

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4606

BY DELEGATES HORNBY AND FUNKHOUSER

[Passed March 14, 2026; in effect 90 days from
passage (June 12, 2026)]

1 AN ACT to amend and reenact §62-1C-1a and §62-1C-4 of the Code of West Virginia, 1931, as
2 amended, relating to requiring that judicial officers consider the residency status of a
3 person charged with a criminal violation in determining bail and conditions of pretrial
4 release; clarifying certain requirements for a judicial officer in determining good cause
5 under the section; clarifying that a magistrate may not release a defendant charged with
6 a felony crime of violence against the person, a felony offense in which the victim was a
7 minor, a felony offense of arson or burglary, or a felony drug offense on his or her own
8 recognizance; clarifying that the determination of whether to release a person, fix bail, or
9 impose reasonable conditions of release requires a judicial officer to consider the person's
10 status as a resident of West Virginia and/or of the United States of America; and clarifying
11 when a judicial officer may release a defendant charged with certain felony offenses on
12 his or her own recognizance.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1C. BAIL.

§62-1C-1a. Pretrial release; types of release; conditions for release; considerations as to conditions of release.

1 (a) Subject to the provisions of §62-1C-1 of this code, when a person charged with a
2 violation or violations of the criminal laws of this state first appears before a judicial officer:

3 (1) Except for good cause shown, a judicial officer shall release a person charged with a
4 misdemeanor offense on his or her own recognizance unless that person is charged with:

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

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

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

10 (D) A misdemeanor offense of the Uniform Controlled Substances Act as set forth in
11 chapter 60A of this code;

12 (E) Misdemeanor offenses of sexual abuse;

13 (F) A serious misdemeanor traffic offense set forth in §17C-5-1 or §17C-5-2 of this code;

14 or

15 (G) A misdemeanor offense involving auto tampering, petit larceny or possession, transfer
16 or receiving of stolen property when alleged value on the property involved exceeds \$250.

17 (2) In determining good cause for purposes of release under this section, a judicial officer
18 shall consider the residency status of a person charged with a misdemeanor offense, including
19 but not limited to whether the person: (A) Is a resident of West Virginia and/or the United States
20 of America; (B) has ties to the community; and (C) is a risk of flight.

21 (3) For the misdemeanor offenses specified in subsection (a) of this section and all other
22 offenses which carry a penalty of incarceration, the arrested person is entitled to be admitted to
23 bail subject to the least restrictive condition or combination of conditions that the judicial officer
24 determines reasonably necessary to assure that person will appear as required, and which will
25 not jeopardize the safety of the arrested person, victims, witnesses, or other persons in the
26 community or the safety and maintenance of evidence: *Provided*, That pursuant to §62-1C-4 of
27 this code, a magistrate may not release a defendant charged with a felony crime of violence
28 against the person as defined in §61-11-26(p)(3) of this code; with a felony offense in which the
29 victim was a minor as defined in §61-11-26(p)(4) of this code; with a felony offense of arson or
30 burglary set forth in §61-3-1 *et seq.* of this code; or with a felony drug offense set forth in chapter
31 60A of this code; on his or her own recognizance. Further conditions may include that the person
32 charged shall:

33 (A) Not violate any criminal law of this state, another state, or the United States;

34 (B) Remain in the custody of a person designated by the judicial officer, who agrees to
35 assume supervision and to report any violation of a release condition to the court, if the designated

36 person is reasonably able to assure the judicial officer that the person will appear as required and
37 will not pose a danger to himself or herself or to the safety of any other person or the community;

38 (C) Participate in home incarceration pursuant to §62-11B-1 *et seq.* of this code;

39 (D) Participate in an electronic monitoring program if one is available where the person is
40 charged or will reside;

41 (E) Maintain employment, or, if unemployed, actively seek employment;

42 (F) Avoid all contact with an alleged victim of the alleged offense and with potential
43 witnesses and other persons as directed by the court;

44 (G) Refrain from the use or excessive use of alcohol, or any use of a narcotic drug or other
45 controlled substance, as defined in §60A-1-1 *et seq.* of this code without a prescription from a
46 licensed medical practitioner;

47 (H) Execute an agreement to forfeit, upon failing to appear as required, property of a
48 sufficient unencumbered value, including money, as is reasonably necessary to assure the
49 appearance of the person as required. The person charged shall provide the court with proof of
50 ownership, the value of the property, and information regarding existing encumbrances of the
51 property as, in the discretion of the judicial officer, is reasonable and necessary collateral to
52 ensure the subsequent appearance of the person as required;

53 (I) Post a cash bond, or execute a bail bond with solvent sureties who will execute an
54 agreement to forfeit an amount reasonably necessary to assure appearance of the person as
55 required. If other than an approved surety, the surety shall provide the court with information
56 regarding the value of its assets and liabilities and the nature and extent of encumbrances against
57 the surety's property. The surety shall have a net worth of sufficiently unencumbered value to pay
58 the amount of the bail bond; or

59 (J) Satisfy any other condition that is reasonably necessary to assure the appearance of
60 the person as required and to assure the safety of the arrested person, victims, witnesses, other
61 persons in the community, or the safety and maintenance of evidence.

62 (4) Proper considerations in determining whether to release the arrested person on an
63 unsecured bond, fixing a reasonable amount of bail, or imposing other reasonable conditions of
64 release are:

65 (A) The ability of the arrested person to give bail;

66 (B) The nature, number, and gravity of the offenses;

67 (C) The potential penalty the arrested person faces;

68 (D) Whether the alleged acts were violent in nature;

69 (E) The arrested person's prior record of criminal convictions and delinquency
70 adjudications, if any;

71 (F) The character, health, residence, and reputation of the arrested person: *Provided,*
72 That, in determining whether to release a person, fix bail or impose reasonable conditions of
73 release, a judicial officer shall consider the person's status as a resident of West Virginia and/or
74 of the United States of America;

75 (G) The character and strength of the evidence which has been presented to the judicial
76 officer;

77 (H) Whether the arrested person is currently on probation, extended supervision, or
78 parole;

79 (I) Whether the arrested person is already on bail or subject to other release conditions in
80 other pending cases;

81 (J) Whether the arrested person has been bound over for trial after a preliminary
82 examination;

83 (K) Whether the arrested person has in the past forfeited bail or violated a condition of
84 release or was ever a fugitive from justice; and

85 (L) The policy against unnecessary incarceration of arrested persons pending trial set forth
86 in this section.

87 (b) In all misdemeanors, cash bail may not exceed three times the maximum fine provided
88 for the offense. If the person is charged with more than one misdemeanor, cash bail may not
89 exceed three times the highest maximum fine of the charged offenses.

90 (c) Notwithstanding any provisions of this article to the contrary, whenever a person not
91 subject to the provisions of §62-1C-1 of this code remains incarcerated after his or her initial
92 appearance, relating to a misdemeanor, due to the inability to meet the requirements of a secured
93 bond, a magistrate or judge shall hold a hearing within five days of setting the initial bail to
94 determine if there is a condition or combination of conditions which can meet the considerations
95 set forth in §62-1C-1a(a)(3) of this code.

96 (d) A judicial officer may upon notice and hearing modify the conditions of release at any
97 time by imposing additional or different conditions.

98 (e) A prosecuting attorney and defense counsel, unless expressly waived by the
99 defendant, shall appear at all hearings in which bail or bond conditions are at issue other than the
100 proceeding at which the conditions of release are initially set.

101 (f) No judicial officer may recommend the services of a surety who is his or her relative as
102 that term is defined in §6B-1-3 of this code.

§62-1C-4. Recognizance; signing; requirements for signers or surety company; release upon own recognizance; indigent persons.

1 The recognizance shall be signed by the defendant. It shall also be signed by one or more
2 adult persons owning real property in the state. The court or justice may require that justification
3 of surety be furnished. The assessed value of the real property as shown on the county land
4 books over and above all liens and encumbrances shall not be less than one half the amount of
5 the bail. Or, the recognizance may be signed by the defendant and a surety company authorized
6 to do business in this state. If the offense is a felony, the magistrate or circuit judge of the court
7 that will have jurisdiction to try the offense may release the defendant on his or her own
8 recognizance consistent with the provisions of §62-1C-1a(a)(3) of this code. If the offense is a

9 misdemeanor, either the court or justice may release the defendant on his or her own
10 recognizance. An indigent person who the court is satisfied will appear as required shall not be
11 denied bail because of his or her inability to furnish recognizance.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect 90 days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2026.

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Governor