

H. B. 2428

(By Delegate C. Miller)

[Introduced February 13, 2013; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §62-12-29, relating
to the Community Corrections Performance Incentive; intent;
providing definitions; calculation of state prison savings by
the West Virginia Supreme Court of Appeals; providing for
performance incentive funding; use of funds; and reports to be
provided.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
and reenacted by adding thereto a new section, designated
§62-12-29, to read as follows:

ARTICLE 12. PROBATION AND PAROLE.

§62-12-29. Community Corrections Performance Incentive.

(a) Intent. -- The provisions of this section are intended to

1 reduce crimes committed by probationers and the number of
2 probationers revoked to prison by giving probation departments a
3 share of the savings to the state in reduced incarceration costs
4 when they reduce both new offenses by probationers and revocations
5 to prison. By linking funding to performance, this legislation
6 creates a positive incentive for probation departments to improve
7 their supervision practices to enhance public safety and reduce
8 costs to taxpayers.

9 (b) *Definitions.* -- As used in this section, unless the
10 context clearly requires a different meaning:

11 (1) "Evidence-based practices" means supervision policies,
12 procedures, programs and practices that scientific research
13 demonstrates reduce recidivism among people on probation, parole,
14 or post-release supervision.

15 (2) "Supervised individual" means an individual placed on
16 probation by a court or serving a period of parole or post-release
17 supervision from prison or jail.

18 (3) "Conditions of supervision" means conditions of probation,
19 parole or other form of post-prison supervision.

20 (c) *Calculation of State Prison Savings.*

21 The West Virginia Supreme Court shall annually calculate:

22 (A) The percentage of supervised individuals who are revoked
23 for violations of their conditions of supervision and ordered to
24 serve a term of imprisonment in the State Division of Corrections.

1 This calculation shall be based on the fiscal year prior to the
2 fiscal year in which the report is required pursuant to subsection
3 (f). The baseline revocation rate shall be the revocation rate in
4 fiscal year 2010.

5 (B) The percentage of supervised individuals who are convicted
6 of a new felony offense and sentenced to a term of imprisonment in
7 the State Division of Corrections. This calculation shall be based
8 on the fiscal year prior to the fiscal year in which the report is
9 required pursuant to subsection (f). The baseline new offense
10 conviction rate shall be the conviction rate in fiscal year 2011.

11 (C) Any state expenditures that have been avoided by
12 reductions in the revocation rate as calculated in paragraph (A) of
13 this subsection.

14 (D) Any state expenditures that have been avoided by
15 reductions in the new felony offense conviction rate as calculated
16 in paragraph (B) of this subsection.

17 (E) The calculations in paragraph (A) of this subsection shall
18 be made separately for supervised individuals under the supervision
19 of probation agencies and under the supervision of parole or other
20 post-prison supervision agencies, and shall be made separately by
21 individual state and local agencies.

22 (d) *Performance Incentive Funding.*

23 (1) Beginning in fiscal year 2014, the Legislature shall
24 annually appropriate up to forty-five percent of any state

1 expenditures that are avoided as calculated in subsection (c).
2 Such averted expenditures shall be appropriated to the Division of
3 Probation Services responsible for those savings.

4 (2) The appropriations in subdivision (1) of this subsection
5 are subject to the following provisions:

6 (A) None of the calculated savings shall be appropriated
7 annually to the Division of Probation Services if there is an
8 increase in the percentage of individuals supervised by Division of
9 Probation Services who are convicted of a new felony offense as
10 calculated in paragraph (B), subdivision (1), subsection (c) of
11 this section.

12 (B) Of the state expenditures that have been avoided by a
13 reduction in the revocation rate, as calculated in paragraph (A),
14 subdivision (1), subsection (c) of this section: (I) Thirty
15 percent of the total savings shall be appropriated to the Division
16 of Probation Services; (ii) an additional five percent of the total
17 savings shall be appropriated to the Division of Probation Services
18 if there is an increase in the percentage of people who are
19 supervised by the Division of Probation Services and who are
20 employed in a full-time job or employed part-time for at least
21 twenty-five hours per week, provided that the Division of Probation
22 Services has submitted data to the Supreme Court showing such
23 increases, and the Supreme Court includes this information in the
24 report required pursuant to subsection (f); (iii) an additional

1 five percent of the total savings shall be appropriated to the
2 Division of Probation Services if there is an increase in the
3 percentage of people who are supervised by the Division of
4 Probation Services who are current in their payments of victim
5 restitution, provided that the Division of Probation Services has
6 submitted data to the Supreme Court showing such increases and the
7 Supreme Court includes this information in the report required
8 pursuant to subsection (f); and (iv) an additional five percent of
9 the total savings shall be appropriated to the Division of
10 Probation Services if there is a decrease in the percentage of
11 people who are supervised by that Division of Probation Services
12 and who test positive for controlled substances, provided that the
13 Division of Probation Services has submitted data to the Supreme
14 Court showing such decreases and the Supreme Court includes this
15 information in the report required pursuant to subsection (f).

16 (C) Of the state expenditures that have been avoided by a
17 reduction in the new felony offense conviction rate as calculated
18 in paragraph (B), subdivision (1), subsection (c) of this section:
19 (I) Thirty percent of the total savings shall be appropriated to
20 the state or local agency or agencies; (ii) an additional five
21 percent of the total savings shall be appropriated to the Division
22 of Probation Services if there is an increase in the percentage of
23 people who are supervised by Division of Probation Services and who
24 are employed in a full-time job or employed part-time for at least

1 twenty five hours per week, provided that the agency has submitted
2 data to the Supreme Court showing such increases, and the Supreme
3 Court includes this information in the report required pursuant to
4 subsection (f); (iii) an additional five percent of the total
5 savings shall be appropriated to the Division of Probation Services
6 if there is an increase in the percentage of people who are
7 supervised by that Division of Probation Services who are current
8 in their payments of victim restitution, provided that the Division
9 of Probation Services has submitted data to the Supreme Court
10 showing such increases and the Supreme Court includes this
11 information in the report required pursuant to subsection (f); and
12 (iv) an additional five percent of the total savings shall be
13 appropriated to the Division of Probation Services if there is a
14 decrease in the percentage of people who are supervised by Division
15 of Probation Services and who test positive for controlled
16 substances.

17 (D) The moneys appropriated pursuant to this section shall be
18 used to supplement, not supplant, any other state or county
19 appropriations for probation, parole or other post-prison
20 supervision services.

21 (e) Use of Funds.

22 Moneys received through appropriations pursuant to this title
23 shall be used for the following purposes:

24 (A) Implementation of evidence-based practices;

1 (B) Increasing the availability of risk reduction programs and
2 interventions, including substance abuse treatment programs, for
3 supervised individuals;

4 (C) Grants to nonprofit victim services organizations to
5 partner with the community corrections agencies and courts to
6 assist victims and increase the amount of restitution collected
7 from probationers.

8 (f) Reports.

9 (1) On or before October 1 of each year, beginning in 2013,
10 the counties and the Division of Corrections shall jointly report
11 to the Supreme Court the data necessary for the Division of
12 Probation Services to perform the calculations required by
13 subsection (c). The report shall provide separate figures for
14 probation and parole or other form of post-prison supervision and
15 include for the prior fiscal year:

16 (A) The number of supervised individuals, by agency;

17 (B) The number and percentage of supervised individuals, by
18 agency, who were revoked for violations of their conditions of
19 supervision and ordered to serve a term of imprisonment in the
20 Division of Corrections; and

21 (C) The number and percentage of supervised individuals, by
22 agency, who were convicted of a new felony offense and sentenced to
23 a term of imprisonment in the Division of Corrections.

24 (2) On or before December 1 of each year, beginning in 2013,

1 the Supreme Court shall report each year on the implementation of
2 this section to the President of the Senate, the Speaker of the
3 House of Delegates, the Chief Justice of the West Virginia Supreme
4 Court, and the Governor. The report shall include the calculations
5 made pursuant to this subsection (c) and the resulting performance
6 incentive funding, if any, to be appropriated.

7 (3) The Supreme Court shall make its full report and an
8 executive summary available to the general public on its website.

NOTE: The purpose of this bill is to provide incentives for good performance in community corrections policy.

This section is new; therefore, it has been completely underscored.