

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 265**

4 (By Senators Palumbo, Barnes, Laird and Plymale)

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6 [Originating in the Committee on the Judiciary;

7 reported February 4, 2011.]  
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11 A BILL to amend and reenact §62-12-17 of the Code of West Virginia,  
12 1931, as amended, relating to terms and conditions of release  
13 upon parole generally; and authorizing Board of Parole, with  
14 the sentencing court's concurrence, to modify or waive  
15 restrictions relating to residing with or visiting minors.

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

17 That §62-12-17 of the Code of West Virginia, 1931, as amended,  
18 be amended and reenacted to read as follows:

19 **ARTICLE 12. PROBATION AND PAROLE.**

20 **§62-12-17. Conditions of release on parole.**

21 (a) Release and supervision on parole of any person, including  
22 the supervision by the Division of Corrections of any person  
23 paroled by any other state or by the federal government, shall be  
24 upon the following conditions:

25 (1) That the parolee may not, during the period of his or her

1 parole, violate any criminal law of this or any other state or of  
2 the United States;

3 (2) That he or she may not, during the period of his or her  
4 parole, leave the state without the consent of the division;

5 (3) That he or she shall comply with the rules prescribed by  
6 the division for his or her supervision by the parole officer;

7 (4) That in every case in which the parolee for a conviction  
8 is seeking parole from an offense against a child, defined in  
9 section twelve, article eight, chapter sixty-one of this code; or  
10 article eight-b or eight-d of said chapter, or similar convictions  
11 from other jurisdictions where the parolee is returning or  
12 attempting to return to this state pursuant to the provisions of  
13 article six, chapter twenty-eight of this code, the parolee may not  
14 live in the same residence as any minor child nor exercise  
15 visitation with any minor child nor may he or she have any contact  
16 with the victim of the offense: Provided, That the provisions of  
17 this subdivision may be modified or waived upon a finding by the  
18 Board of Parole, with the concurrence of the circuit court which  
19 sentenced the parolee, that such modification or waiver would be in  
20 the best interest of the child or children; and

21 (5) That the parolee, and all federal or foreign state  
22 probationers and parolees whose supervision may have been  
23 undertaken by this state, is required to pay a fee, based on his or  
24 her ability to pay, not to exceed \$40 per month to defray costs of  
25 supervision.

26 (b) The commissioner shall keep a record of all actions taken

1 and account for moneys received. No provision of this section  
2 prohibits the division from collecting the fees and conducting the  
3 checks upon the effective date of this section. All moneys shall  
4 be deposited in a special account in the State Treasury to be known  
5 as the "Parolee's Supervision Fee Fund". Expenditures from the  
6 fund shall be for the purposes of providing parole supervision  
7 required by the provisions of this code and are not authorized from  
8 collections but are to be made only in accordance with  
9 appropriation by the Legislature and in accordance with the  
10 provisions of article three, chapter twelve of this code and upon  
11 the fulfillment of the provisions set forth in article two, chapter  
12 five-a of this code. Amounts collected which are found, from time  
13 to time, to exceed the funds needed for purposes set forth in this  
14 article may be transferred to other accounts or funds and  
15 redesignated for other purposes by appropriation of the  
16 Legislature.

17 (c) The division shall consider the following factors in  
18 determining whether a parolee or probationer is financially able to  
19 pay the fee:

20 (1) Current income prospects for the parolee or probationer,  
21 taking into account seasonal variations in income;

22 (2) Liquid assets of the parolee or probationer, assets of the  
23 parolee or probationer that may provide collateral to obtain funds  
24 and assets of the parolee or probationer that may be liquidated to  
25 provide funds to pay the fee;

26 (3) Fixed debts and obligations of the parolee or probationer,

1 including federal, state and local taxes and medical expenses;

2 (4) Child care, transportation and other reasonably necessary  
3 expenses of the parolee or probationer related to employment; and

4 (5) The reasonably foreseeable consequences for the parolee or  
5 probationer if a waiver of, or reduction in, the fee is denied.

6 (d) In addition, the division may impose, subject to  
7 modification at any time, any other conditions which the division  
8 considers advisable.