

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 3445**

By Delegates Nestor and Kirby

[Originating in the Committee on the Judiciary;

Reported on February 21, 2023]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §62-12-30, relating to probation and parole; creating earned compliance  
3 credits for individuals on probation and parole for certain behaviors and actions to  
4 incentivize rehabilitation efforts; authorizing supervising officers to recommend rescinding  
5 of credit to the court in certain circumstances; and requiring the Division of Corrections and  
6 Rehabilitation and the Division of Probation Services to provide annual reports to the  
7 Legislature.

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

**ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-30. Earned compliance credits for probation and parole.**

1 (a) Any period of probation or parole may be reduced by earned compliance credits under  
2 the provisions of this section.

3 (b) An individual shall receive 30 days of earned compliance credits for each 30 day period  
4 in which the individual has substantially fulfilled all the conditions of their probation or parole.

5 (c) In addition to any compliance credits earned pursuant to any other subsection, an  
6 individual shall receive 30 days of earned compliance credits for each 90 day period in which they  
7 have maintained employment.

8 (d) In addition to any compliance credits earned pursuant to any other subsection, an  
9 individual shall receive any combination of earned compliance credits toward the completion of  
10 their period of probation or parole in accordance with the following:

11 (1) An individual shall receive earned compliance credits toward the completion of their  
12 period of probation or parole for the full payment of court costs, fines, supervision fees, and  
13 restitution as follows:

14 (A) Court costs: 30 days;

15 (B) Fines: 30 days;

16 (C) Supervision fees: 30 days; and

17 (D) Restitution: 30 days.

18 (2) An individual may receive earned compliance credits toward the completion of their  
19 period of probation or parole for the successful completion of treatment or rehabilitation programs  
20 as follows:

21 (A) Parenting class or parental responsibility program, as designated or approved by the  
22 individual's supervising officer: 30 days;

23 (B) Anger management or violence prevention program, as designated or approved by the  
24 individual's supervising officer: 30 days;

25 (C) Other life skills, training, or development program, as designated or approved by the  
26 individual's supervising officer: 30 days;

27 (D) Vocational, technical, or career education or training program, as designated or  
28 approved by the individual's supervising officer: 60 days;

29 (E) Alcohol or substance abuse counseling or treatment, as designated or approved by the  
30 individual's supervising officer: 60 days; and

31 (F) Any other faith-based, volunteer, or community-based program ordered or approved by  
32 the court or the individual's supervising officer: 60 days.

33 (3) An individual may receive earned compliance credits toward the completion of their  
34 period of probation or parole for earning after sentencing the following diplomas, certificates, or  
35 degrees:

36 (A) A high school diploma or high school equivalency certificate: 90 days; and

37 (B) An associate's or bachelor's degree: 180 days; and

38 (C) A master's or professional degree: 180 days.

39 (e) Limitations on eligibility for earned compliance credits. - A person shall not be eligible to  
40 receive earned compliance credits as set forth in subsections (a) through (d) for periods of  
41 probation or parole resulting from convictions of the following offenses:

42 (1) Any felony crime of violence against the person as set forth in §61-2-1 et seq., §61-3E-1  
43 et seq., §61-8B-1 et seq., and §61-8D-1 et seq. of this code.

44 (2) Any offense in which the probationer or parolee used or exhibited a deadly weapon or  
45 dangerous instrument:

46 (f) The earned compliance credit periods set forth in subsections (a) through (d) may not be  
47 used to reduce a period of probation or parole in such a manner as to allow a probationer or  
48 parolee to be released from supervision prior to completing court or board programming or  
49 treatment, including but not limited to treatment courts.

50 (g) If the supervising probation or parole officer has determined that a person on probation  
51 or parole has not been compliant with a condition of his or her probation or parole in a given  
52 calendar month, the supervising officer may recommend that the court or parole board rescind up  
53 to 30 days of earned compliance credits as an administrative sanction in lieu of bringing the  
54 violation pursuant to §62-12-10 or §62-12-19 of this code.

55 (h) A person who has had his or her probation or parole revoked may not use previously  
56 earned compliance credit to reduce a subsequent sentence of incarceration or subsequently  
57 imposed period of probation or parole absent an express authorization to do so by the circuit court  
58 or parole board.

59 (i) The Division of Corrections and Rehabilitation shall provide annually to the Speaker of  
60 the House of Delegates and the President of the Senate the number and percentage of people  
61 under parole supervision who qualify for earned discharge in one or more months of the year and  
62 the average amount of credits earned within the year.

63 (j) The Division of Probation Services shall provide annually to the Speaker of the House of  
64 Delegates and the President of the Senate the number and percentage of people under probation  
65 supervision who qualify for earned discharge in one or more months of the year and the average  
66 amount of credits earned within the year.

NOTE: The purpose of this bill is to create earned compliance credits for individuals on probation and parole for certain behaviors and actions to incentivize rehabilitation efforts. The bill authorizes supervising officers to recommend rescinding of credit to the court in certain circumstances. Finally, the bill requires the Division of Corrections and Rehabilitation and the Division of Probation Services to provide annual reports to the Legislature.

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