Persons sentenced under the provisions of this section remain under the jurisdiction
17 of the sentencing court. The court may withdraw the community service sentence at any time by
18 order entered with or without notice and order a person previously sentenced to community

19 service to serve the term of incarceration or to pay the fine available to the court upon the person's
20 conviction: *Provided*, That any community service work performed before the community service
21 sentence is withdrawn shall be credited against any term of incarceration or fine imposed.

22 (e) This section does not create any additional cause of action for individuals who appear
23 in municipal or magistrate court. Any person who participates in court-ordered community service
24 is limited to the remedies contained in §29-12A-1 et seq. of this code, subject to any defenses,
25 immunities, and limitations of liability contained therein.