

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2726

BY DELEGATES SHOTT, R. MILLER, KESSINGER, LANE,

BYRD, ISNER, FRICH AND LOVEJOY

[Passed April 5, 2017; in effect ninety days from passage.]

1 AN ACT to amend and reenact §62-11B-9 of the Code of West Virginia, 1931, as amended,
2 relating generally to authorizing home incarceration officers to arrest a participant for
3 violating the terms and conditions of his or her supervision without a court order.

Be it enacted by the Legislature of West Virginia:

1 That §62-11B-9 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 11B. Home Incarceration Act.

§62-11B-9. Violation of order of home incarceration procedures; penalties.

1 (a) If, at any time during the period of home incarceration, there is reasonable cause to
2 believe that a participant in a home incarceration program has violated the terms and conditions
3 of the circuit court's home incarceration order, he or she is subject to the procedures and penalties
4 set forth in section ten, article twelve of this chapter.

5 (b) If, at any time during the period of home incarceration, there is reasonable cause to
6 believe that a participant sentenced to home incarceration by the circuit court has violated the
7 terms and conditions of the court's order of home incarceration and the participant's participation
8 was imposed as an alternative sentence to another form of incarceration, the participant is subject
9 to the same procedures involving confinement and revocation as would a probationer charged
10 with a violation of the order of home incarceration. Any participant under an order of home
11 incarceration is subject to the same penalty or penalties, upon the circuit court's finding of a
12 violation of the order of home incarceration, as he or she could have received at the initial
13 disposition hearing: *Provided*, That the participant shall receive credit towards any sentence
14 imposed after a finding of violation for the time spent in home incarceration.

15 (c) If, at any time during the period of home incarceration, there is reasonable cause to
16 believe that a participant sentenced to home incarceration by a magistrate has violated the terms
17 and conditions of the magistrate's order of home incarceration as an alternative sentence to
18 incarceration in jail, the supervising authority may arrest the participant and take the offender

19 before a magistrate within the county of the offense. The magistrate shall then conduct a prompt
20 and summary hearing on whether the participant's home incarceration should be revoked. If it
21 appears to the satisfaction of the magistrate that any condition of home incarceration has been
22 violated, the magistrate may revoke the home incarceration and order that the sentence of
23 incarceration in jail be executed. Any participant under an order of home incarceration is subject
24 to the same penalty or penalties, upon the magistrate's finding of a violation of the order of home
25 incarceration, as the participant could have received at the initial disposition hearing: *Provided,*
26 That the participant shall receive credit towards any sentence imposed after a finding of violation
27 for the time spent in home incarceration.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

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day of, 2017.

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Governor