

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3320**

By Delegates E. Pritt, Hansen, Garcia, Williams,  
Griffith, Fluharty, Skaff, Rowe, Walker, Pushkin, and  
Young

[Introduced February 07, 2023; Referred to the  
Committee on Jails and Prisons then Finance]

1 A BILL to amend and reenact §62-12-9 of the Code of West Virginia, 1931, as amended relating to  
2 requiring that the Division of Corrections provide each probationer with physical copies of  
3 their birth certificate and Social Security Administration card upon release from a facility.

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

**ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-9. Conditions of release on probation.**

1 (a) Release on probation is conditioned upon the following:

2 (1) That the probationer may not, during the term of his or her probation, violate any  
3 criminal law of this or any other state or of the United States;

4 (2) That the probationer may not, during the term of his or her probation, leave the state  
5 without the consent of the court which placed him or her on probation;

6 (3) That the probationer complies with the conditions prescribed by the court for his or her  
7 supervision by the probation officer;

8 (4) That in every case in which the probationer has been convicted of an offense defined in  
9 section twelve, article eight, chapter sixty-one of this code or article eight-b or eight-d of said  
10 chapter, against a child, the probationer may not live in the same residence as any minor child, nor  
11 exercise visitation with any minor child and may have no contact with the victim of the offense:

12 *Provided*, That the probationer may petition the court of the circuit in which he or she was  
13 convicted for a modification of this term and condition of his or her probation and the burden rests  
14 upon the probationer to demonstrate that a modification is in the best interest of the child;

15 (5) That the probationer pay a fee, not to exceed \$20 per month, to defray costs of  
16 supervision: *Provided*, That the court conducts a hearing prior to imposition of probation and  
17 makes a determination on the record that the offender is able to pay the fee without undue  
18 hardship. All moneys collected as fees from probationers pursuant to this subdivision shall be  
19 deposited with the circuit clerk who shall, on a monthly basis, remit the moneys collected to the  
20 State Treasurer for deposit in the State General Revenue Fund; and

21 (6) That the probationer is required to pay the fee described in section four, article eleven-c  
22 of this chapter: *Provided*, That the court conducts a hearing prior to imposition of probation and  
23 makes a determination on the record that the offender is able to pay the fee without undue  
24 hardship.

25 (b) In addition, the court may impose, subject to modification at any time, any other  
26 conditions which it may determine advisable, including, but not limited to, any of the following:

27 (1) That the probationer make restitution or reparation, in whole or in part, immediately or  
28 within the period of probation, to any party injured by the crime for which he or she has been  
29 convicted: *Provided*, That the court conducts a hearing prior to imposition of probation and makes  
30 a determination on the record that the offender is able to pay restitution without undue hardship;

31 (2) That the probationer pays any fine assessed and the costs of the proceeding in  
32 installments directed by the court: *Provided*, That the court conducts a hearing prior to imposition  
33 of probation and makes a determination on the record that the offender is able to pay the costs  
34 without undue hardship;

35 (3) That the probationer makes contributions from his or her earnings, in sums directed by  
36 the court, for the support of his or her dependents; and

37 (4) That the probationer, in the discretion of the court, is required to serve a period of  
38 confinement in jail of the county in which he or she was convicted for a period not to exceed one  
39 third of the minimum sentence established by law or one third of the least possible period of  
40 confinement in an indeterminate sentence, but in no case may the period of confinement exceed  
41 six consecutive months. The court may sentence the defendant within the six-month period to  
42 intermittent periods of confinement including, but not limited to, weekends or holidays and may  
43 grant to the defendant intermittent periods of release in order that he or she may work at his or her  
44 employment or for other reasons or purposes as the court may determine appropriate: *Provided*,  
45 That the provisions of article eleven-a of this chapter do not apply to intermittent periods of  
46 confinement and release except to the extent directed by the court. If a period of confinement is

47 required as a condition of probation, the court shall make special findings that other conditions of  
48 probation are inadequate and that a period of confinement is necessary.

49 (c) Circuit courts may impose, as a condition of probation, participation in a day report  
50 center.

51 (1) To be eligible, the probationer must be identified as moderate to high risk of reoffending  
52 and moderate to high criminogenic need, as determined by the standardized risk and needs  
53 assessment adopted by the Supreme Court of Appeals of West Virginia under subsection (d),  
54 section six of this article, and applied by a probation officer or day report staff. In eligible cases,  
55 circuit courts may impose a term of up to one year: *Provided*, That notwithstanding the results of  
56 the standardized risk and needs assessment, a judge may impose, as a term of probation,  
57 participation in a day report center program upon making specific written findings of fact as to the  
58 reason for departing from the requirements of this subdivision.

59 (2) The day report center staff shall determine which services a person receives based on  
60 the results of the standardized risk and needs assessment and taking into consideration the other  
61 conditions of probation set by the court.

62 (d) For the purposes of this article, "day report center" means a court-operated or court-  
63 approved facility where persons ordered to serve a sentence in this type of facility are required to  
64 report under the terms and conditions set by the court for purposes which include, but are not  
65 limited to, counseling, employment training, alcohol or drug testing or other medical testing.

66 (e) Notwithstanding any other provision of code to the contrary, the Division of Corrections  
67 shall provide to every probationer a physical copy of his or her birth certificate and a physical copy  
68 of his or her Social Security Administration card upon release from any DOC facility.

NOTE: The purpose of this bill is to require that the Division of Corrections provide each probationer with physical copies of their birth certificate and Social Security Administration card upon release from a facility.

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