

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4008**

BY DELEGATES FOSTER, KUMP, SUMMERS,  
HIGGINBOTHAM, TONEY, WAXMAN, D. KELLY, ESPINOSA,  
MAYNARD AND HOUSEHOLDER

[Introduced January 08, 2020; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §62-1C-1a of the Code of West Virginia, 1931, as amended, relating  
 2 to the authorization to release a defendant or a person arrested upon his or her own  
 3 recognizance; requiring a court or magistrate to release a person charged with certain  
 4 misdemeanor offenses on his or her own recognizance except for good cause shown and  
 5 permitting a prosecuting attorney to bring a motion to set cash or surety bond.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1C. BAIL.**

**§62-1C-1a. Release upon own recognizance authorized.**

1 (a) Any other provision of this article to the contrary notwithstanding, when from all the  
 2 circumstances, the court or magistrate is of the opinion that the defendant or person arrested will  
 3 appear as may be required of him or her, either before or after conviction, such defendant or  
 4 person arrested may be released upon his or her own recognizance.

1 (b) Except for good cause shown, a court or magistrate shall release a person charged  
 2 with a misdemeanor offense on his or her own recognizance unless that person is charged with:

3 (1) A misdemeanor offense of actual violence or threat of violence against a person;

4 (2) A misdemeanor offense where the victim was a minor, as defined in §61-8C-1 of this  
 5 code;

6 (3) A misdemeanor offense involving the use of a deadly weapon, as defined in §61-7-2  
 7 of this code;

8 (4) A misdemeanor offense of the Uniform Controlled Substances Act set forth in chapter  
 9 60A of this code; or

10 (5) A serious misdemeanor traffic offense set forth in §17C-5-1 and §17C-5-2 of this code.

11 (c) Within 10 days of the setting of bond or bail by the court or magistrate, a prosecuting  
 12 attorney may bring a motion to set cash or surety bond. The presiding court shall hold a summary  
 13 hearing upon the motion within five days, and make a finding based upon the evidence presented  
 14 by the prosecuting attorney if good cause is shown to require cash or surety bond, and upon good

- 15 cause shown, the presiding court shall set reasonable cash or surety bond in accordance with  
16 other provisions of this article.

NOTE: The purpose of this bill is to modify misdemeanor bail requirements.

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