

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972



**ENROLLED**

*Committee Substitute  
For*  
HOUSE BILL No. 970

(By Mr. Juen)



PASSED March 11 1972

In Effect From Passage



FILED IN THE OFFICE  
JOHN D. COCKBELL, IV  
SECRETARY OF STATE  
TILS DATE 3-29-72

970

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**House Bill No. 970**

(By MR. QUEEN)

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(Originating in the House Committee on the Judiciary)

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[Passed March 11, 1972; in effect from passage.]

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AN ACT to amend and reenact section three, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article twelve by adding thereto a new section, designated section seven-a, relating to the suspension of sentence and release on probation by the court for persons convicted of crimes; the time during which the court may suspend such sentence and grant probation; the remanding of persons who have been found guilty or pleaded guilty to felonies to the custody of the commissioner of public institutions for diagnosis and classification prior to the pronouncing of sentence; the time period during which such person may be so remanded; requiring the commissioner to report his findings to the court; credit for time served while in custody of such commissioner and penalty for escape while in such custody.

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

That section three, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article

twelve be further amended by adding thereto a new section, designated section seven-a, all to read as follows:

**ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-3. Suspension of sentence and release on probation.**

1 Whenever, upon the conviction of any person eligible  
2 for probation under the preceding section, it shall appear  
3 to the satisfaction of the court that the character of the  
4 offender and the circumstances of the case indicate that  
5 he is not likely again to commit crime and that the public  
6 good does not require that he be fined or imprisoned, the  
7 court, upon application or of its own motion, may suspend  
8 the imposition or execution of sentence and release the  
9 offender on probation for such period and upon such  
10 conditions as are provided by this article; but in no case,  
11 except as provided by the following section, shall the  
12 court have authority to suspend the execution of a sen-  
13 tence after the convicted person has been imprisoned for  
14 thirty days under the sentence.

**§62-12-7a. Power of court to require presentence diagnosis and classification.**

1 Notwithstanding any other provision of law, when any  
2 person has been found guilty of, or pleads guilty to, a  
3 felony, the court may, prior to pronouncing of sentence,  
4 direct that such person be delivered into the custody of  
5 the commissioner of public institutions who shall cause  
6 such person to be forthwith transferred to the diagnostic  
7 and classification division of the Huttonsville correctional  
8 center for a period not to exceed sixty days. During such  
9 period such person shall undergo examination, diagnosis  
10 and classification and he shall then be remanded and de-  
11 livered to the custody of the sheriff of the county wherein  
12 he was found guilty or entered such plea. Within ten days  
13 following the termination of such examination, diagnosis  
14 and classification, the commissioner of public institutions  
15 shall make or cause to be made a report to the court  
16 wherein the person was found guilty, or entered his plea  
17 of guilty, containing the results, findings, conclusions and  
18 recommendations of the commissioner with respect to such  
19 person.

20 Whenever any person is remanded into the custody of  
21 the commissioner of public institutions pursuant to this  
22 section, such person shall be given credit on any sentence  
23 subsequently imposed by the court equal to the time  
24 spent in such custody.

25 Any person who has been delivered into the custody of  
26 the commissioner under the provisions of this section and  
27 who escapes from such custody, shall be guilty of a felony,  
28 and, upon conviction thereof, shall be confined in the  
29 penitentiary for one year. The term of confinement under  
30 this section shall commence at the expiration of any  
31 sentence such person would be subject to for the offense  
32 for which such person had been found guilty or to which  
33 he had entered his plea of guilty, as the case may be.

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

Russell D. Beall  
Chairman Senate Committee

Phyllis J. Rutledge  
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard T. Eason  
Clerk of the Senate

A. Blankenship  
Clerk of the House of Delegates

E. H. Eason  
President of the Senate

Levin J. Williams  
Speaker House of Delegates

The within approved this the 27th  
March day of \_\_\_\_\_, 1972.

W. A. Shaver, Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/17/72  
Time 1:00 p.m.

MAR 29 9 28 AM '72  
OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA