

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4276

BY DELEGATES CANESTRARO, HANSHAW, SHOTT, ISNER,

R. MILLER, ROBINSON AND FRICH

[Introduced January 24, 2018; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §62-11A-1 of the Code of West Virginia, 1931, as amended, relating
2 to allowing magistrates to grant work release privileges.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11A. RELEASE FOR WORK AND OTHER PURPOSES.

§62-11A-1. Release for work and other purposes by courts of record with criminal jurisdiction.

1 When a defendant is sentenced or committed for a term of one year or less by a ~~court of~~
2 ~~record~~ circuit court or magistrate court of the State of West Virginia having criminal jurisdiction,
3 the court may in its order grant to the defendant the privilege of leaving the jail during necessary
4 and reasonable hours for any of the following purposes:

- 5 (1) To work at his or her employment;
- 6 (2) To seek employment;
- 7 (3) To conduct his or her own business or to engage in other self-employment, including
- 8 housekeeping and attending to the needs of his or her family;
- 9 (4) To attend an educational institution;
- 10 (5) To obtain medical treatment;
- 11 (6) To devote time to any other purpose approved of or ordered by the court, including
- 12 participation in the litter control program of the county unless the court specifically finds that this
- 13 alternative service would be inappropriate.

14 (b) Whenever an inmate who has been granted the privilege of leaving the jail under this
15 section is not engaged in the activity for which the leave is granted, he or she shall be confined
16 in jail.

17 (c) An inmate sentenced to ordinary confinement may petition the court at any time after
18 sentence for the privilege of leaving jail under this section and may renew his or her petition in
19 the discretion of the court. The court may withdraw the privilege at any time by order entered with
20 or without notice.

21 (d) If the inmate has been granted permission to leave the jail to seek or take employment,
22 the court's probation officers or, if none, the jail shall assist him or her in obtaining suitable
23 employment and in making certain that employment already obtained is suitable. Employment
24 shall not be deemed suitable if the wages or working conditions or other circumstances present
25 a danger of exploitation or of interference in a labor dispute in the establishment in which the
26 inmate would be employed.

27 (e) An inmate who is serving his or her sentence pursuant to this section shall be eligible
28 for a reduction of his or her term for good behavior and faithful performance of duties in the same
29 manner as if he or she had served his or her term in ordinary confinement.

30 (f) The court shall not make an order granting the privilege of leaving the institution under
31 this section unless it is satisfied that there are adequate facilities for the administration of such
32 privilege in the jail or other institution in which the defendant will be confined.

33 (g) In every case wherein the defendant has been convicted of an offense, defined in
34 section twelve, article eight, chapter sixty-one of this code or in article eight-b or eight-d of said
35 chapter against a child, the defendant shall not live in the same residence as any minor child, nor
36 exercise visitation with any minor child and shall have no contact with the victim of the offense:
37 *Provided*, That the defendant may petition the court of the circuit wherein he or she was so
38 convicted for a modification of this term and condition of this probation and the burden shall rest
39 upon the defendant to demonstrate that a modification is in the best interest of the child.

NOTE: The purpose of this bill is to allow magistrates to grant work release privileges.

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