

Senate Bill No. 31

(By Senator D. Hall)

[Introduced January 14, 2015; referred to the Committee on the Judiciary.]

9 A BILL to amend and reenact §62-1C-14 of the Code of West Virginia, 1931, as amended, relating
10 to bailpiece; and providing that surety shall be relieved of acting collateral on the case for
11 which bailpiece was applied.

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

13 That §62-1C-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted
14 to read as follows:

15 **ARTICLE 1C. BAIL.**

16 **§62-1C-14. Bailpiece; issuance to surety; taking accused into custody.**

17 (a) A bailpiece is a certificate stating that the bail became such for the accused in a particular
18 case and the amount thereof. Upon demand therefor, the court, magistrate or clerk shall issue to the
19 bail bondsperson a bailpiece. Upon securing the bailpiece, the surety shall be relieved of acting
20 collateral on the case(s) for which the bailpiece was applied. Any officer having authority to execute
21 a warrant of arrest shall assist the bail bondsperson holding ~~such~~ the bailpiece to take the accused
22 into custody and produce him or her before the court or magistrate. The bail bondsperson may take

1 the accused into custody and surrender him or her to the court or magistrate without ~~such~~ the
2 bailpiece.

3 (b) If bailpiece is inaccessible due to unavailability of the court's circuit clerk or magistrate,
4 the bail bondsperson, or his or her designee, ~~can~~ may take an offender to a ~~regional or county~~ jail
5 without bailpiece, and the jail must accept the offender; provided:

6 (1) The bail bondsperson, or his or her designee, delivering an offender to a jail without a
7 bailpiece issued by the court's circuit clerk or magistrate appears on the registered list maintained
8 at the jails and approved by the court of original jurisdiction;

9 (2) The bail bondsperson signs an agreement provided by the jail indicating that the offender
10 has been booked in lieu of bailpiece. ~~Such~~ The agreement shall contain a clause indicating the
11 incarceration of ~~such~~ the offender is lawful and that the jail accepting the offender shall be held
12 harmless from any claims of illegal incarceration or other relative charges; thereby, ~~such~~ the bail
13 bondsperson assumes the risk and liability of ~~such~~ the incarceration; and

14 (3) Bailpiece must be applied for by the bail bondsperson or his or her designee from the
15 court's circuit clerk or magistrate and hand-delivered by the bail bondsperson or his or her designee
16 to the jail housing ~~such~~ the offender on the next judicial day following the initial intake.

17 (c) Any bail bondsperson who willfully fails to attempt to obtain the appropriate bailpiece
18 within the allotted time period provided in subsection (b) of this section is guilty of a misdemeanor
19 and, upon conviction thereof, shall be prohibited from continuing to conduct business in this state
20 and shall be fined not more than \$1,000 and confined in ~~the regional or county~~ jail not more than one
21 year.

22 (d) No officer, jailer or other person having authority to accept offenders in a ~~county or~~

1 ~~regional~~ jail is required to accept ~~such offenders~~ an offender being housed in lieu of bailpiece if ~~such~~
2 the offender appears to be in need of medical attention of a degree necessitating treatment by a
3 physician. If an offender is refused pursuant to the provisions of this section, he or she may not be
4 accepted for detention until the bail bondsperson, or his or her designee, provides the jailer or
5 persons accepting ~~such~~ the offender with a written clearance from a licensed physician reflecting that
6 the offender has been examined and, if necessary, treated, and which states that it is the physician's
7 medical opinion that the offender can be safely confined in ~~the county or regional~~ jail.

8 (e) The Regional Jail Authority, the county sheriff, county commission, or any of their agents
9 or employees, ~~shall be~~ are immune from liability for any claims of illegal incarceration or other
10 relative charges for any offender accepted into a facility under this section.

NOTE: The purpose of this bill is to provide that upon securing a bailpiece, the surety is relieved of acting collateral on the case or cases for which the bailpiece was applied.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.