

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 584**

4 (By Senators Cann, Green, Wells, Walters, Palumbo, Laird, Miller,  
5 Tucker, Snyder, Kessler (Mr. President), Kirkendoll, Stollings,  
6 Cookman, Plymale and Fitzsimmons)

7 \_\_\_\_\_  
8 [Originating in the Committee on the Judiciary;  
9 reported March 21, 2013.]  
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11  
12 A BILL to amend and reenact §62-11C-5 and §62-11C-7 of the Code of  
13 West Virginia, 1931, as amended; and to amend said code by  
14 adding thereto a new article, designated §62-11F-1, §62-11F-2,  
15 §62-11F-3, §62-11F-4 and §62-11F-5, all relating to  
16 authorizing community corrections programs to operate pretrial  
17 release program; permitting certain fees to be assessed to  
18 county commissions; permitting certain fees to be assessed to  
19 persons on pretrial release; stating applicability of pretrial  
20 release programs; establishing guidelines for pretrial release  
21 programs; providing for potential funding sources; requiring  
22 community pretrial committees to recommend release of certain  
23 persons facing criminal charges who are in regional jails  
24 prior to adjudication; and setting forth the duties of

1 pretrial release programs.

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

3 That §62-11C-5 and §62-11C-7 of the Code of West Virginia,  
4 1931, as amended, be amended and reenacted; and that said code be  
5 amended by adding thereto a new article, designated §62-11F-1, §62-  
6 11F-2, §62-11F-3, §62-11F-4 and §62-11F-5, all to read as follows:

7 **ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.**

8 **§62-11C-5. Establishment of programs.**

9 (a) Any county or combination of counties or a county or  
10 counties and a Class I or II municipality may establish and operate  
11 community corrections programs, as provided ~~for~~ in this section, to  
12 be used both prior to trial as a condition of bond in circuit and  
13 magistrate court, as well as an alternative sentencing option for  
14 those offenders sentenced within the jurisdiction of the county or  
15 counties which establish and operate the program: *Provided*, That  
16 the chief judge must certify that the community corrections  
17 facility is available for use in connection with the imposition of  
18 pretrial bond conditions.

19 (b) Any county or combination of counties or a county or  
20 counties and a Class I or II municipality that seek to establish  
21 programs as authorized in this section shall submit plans and  
22 specifications for the programs to be established, including  
23 proposed budgets, for review and approval by the community  
24 corrections subcommittee established in section three of this

1 article.

2 (c) Any county or combination of counties or a county or  
3 counties and a Class I or II municipality may establish and operate  
4 an approved community corrections program to provide alternative  
5 sanctioning options for an offender who is convicted of an offense  
6 for which he or she may be sentenced to a period of incarceration  
7 in a county or regional jail or a state correctional facility and  
8 for which probation or home incarceration may be imposed as an  
9 alternative to incarceration.

10 (d) Community corrections programs authorized by subsection  
11 (a) of this section may provide, but are not limited to providing,  
12 any of the following services:

- 13 (1) Probation supervision programs;
- 14 (2) Day fine programs;
- 15 (3) Community service restitution programs;
- 16 (4) Home incarceration programs;
- 17 (5) Substance abuse treatment programs;
- 18 (6) Sex offender containment programs;
- 19 (7) Licensed domestic violence offender treatment programs;
- 20 (8) Day reporting centers;
- 21 (9) Educational or counseling programs;
- 22 (10) Drug courts; ~~or~~
- 23 (11) Community beautification and reclamation programs for  
24 state highways, municipal, county and state parks and recreation

1 areas and community gardens; and

2 (12) Pretrial release programs.

3 (e) A county or combination of counties or a county or  
4 counties and a Class I or II municipality which establish and  
5 operate community corrections programs as provided ~~for~~ in this  
6 section may contract with other counties to provide community  
7 corrections services.

8 (f) For purposes of this section, the phrase "may be sentenced  
9 to a period of incarceration" means that the statute defining the  
10 offense provides for a period of incarceration as a possible  
11 penalty.

12 (g) No provision of this article may be construed to allow a  
13 person participating in or under the supervision of a community  
14 corrections program to earn good time or any other reduction in  
15 sentence.

16 **§62-11C-7. Supervision or participation fee.**

17 (a) A circuit judge, magistrate, municipal court judge or  
18 community criminal justice board may require the payment of a  
19 supervision or participation fee from any person required to be  
20 supervised by or participate in a community corrections program.  
21 The circuit judge, magistrate, municipal court judge or community  
22 criminal justice board shall consider the person's ability to pay  
23 in determining the imposition and amount of the fee.

24 (b) A circuit judge, magistrate or community criminal justice

1 board may require payment of a supervision or participation fee of  
2 \$7 per person per day of pretrial supervision from the county  
3 commission pursuant to a pretrial release program established  
4 pursuant to article eleven-f of this chapter.

5 (c) A circuit judge, magistrate or community criminal justice  
6 board may also require payment of a supervision or participation  
7 fee of \$30 per month of pretrial supervision from the person under  
8 supervision pursuant to a pretrial release program established  
9 pursuant to article eleven-f of this chapter.

10 ~~(b)~~ (d) All fees ordered by the circuit court, magistrate  
11 court, municipal court or community criminal justice board pursuant  
12 to this section are to be paid to the community criminal justice  
13 board, who shall remit the fees monthly to the treasurer of the  
14 county designated as the fiscal agent for the board pursuant to  
15 section six of this article.

16 **ARTICLE 11F. PRETRIAL RELEASE PROGRAMS.**

17 **§62-11F-1. Applicability.**

18 This article applies to adult defendants who have been charged  
19 with one or more misdemeanors or felonies and are incarcerated in  
20 a regional jail prior to adjudication.

21 **§62-11F-2. Establishment of pretrial release programs.**

22 (a) It is the purpose of pretrial release programs to employ  
23 recommendations from the Council of State Government's Justice  
24 Center's Analyses and Policy Options to Reduce Spending on

1 Corrections and Reinvest in Strategies to Increase Public Safety,  
2 by providing for uniform statewide risk assessment and monitoring  
3 of those released prior to trial, facilitating a statewide response  
4 to the problem of overcrowded regional jails and costs to county  
5 commissions.

6 (b) Any county, circuit or combination thereof which elects or  
7 is required to establish a pretrial program pursuant to this  
8 article shall establish a local community pretrial committee which  
9 consists of a prosecutor, county commissioner, sheriff, executive  
10 director of a community corrections program, chief probation  
11 officer and a member of the criminal defense bar, or any of those  
12 persons' designee. The committee shall meet, at a minimum, once  
13 per week to review and recommend pretrial release of defendants to  
14 the court.

15 (c) Pretrial release programs shall be funded by  
16 appropriations made to the Supreme Court of Appeals for such  
17 purpose.

18 **§62-11F-3. Pretrial release program guidelines.**

19 (a) The Supreme Court of Appeals of West Virginia shall have  
20 complete oversight and authority over all pretrial services.

21 (b) The Supreme Court of Appeals of West Virginia shall  
22 establish recommended guidelines for pretrial programs to use when  
23 ordering pretrial release for defendants whose pretrial risk  
24 assessment indicate that they are an appropriate candidate for

1 pretrial release.

2 (c) The Community Corrections Subcommittee of the Governor's  
3 Committee on Crime, Delinquency and Corrections, pursuant to  
4 section two, article eleven-c, chapter sixty-two of this code,  
5 shall approve policy and funding for the development, maintenance  
6 and evaluation of pretrial release programs. Any county, circuit  
7 or combination thereof that establishes a pretrial program intended  
8 to provide pretrial release services shall submit a grant proposal  
9 to the Community Corrections Subcommittee of the Governor's  
10 Committee on Crime, Delinquency and Correction for review and  
11 approval.

12 **§62-11F-4. Pretrial release assessment.**

13 The Supreme Court of Appeals of West Virginia may adopt a  
14 standardized pretrial risk assessment for use by pretrial release  
15 programs to aid in making pretrial decisions under article one-c of  
16 this chapter.

17 **§62-11F-5. Role of pretrial release programs.**

18 (a) A pretrial release program established by any county,  
19 circuit or combination thereof, pursuant to this article, shall:

20 (1) Collect and present the necessary information, present  
21 risk assessment and make release recommendations to the court.

22 (2) Present information to the court relating to the risk  
23 defendants may pose in failing to appear in court or of threatening  
24 the safety of the community or any other person and, consistent

1 with court policy, develop release recommendations responding to  
2 risk;

3 (3) Develop and provide appropriate and effective supervision  
4 for all persons released pending adjudication who are assigned  
5 supervision as a condition of release;

6 (4) Monitor compliance of released defendants with the  
7 requirements of assigned release conditions;

8 (5) Promptly inform the court of all apparent violations of  
9 pretrial release conditions or arrests of persons released pending  
10 trial, including those directly supervised by pretrial services as  
11 well as those released under other forms of conditional release,  
12 and recommend appropriate modifications of release conditions;

13 (6) Coordinate the services of other agencies, individuals or  
14 organizations that may serve as custodians for released defendants,  
15 and advise the court as to their appropriateness, availability,  
16 reliability and capacity relating to pretrial release conditions;

17 (7) Review the status of detained defendants on ongoing basis  
18 for any changes in eligibility for release options and facilitate  
19 their release as soon as feasible and appropriate;

20 (8) Develop and operate an accurate information management  
21 system to support prompt identification, information collections  
22 and presentation, risk assessment, release conditions selection,  
23 compliance monitoring and detention review functions essential to  
24 an effective pretrial release program; and



1           (9) Remind persons released before trial of their court dates  
2 to attempt to facilitate their court appearance.

3           (b) Pretrial release programs may monitor, supervise and  
4 assist defendants released prior to trial.

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(NOTE: The purpose of this bill is authorize pretrial release programs to evaluate and supervise persons on pretrial release as part of a community corrections program.

§62-11F-1, §62-11F-2, §62-11F-3, §62-11F-4 and §62-11F-5 are new; therefore, strike-throughs and underscoring have been omitted.

Strike throughs indicate language that would be stricken from present code, and underscoring indicates new language that would be added.)