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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

House Bill No. 4530

(By Delegates Armstead, Manuel, Craig, Mahan,
J. Smith, Wills and Smirl)



Passed March 4, 2002

In Effect from Passage

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H. B. 4530

(BY DELEGATES ARMSTEAD, MANUEL, CRAIG, MAHAN,
J. SMITH, WILLS AND SMIRL)

[Passed March 4, 2002; in effect from passage.]

AN ACT to amend and reenact section nineteen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to violation of parole; allowing for intermediate sanctions for technical and nonfelonious parole violations; and precluding need for parole revocation hearing where parolee is convicted of a new felony.

Be it enacted by the Legislature of West Virginia:

That section nineteen, article twelve, 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 12. PROBATION AND PAROLE.

§62-12-19. Violation of parole.

- 1 (a) If at any time during the period of parole there shall be
- 2 reasonable cause to believe that the parolee has violated any of
- 3 the conditions of his or her release on parole, the parole officer

4 may arrest him or her with or without an order or warrant, or
5 the commissioner of corrections may issue its written order or
6 warrant for his or her arrest, which written order or warrant
7 shall be sufficient for his or her arrest by any officer charged
8 with the duty of executing an ordinary criminal process. The
9 commissioner's written order or warrant delivered to the sheriff
10 against the paroled prisoner shall be a command to keep
11 custody of the parolee for the jurisdiction of the division of
12 corrections and during the period of custody, the parolee may
13 be admitted to bail by the court before which the parolee was
14 sentenced. If the parolee is not released on a bond, the costs of
15 confining the paroled prisoner shall be paid out of the funds
16 appropriated for the division of corrections.

17 (b) When a parolee is under arrest for violation of the
18 conditions of his or her parole, he or she shall be given a
19 prompt and summary hearing, at which the parolee and his or
20 her counsel shall be given an opportunity to attend. If at the
21 hearing it shall appear to the satisfaction of the board that the
22 parolee has violated any condition of his or her release on
23 parole, or any rules or conditions of his or her supervision, the
24 board may revoke his or her parole and may require him or her
25 to serve in prison the remainder or any portion of his or her
26 maximum sentence for which, at the time of his or her release,
27 he or she was subject to imprisonment: *Provided*, That if the
28 violation of the conditions of parole or rules for his or her
29 supervision is not a felony as set out in section eighteen of this
30 article, the board may, if in its judgment the best interests of
31 justice do not require revocation, reinstate him or her on parole.
32 The division of corrections will effect release from custody
33 upon approval of a home plan. Notwithstanding any provision
34 of this code to the contrary, when reasonable cause has been
35 found to believe that a parolee has violated the conditions of his
36 or her parole but said violation does not constitute felonious
37 conduct, the commissioner may, in his or her discretion and
38 with the written consent of the parolee, allow the parolee to

39 remain on parole with additional conditions or restrictions.
40 Such additional conditions or restrictions may include, but shall
41 not be limited to, participation in any program described in
42 subsection (d), section five, article eleven-c of this chapter.
43 Compliance by the parolee with such conditions of parole shall
44 preclude revocation of parole for the conduct which constituted
45 the violation. Failure of the parolee to comply with such
46 conditions or restrictions and all other conditions of release
47 shall constitute an additional violation of parole and the parolee
48 may be proceeded against under the provisions of this section
49 for the original violation as well as any subsequent violations.

50 (c) When a parolee has violated the conditions of his or her
51 release on parole by confession to, or being convicted of, any
52 of the crimes set forth in section eighteen of this article, he or
53 she shall be returned to the custody of the division of correc-
54 tions to serve the remainder of his or her maximum sentence,
55 during which remaining part of his or her sentence he or she
56 shall be ineligible for further parole.

57 (d) Whenever the parole of a paroled prisoner has been
58 revoked, the commissioner shall upon receipt of the board's
59 written order of revocation, convey and transport the paroled
60 prisoner to a state correctional institution. A paroled prisoner
61 whose parole has been revoked shall remain in custody of the
62 sheriff until delivery to a corrections officer sent and duly
63 authorized by the commissioner for the removal of the paroled
64 prisoner to a state penal institution; the cost of confining such
65 paroled prisoner shall be paid out of the funds appropriated for
66 the division of corrections.

67 (e) When a paroled prisoner is convicted of, or confesses to,
68 any one of the crimes enumerated in section eighteen of this
69 article, it shall be the duty of the board to cause him or her to be
70 returned to this state for a summary hearing as provided by this
71 article. Whenever a parolee has absconded supervision, the

72 commissioner shall issue a warrant for his or her apprehension
73 and return to this state for the hearing provided for in this
74 article: *Provided*, That the board may, if it be of opinion the
75 best interests of justice do not require revocation, cause the
76 paroled absconder to be reinstated to parole.

77 (f) A warrant filed by the commissioner shall stay the
78 running of his or her sentence until the parolee is returned to the
79 custody of the division of corrections and physically in the state
80 of West Virginia.

81 (g) Whenever a parolee who has absconded supervision or
82 has been transferred out of this state for supervision pursuant to
83 section one, article six, chapter twenty-eight of this code is
84 returned to West Virginia due to a violation of parole and costs
85 are incurred by the division of corrections, the commissioner
86 may assess reasonable costs from the parolee's inmate funds or
87 the parolee as reimbursement to the division of corrections for
88 the costs of returning him or her to the state of West Virginia.

89 (h) Conviction of a felony for conduct occurring during the
90 period of parole constitutes proof of violation of the conditions
91 of parole and the hearing procedures required by the provisions
92 of this section are inapplicable.

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 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