

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2190

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PUSHKIN AND FLUHARTY

[Originating in the Committee on the Judiciary;

January 16, 2019.]

1 A BILL to amend and reenact §62-1C-1a of the Code of West Virginia, 1931, as amended, relating
2 to the authorization to release a defendant or a person arrested upon his or her own
3 recognizance; requiring a court or magistrate to release a person charged with certain
4 misdemeanor offenses on his or her own recognizance except for good cause shown.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1C. BAIL.

§62-1C-1a. Release upon own recognizance authorized.

1 (a) Any other provision of this article to the contrary notwithstanding, when from all the
2 circumstances, the court or magistrate is of the opinion that the defendant or person arrested will
3 appear as may be required of him or her, either before or after conviction, such defendant or
4 person arrested may be released upon his or her own recognizance.

5 (b) Except for good cause shown, a court or magistrate shall release a person charged
6 with a misdemeanor offense on his or her own recognizance unless that person is charged with:

7 (1) A misdemeanor offense of actual violence or threat of violence against a person;

8 (2) A misdemeanor offense where the victim was a minor, as defined in §61-8C-1 of this
9 code;

10 (3) A misdemeanor offense involving the use of a deadly weapon, as defined in §61-7-2
11 of this code;

12 (4) A misdemeanor offense of the Uniform Controlled Substances Act set forth in chapter
13 60A of this code; or

14 (5) A serious misdemeanor traffic offense set forth in §17C-5-1 and §17C-5-2 of this code.

15 (c) Within 10 days of the setting of bond or bail by the Court or Magistrate, a Prosecuting
16 Attorney may bring a motion to set cash or surety bond. The Presiding Court shall hold a summary
17 hearing upon the motion within 5 days, and make a finding based upon the evidence presented
18 by the Prosecuting Attorney if good cause is shown to require cash or surety bond, and upon

- 19 good cause shown, the Presiding Court shall set reasonable cash or surety bond in accordance
20 with other provisions of this article.

NOTE: The purpose of this bill is to modify misdemeanor bail requirements.

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