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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4296

(By Delegates Trump, Smirl, Manuel and Doyle)



Passed March 4, 2002

In Effect Ninety Days from Passage

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H. B. 4296

(BY DELEGATES TRUMP, SMIRL, MANUEL AND DOYLE)

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AN ACT to amend and reenact section one, article eleven-a, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to inmate release for work generally; providing that an inmate, released for work, may designate a person to receive certain earnings for dependent support after required deductions are withheld; removing the requirement that the clerk pay certain inmate expenses; removing the provision that the clerk may pay certain unpaid inmate debts; and clarifying the role of the clerk with respect to payment of inmate debts, expenses and bills.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven-a, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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 (1) When a defendant is sentenced or committed for a term
2 of one year or less by a court of record having criminal jurisdic-
3 tion, such court may in its order grant to such defendant the
4 privilege of leaving the jail during necessary and reasonable
5 hours for any of the following purposes:

6 (a) To work at his or her employment;

7 (b) To seek employment;

8 (c) To conduct his or her own business or to engage in other
9 self-employment, including housekeeping and attending to the
10 needs of his or her family;

11 (d) To attend an educational institution;

12 (e) To obtain medical treatment;

13 (f) To devote time to any other purpose approved of or
14 ordered by the court, including participation in the litter control
15 program of the county unless the court specifically finds that
16 this alternative service would be inappropriate.

17 (2) Whenever an inmate who has been granted the privilege
18 of leaving the jail under this section is not engaged in the
19 activity for which such leave is granted, he or she shall be
20 confined in jail.

21 (3) An inmate sentenced to ordinary confinement may
22 petition the court at any time after sentence for the privilege of
23 leaving jail under this section and may renew his or her petition
24 in the discretion of the court. The court may withdraw the
25 privilege at any time by order entered with or without notice.

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

35 (5) If an inmate is employed for wages or salary, the clerk
36 of the court shall collect the same or shall require the inmate to
37 turn over his or her wages or salary in full when received, and
38 shall deposit the same in a trust account and shall keep a ledger
39 showing the status of the account of each inmate. Earnings
40 levied upon pursuant to writ of attachment or execution or in
41 other lawful manner shall be collected from the employer and
42 shall not be collected hereunder, but when the clerk has
43 requested transmittal of earnings prior to levy, such request
44 shall have priority. When an employer transmits such earnings
45 to the clerk pursuant to this subsection he or she shall have no
46 liability to the inmate for such earnings. From such earnings the
47 clerk shall pay the inmate's board and personal expenses inside
48 the jail and shall deduct installments on fines, if any, and, to the
49 extent directed by the court, shall pay the balance to the person
50 designated by the inmate to receive the balance for the support
51 of the inmate's dependents: *Provided*, That at least twenty-five
52 percent of the earnings collected by the clerk on behalf of an
53 inmate shall be paid to the person designated by the inmate as
54 the person to receive funds being paid for the support of such
55 inmate's dependents, if any. Any undistributed balance shall be
56 paid to the inmate at the time of his or her discharge.

57 Except as specifically provided herein, nothing in this
58 section may be construed to require the clerk to undertake

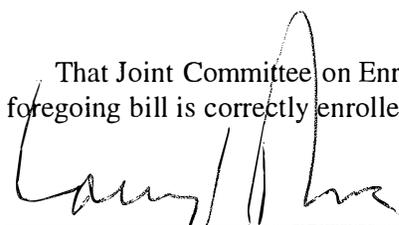
59 disbursement and payment of an inmate's expenses, debts or
60 bills.

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

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

71 (8) In every case wherein the defendant has been convicted
72 of an offense, defined in section twelve, article eight, chapter
73 sixty-one, or in article eight-b or eight-d of said chapter against
74 a child, the defendant shall not live in the same residence as any
75 minor child, nor exercise visitation with any minor child and
76 shall have no contact with the victim of the offense: *Provided,*
77 That the defendant may petition the court of the circuit wherein
78 he or she was so convicted for a modification of this term and
79 condition of this probation and the burden shall rest upon the
80 defendant to demonstrate that a modification is in the best
81 interest of the child.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



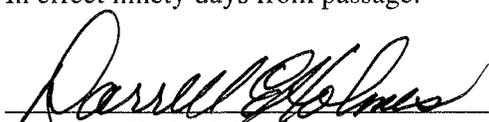
Chairman Senate Committee



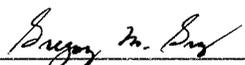
Chairman House Committee

Originating in the House.

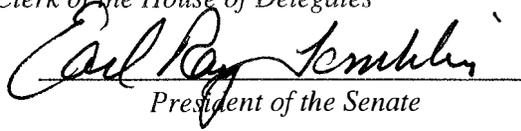
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 12th day of March, 2002.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/6/02

Time 10:10am