

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2726

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

BYRD, ISNER, FRICH AND LOVEJOY

[Introduced February 28, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL 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 participants for
 3 violating the terms and conditions of his or her supervision with or 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 ~~upon the obtaining of an~~
19 with or without an order or warrant and take the offender before a magistrate within the county of
20 the offense. The magistrate shall then conduct a prompt and summary hearing on whether the
21 participant's home incarceration should be revoked. If it appears to the satisfaction of the
22 magistrate that any condition of home incarceration has been violated, the magistrate may revoke
23 the home incarceration and order that the sentence of incarceration in jail be executed. Any
24 participant under an order of home incarceration is subject to the same penalty or penalties, upon
25 the magistrate's finding of a violation of the order of home incarceration, as the participant could
26 have received at the initial disposition hearing: *Provided*, That the participant shall receive credit
27 towards any sentence imposed after a finding of violation for the time spent in home incarceration.

NOTE: The purpose of this bill is to authorize home incarceration officers to arrest participants for violating the terms and conditions of his or her supervision with or without a court order.

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