

1                                   **Senate Bill No. 584**

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

5  
6                                   \_\_\_\_\_

6       [Introduced March 20, 2013; referred to the Committee on the  
7                                   Judiciary.]

8                                   \_\_\_\_\_

9

10 A BILL to amend and reenact §62-11C-5 and §62-11C-7 of the Code of  
11 West Virginia, 1931, as amended; and to amend said code by  
12 adding thereto a new article, designated §62-11F-1, §62-11F-2,  
13 §62-11F-3, §62-11F-4 and §62-11F-5, all relating to  
14 authorizing community corrections programs to operate pretrial  
15 release program; legislative findings; establishing  
16 guidelines; and setting fees.

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

18       That §62-11C-5 and §62-11C-7 of the Code of West Virginia,  
19 1931, as amended, be amended and reenacted; and that said code be  
20 amended by adding thereto a new article, designated §62-11F-1, §62-  
21 11F-2, §62-11F-3, §62-11F-4 and §62-11F-5, all to read as follows:

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

23 **§62-11C-5. Establishment of programs.**

24       (a) Any county or combination of counties or a county or

1 counties and a Class I or II municipality may establish and operate  
2 community corrections programs, as provided ~~for~~ in this section, to  
3 be used both prior to trial as a condition of bond in circuit and  
4 magistrate court, as well as an alternative sentencing option for  
5 those offenders sentenced within the jurisdiction of the county or  
6 counties which establish and operate the program: *Provided*, That  
7 the chief judge must certify that the community corrections  
8 facility is available for use in connection with the imposition of  
9 pretrial bond conditions.

10 (b) Any county or combination of counties or a county or  
11 counties and a Class I or II municipality that seek to establish  
12 programs as authorized in this section shall submit plans and  
13 specifications for the programs to be established, including  
14 proposed budgets, for review and approval by the community  
15 corrections subcommittee established in section three of this  
16 article.

17 (c) Any county or combination of counties or a county or  
18 counties and a Class I or II municipality may establish and operate  
19 an approved community corrections program to provide alternative  
20 sanctioning options for an offender who is convicted of an offense  
21 for which he or she may be sentenced to a period of incarceration  
22 in a county or regional jail or a state correctional facility and  
23 for which probation or home incarceration may be imposed as an  
24 alternative to incarceration.

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

4 (1) Probation supervision programs;

5 (2) Day fine programs;

6 (3) Community service restitution programs;

7 (4) Home incarceration programs;

8 (5) Substance abuse treatment programs;

9 (6) Sex offender containment programs;

10 (7) Licensed domestic violence offender treatment programs;

11 (8) Day reporting centers;

12 (9) Educational or counseling programs;

13 (10) Drug courts; ~~or~~

14 (11) Community beautification and reclamation programs for  
15 state highways, municipal, county and state parks and recreation  
16 areas, and community gardens; and

17 (12) Pretrial release programs.

18 (e) A county or combination of counties or a county or  
19 counties and a Class I or II municipality which establish and  
20 operate community corrections programs as provided ~~for~~ in this  
21 section may contract with other counties to provide community  
22 corrections services.

23 (f) For purposes of this section, the phrase "may be sentenced  
24 to a period of incarceration" means that the statute defining the

1 offense provides for a period of incarceration as a possible  
2 penalty.

3 (g) No provision of this article may be construed to allow a  
4 person participating in or under the supervision of a community  
5 corrections program to earn "good time" or any other reduction in  
6 sentence.

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

8 (a) A circuit judge, magistrate, municipal court judge or  
9 community criminal justice board may require the payment of a  
10 supervision or participation fee from any person required to be  
11 supervised by or participate in a community corrections program.  
12 The circuit judge, magistrate, municipal court judge or community  
13 criminal justice board shall consider the person's ability to pay  
14 in determining the imposition and amount of the fee.

15 (b) All fees ordered by the circuit court, magistrate court,  
16 municipal court or community criminal justice board pursuant to  
17 this section are to be paid to the community criminal justice  
18 board, who shall remit the fees monthly to the treasurer of the  
19 county designated as the fiscal agent for the board pursuant to  
20 section six of this article.

21 (c) A circuit judge, magistrate or community criminal justice  
22 board may require the payment of a supervision or participation fee  
23 of \$7 per offender per day of "pretrial" supervision from the  
24 county commission wherein said offender is charged pursuant to a

1 pretrial release program established pursuant to section five,  
2 article eleven-c, chapter sixty-two of this code.

3 (d) A circuit judge, magistrate or community criminal justice  
4 board may also require payment of a supervision or participation  
5 fee or \$30 per month from an offender for "pretrial" supervision  
6 pursuant to a pretrial release program established pursuant to  
7 section five, article seven, chapter sixty-two and section seven,  
8 article eleven-c, chapter sixty-two of this code.

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

10 **§62-11F-1. Applicability.**

11 This article applies to adult defendants who have been charged  
12 with either a misdemeanor or felony and, are incarcerated in a  
13 regional jail prior to an adjudication of guilt or innocence.

14 **§62-11F-2. Establishment of Pretrial Release Programs.**

15 (a) It is the purpose of Pretrial Release Programs to employ  
16 recommendations from the Council of State Government's Justice  
17 Center's Analyses and Policy Options to Reduce Spending on  
18 Corrections and Reinvest in Strategies to Increase Public Safety,  
19 by providing for uniform statewide risk assessment and monitoring  
20 of those released prior to trial, facilitating a statewide response  
21 to the problem of overcrowded regional jails and costs to county  
22 commissions.

23 (b) Any county, circuit, or combination thereof, which elects  
24 or is required to establish a pretrial program pursuant to this

1 article shall establish a local Community Pretrial Committee which  
2 consists of a prosecutor; county commissioner; sheriff; executive  
3 director of the community corrections program; chief probation  
4 officer; and a member of the defense bar where available. The  
5 committee shall meet, at a minimum, once per week to review and  
6 recommend pretrial release of offenders to the Court.

7 (c) Pretrial Release Programs shall be funded by  
8 appropriations made to the Supreme Court of Appeals for such  
9 purpose..

10 **§62-11F-3. Pretrial Release Program Guidelines.**

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

13 (b) The Supreme Court of Appeals of West Virginia shall  
14 establish recommended guidelines for pretrial programs to use when  
15 ordering pretrial release for defendants whose pretrial risk  
16 assessment indicate that they are an appropriate candidate for  
17 pretrial release.

18 (c) The Community Corrections Subcommittee of the Governor's  
19 Committee on Crime, Delinquency and Corrections, pursuant to  
20 section two, article eleven c, chapter sixty-two, shall approve  
21 policy and funding for the development, maintenance and evaluation  
22 of pretrial release programs. Any county, circuit or combination  
23 thereof that establishes a pretrial program intended to provide  
24 pretrial release services shall submit a grant proposal to the

1 Community Corrections Subcommittee of the Governor's Committee on  
2 Crime, Delinquency and Corrections for review and approval.

3 **§62-11F-4. Pretrial Release Assessment.**

4 The Supreme Court of Appeals of West Virginia may adopt a  
5 standardized pretrial risk assessment for use by Pretrial Release  
6 Programs to aid in making pretrial decisions under article one-c of  
7 this chapter.

8 **§62-11F-5 Role of Pretrial Release Programs**

9 (a) Any county, circuit or combination thereof, which elects  
10 or is required to establish a pretrial program shall collect and  
11 present the necessary information, present risk assessment, and  
12 make release recommendations to the Court.

13 (b) Pretrial services shall also monitor, supervise, and  
14 assist defendants released prior to trial and review the status and  
15 release eligibility of detained defendants for the court on an  
16 ongoing basis.

17 (c) Pretrial Release Programs shall:

18 (1) Present accurate information to the court relating to the  
19 risk defendants may pose in failing to appear in court or of  
20 threatening the safety of the community or any other person and,  
21 consistent with court policy, develop release recommendations  
22 responding to risk;

23 (2) Develop and provide appropriate and effective supervision  
24 for all persons released pending adjudication who are assigned

1 supervision as a condition of release;

2 (3) Monitor compliance of released defendants with the  
3 requirements of assigned release conditions;

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

9 (5) Coordinate the services of other agencies, individuals or  
10 organizations that may serve as custodians for released defendants,  
11 and advise the court as to their appropriateness, availability,  
12 reliability and capacity relating to pretrial release conditions;

13 (6) Review the status of detained defendants on ongoing basis  
14 for any changes in eligibility for release options and facilitate  
15 their release as soon as feasible and appropriate;

16 (7) Develop and operate an accurate information management  
17 system to support prompt identification, information collections  
18 and presentation, risk assessment, release conditions selection,  
19 compliance monitoring and detention review functions essential to  
20 an effective pretrial release program; and

21 (8) Remind persons released before trial of their court dates  
22 to attempt to facilitate their court appearance.

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.