WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 191

By Senators Trump and Hunt

[Introduced January 13, 2023; referred  
to the Committee on the Judiciary]

A BILL to amend and reenact §62-11C-9 of the Code of West Virginia, 1931, as amended, relating to liability for payment of court costs as a condition of a pretrial diversion agreement; and correcting a reference to a code section governing pretrial diversion agreements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.

§62-11C-9. Use of community corrections programs for those not under court supervision.

(a) Subject to the availability of community corrections programs in the county, a written pretrial diversion agreement, entered into pursuant to the provisions of section twenty-two, article eleven, chapter sixty-one of this code, may require participation or supervision in a community corrections program as part of the prosecution and resolution of charges.

(b) Any pretrial diversion program for a defendant charged with a violation of the provisions of section twenty-eight, article two, chapter sixty-one of this code, subsection (b) or (c), section nine of said article where the alleged victim is a family or household member or the provisions of section two, article five, chapter seventeen-c of this code is to require the person charged to appear before the presiding judge or magistrate and either acknowledge his or her understanding of the terms of the agreement or tender a plea of guilty or nolo contendere to the charge or charges. Upon the defendants motion, the court shall continue the matter for the period of time necessary for the person charged to complete the pretrial diversion program. If the person charged successfully completes the pretrial diversion program, the matter is to be resolved pursuant to the terms of the pretrial diversion agreement. If the person charged fails to successfully complete the pretrial diversion program, the matter, if no plea of guilty or nolo contendere has been tendered, is to be returned to the courts docket for resolution. If the person charged has tendered a plea of guilty or nolo contendere and fails to successfully complete the pretrial diversion program, the court shall accept the tendered plea of guilty or nolo contendere and proceed to sentencing.

(c) No provision of this article may be construed to limit the prosecutors discretion to prosecute an individual who has not fulfilled the terms of a written pretrial diversion agreement by not completing the required supervision or participation in a community corrections program.

(d) Notwithstanding any provision of this code to the contrary, any person whose case is disposed of by entering into a pretrial diversion agreement, pursuant to the provisions of ~~section twenty-two, article eleven of this chapter~~ §61-11-22 of this code shall be liable for any applicable court costs. Payment of the court costs shall be made a condition of the pretrial diversion agreement.

NOTE: The purpose of this bill is to correct an internal reference in this section to a West Virginia code section governing pretrial diversion agreements. This section requires persons whose criminal case is disposed of by entering a pretrial diversion agreement is liable for court costs.

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