

**Senate Bill No. 160**

(By Senator Barnes)

[Introduced February 14, 2013; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §62-16-1, §62-16-2,  
§62-16-3, §62-16-4, §62-16-5, §62-16-6 and §62-16-7, all  
relating to creating the Conditional Early Release Bond Act;  
permitting the Board of Parole to release an inmate on parole;  
permitting the board to place conditions on the release of a  
prisoner including requiring the posting of an early-release  
bond by cash or surety and certain other discretionary  
conditions; setting forth the terms of a bond; providing for  
penalties; providing for the surrender of the parolee;  
defining terms; and providing for severability.

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

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new article, designated §62-16-1, §62-16-2,

1 §62-16-3, §62-16-4, §62-16-5, §62-16-6 and §62-16-7, all to read as  
2 follows:

3 **ARTICLE 16. CONDITIONAL EARLY RELEASE BOND ACT.**

4 **§62-16-1. Short title.**

5 This article may be cited as the Conditional Early Release  
6 Bond Act."

7 **§62-16-2. Definitions.**

8 The following definitions apply in this article:

9 (1) "Board" means the Board of Parole having legal authority  
10 to release a prisoner on parole.

11 (2) "Bond" means the written undertaking delivered by the  
12 surety to the Board of Parole and describing the terms and  
13 conditions of surety's duties.

14 (3) "Breach" means any condition of release violated by the  
15 principal.

16 (4) "Breach penalty" means the amount of money to be paid by  
17 surety to the state upon the surety's failure to meet the  
18 requirements under this article. The breach penalty is equal to the  
19 face amount of the bond. There are two types of breach penalties:

20 (A) An amount of money paid by the surety upon breach of a  
21 release condition; and

22 (B) An amount of money paid by the surety if the principal is  
23 not back in custody within a given amount of time following breach

1 of release condition.

2 (5) "Conditions" means such conditions as the board may impose  
3 as a prerequisite to being on release from custody.

4 (6) "Charge" means the amount of money the surety charges to  
5 write the bond. In no case may the charges be less than ten percent  
6 of the aggregate penalty amounts which charge is fully earned when  
7 the bond is written.

8 (7) "Mandatory conditions" means those nondiscretionary  
9 conditions the board has placed on the principal as a condition to  
10 early release by operation of law.

11 (8) "Principal" means any person to be released on furlough or  
12 parole pursuant to this article.

13 (9) "Revocation of bond" means the use and effectiveness of  
14 the bond has ceased. The board may revoke the bond upon a breach or  
15 continue the bond by nullifying the breach. The decision of the  
16 board is final. The bond may be revoked at any time the board  
17 determines that the principal has failed to abide by the conditions  
18 of the bond or is no longer capable of abiding by the conditions of  
19 the bond.

20 (10) "Surety" means any insurance company licensed under the  
21 laws of the state to execute bonds filed in criminal cases.

22 **§62-16-3. Early release on bond.**

23 Upon the decision of the board to release any person on

1 furlough or parole, the board may condition the release of a  
2 principal by requiring the posting of an early release bond by cash  
3 or surety. The board may set other conditions of release, which  
4 conditions shall be appended to and made a part of the bond. The  
5 conditions are discretionary with the board and shall be  
6 appropriate to the character and circumstances of the principal and  
7 the circumstances of the principal's release. Discretionary  
8 conditions may include:

9 (1) The principal shall be drug/alcohol tested as specified;

10 (2) The principal shall take part in specified recovery  
11 programs;

12 (3) The principal may not contact, go about, or communicate  
13 directly with any witness involved in the principal's conviction;

14 (4) The principal may not contact, go about, or communicate  
15 directly or indirectly with any victim(s) involved in the  
16 principal's conviction;

17 (5) The principal shall obtain and keep employment;

18 (6) The principal shall be on home arrest via global  
19 positioning satellite (GPS) monitoring devices approved by the  
20 state;

21 (7) The principal shall abide by specified travel  
22 restrictions;

23 (8) The principal shall make all specified periodic

1 restitution payments;

2 (9) The principal shall pay specified fines and court costs;

3 (10) The principal shall perform specified community services;

4 (11) The principal shall pursue specified education courses;

5 (12) The principal shall obtain such education as specified;

6 (13) The principal shall participate in such family or third  
7 party involvement as specified;

8 (14) The principal shall have, as a mandatory condition, that  
9 he or she pay the surety's charge; and

10 (15) The principal shall have, as a mandatory condition, that  
11 he or she personally report to the surety at such time and in such  
12 manner as directed by the board and the surety.

13 **§62-16-4. Terms of the bond.**

14 The early release bond put up by the surety shall:

15 (1) Be for a term of one year, and may be renewed annually;

16 (2) Be in favor of and payable to the state; and

17 (3) Be conditioned that the board shall:

18 (A) Give the surety written notice of any breach of condition  
19 within five calendar days of the breach.

20 (B) If within one hundred eighty calendar days from date of  
21 receipt of written notice by board that the principal has failed to  
22 meet one or more of the conditions of principal's early release,  
23 the principal shall have been placed back into custody, whether by

1 surety or another, then the bond shall be exonerated.

2 **§62-16-5. Penalties paid by surety.**

3       The surety shall pay a breach penalty upon breach of a  
4 condition by the principal and upon the principal not being back in  
5 custody within the prescribed one hundred eighty days.

6 **§62-16-6. Surrender of principal.**

7       At any time after receiving a notice of breach by the  
8 principal, the surety may arrest the principal and surrender him or  
9 her to the nearest jail or correctional facility. If the principal  
10 is surrendered within one hundred eighty calendar days of receipt  
11 of the notice of breach, the bond shall be exonerated.

12 **§62-16-7. Severability.**

13       If any provision of this article or its application to any  
14 person or circumstance is held invalid, that invalidity shall not  
15 affect other provisions or applications of the article which can be  
16 given effect without the invalid provision or its application, and  
17 to this end, the provisions of this article are declared to be  
18 severable.

NOTE: The purpose of this bill is to create the Conditional Early Release Bond Act. The bill permitting the Board of Parole to release any person on parole. The bill permits the board to place conditions on the release of a prisoner including requiring the posting of an early release bond by cash or surety. The bill sets forth the terms of a bond. The bill provides for penalties. The

bill provides for the surrender of the parolee. The bill defines terms and provides for severability.

This article is new; therefore, strike-throughs and underscoring have been omitted.