

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2005

ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 729

(By Senator *FACELIYER, ET AL*)

PASSED *APRIL 9, 2005*

In Effect *JULY 1, 2005* Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 729

(SENATORS FACEMYER, BOWMAN, EDGELL, LOVE,
GUILLS, JENKINS, PLYMALE, FOSTER, SHARPE,
MINEAR AND CHAFIN, *original sponsors*)

[Passed April 9, 2005; to take effect July 1, 2005.]

AN ACT to amend and reenact §62-11B-4 of the Code of West Virginia, 1931, as amended, relating to home confinement; authorizing magistrate courts to order home incarceration as a condition of bail; authorizing magistrate courts to order home incarceration intermittently; and requiring magistrate court orders of home incarceration as a condition of bail be done consistent with Supreme Court guidelines.

Be it enacted by the Legislature of West Virginia:

That §62-11B-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 11B. HOME INCARCERATION ACT.

§62-11B-4. Home incarceration; period of home incarceration; applicability.

1 (a) As a condition of probation or bail or as an alterna-
2 tive sentence to another form of incarceration for any
3 criminal violation of this code over which a circuit court
4 has jurisdiction, a circuit court may order an offender
5 confined to the offender's home for a period of home
6 incarceration. As an alternative sentence to incarceration
7 in jail for any criminal violation of this code over which a
8 magistrate court has jurisdiction or as a condition of bail
9 for a criminal violation of this code over which a magis-
10 trate court has jurisdiction to set bail, a magistrate may
11 order an offender confined to the offender's home for a
12 period of electronically monitored home incarceration:
13 *Provided*, That electronic monitoring may not be required
14 in a specific case if a circuit court upon petition thereto
15 finds by order that electronic monitoring is not necessary.

16 (b) The period of home incarceration may be continuous
17 or intermittent as the circuit court or magistrate court
18 orders. However, the aggregate time actually spent in
19 home incarceration may not exceed the term of imprison-
20 ment or incarceration prescribed by this code for the
21 offense committed by the offender.

22 (c) A grant of home incarceration under this article
23 constitutes a waiver of any entitlement to deduction from
24 a sentence for good conduct under the provisions of section
25 twenty-seven, article five, chapter twenty-eight of this
26 code.

27 (d) When imposing home incarceration as a condition of
28 bail, a magistrate shall do so consistent with guidelines
29 promulgated by the Supreme Court of Appeals.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2005.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *28th*
Day of *April*, 2005.
[Signature]
Governor

PRESENTED TO THE
GOVERNOR

APR 27 2005

Time 10:05 