WEST VIRGINIA CODE: §62-11B-6

§62-11B-6. Circumstances under which home incarceration may not be ordered; exceptions.

(a) A circuit court or magistrate may not order home incarceration for an offender unless the offender agrees to abide by all of the requirements set forth in the court's order issued under this article.

(b) A circuit court or magistrate may not order home incarceration for an offender who is being held under a detainer, warrant or process issued by a court of another jurisdiction.

(c) A magistrate may not order home incarceration for an offender unless electronic monitoring is available and only if the county of the offender's home has an established program of electronic monitoring that is equipped, operated and staffed by the county supervisor or sheriff for the purpose of supervising participants in a home incarceration program: Provided, That electronic monitoring may not be required in a specific case if a circuit court upon petition thereto finds by order that electronic monitoring is not necessary.

(d) A magistrate may only order home incarceration for an offender convicted of a crime of violence against the person if the offender does not occupy the same home as the victim of the crime.

(e) Home incarceration is not available as a sentence if the language of a criminal statute expressly prohibits its application.

(f) Notwithstanding the provisions of subsection (c) of this section, a magistrate may order home incarceration through the imposition of supervision or participation in a community corrections program created pursuant to article eleven-c, chapter sixty-two of this code.

WV Legislature