

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED

SENATE BILL NO. 73

(By Mr. Brotherton)

PASSED March 11 1972

In Effect 90 Days From Passage

MAR 29 11 37 PM '72
OFFICE OF
SECRETARY OF STATE
WEST VIRGINIA

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

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Senate Bill No. 73

(By MR. BROTHERTON)

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

AN ACT to amend chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven-a, relating to the release of certain prisoners by courts of record having criminal jurisdiction for purposes of employment and other reasons; authorizing petitions for such release; relating to suitable employment for prisoners; relating to the duty of probation officers and the division of correction with respect to suitable employment for such prisoners; relating to wages or salary earned by such prisoners while on release; providing for trust accounts therefor; relating to attachment or execution on earnings and priorities with respect thereto; providing for lack of liability on part of employer when earnings are paid to clerk; relating to disposition of earnings paid to clerk; relating to reduction of term for good behavior and faithful performance of duties; and requiring adequate facilities for administration of release privilege.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eleven-a, to read as follows:

**ARTICLE 11A. RELEASE FOR WORK AND OTHER PURPOSES
BY COURTS OF RECORD.**

**§62-11A-1. Release for work and other purposes by courts of
record with criminal jurisdiction.**

- 1 (1) When a defendant is sentenced or committed for a
- 2 term of one year or less by a court of record having crimi-
- 3 nal jurisdiction, such court may in its order grant to such
- 4 defendant the privilege of leaving the jail during necessary
- 5 and reasonable hours for any of the following purposes:

6 (a) To work at his employment;

7 (b) To seek employment;

8 (c) To conduct his own business or to engage in other
9 self-employment, including, in the case of a woman,
10 housekeeping and attending to the needs of her family;

11 (d) To attend an educational institution;

12 (e) To obtain medical treatment;

13 (f) To devote time to any other purpose approved by
14 the court.

15 (2) Whenever an inmate who has been granted the
16 privilege of leaving the jail under this section is not
17 engaged in the activity for which such leave is granted,
18 he shall be confined in jail.

19 (3) An inmate sentenced to ordinary confinement may
20 petition the court at any time after sentence for the
21 privilege of leaving jail under this section and may re-
22 new his petition in the discretion of the court. The court
23 may withdraw the privilege at any time by order entered
24 with or without notice.

25 (4) If the inmate has been granted permission to
26 leave the jail to seek or take employment, the court's
27 probation officers, or if none, the state's division of cor-
28 rection shall assist him in obtaining suitable employment
29 and in making certain that employment already obtained
30 is suitable. Employment shall not be deemed suitable if
31 the wages or working conditions or other circumstances
32 present a danger of exploitation or of interference in a
33 labor dispute in the establishment in which the inmate
34 would be employed.

35 (5) If an inmate is employed for wages or salary, the
36 clerk of the court shall collect the same, or shall require
37 the inmate to turn over his wages or salary in full when
38 received, and shall deposit the same in a trust account
39 and shall keep a ledger showing the status of the ac-
40 count of each inmate. Earnings levied upon pursuant
41 to writ of attachment or execution or in other lawful
42 manner shall be collected from the employer and shall not
43 be collected hereunder, but when the clerk has requested
44 transmittal of earnings prior to levy, such request shall

45 have priority. When an employer transmits such earn-
46 ings to the clerk pursuant to this subsection he shall have
47 no liability to the inmate for such earnings. From such
48 earnings the clerk shall pay the inmate's board and per-
49 sonal expenses both inside and outside the jail and shall
50 deduct installments on fines, if any, and, to the extent
51 directed by the court, shall pay the support of the in-
52 mate's dependents: *Provided*, That at least twenty-five
53 percent of the earnings collected by the clerk on behalf
54 of an inmate shall be paid for the support of such inmate's
55 dependents, if any. If sufficient funds are available after
56 making the foregoing payments, the clerk may, with the
57 consent of the inmate, pay, in whole or in part, any un-
58 paid debts of the inmate. Any balance shall be retained,
59 and shall be paid to the inmate at the time of his dis-
60 charge.

61 (6) An inmate who is serving his sentence pursuant
62 to this section shall be eligible for a reduction of his
63 term for good behavior and faithful performance of
64 duties in the same manner as if he had served his term
65 in ordinary confinement.

66 (7) The court shall not make an order granting the
67 privilege of leaving the institution under this section
68 unless it is satisfied that there are adequate facilities
69 for the administration of such privilege in the jail or
70 other institution in which the defendant will be confined.

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

Russell H. Beall
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Howard W. Gibson
Clerk of the Senate

W. A. Blankenship
Clerk of the House of Delegates

Esther Court
President of the Senate

Louis J. McNamee
Speaker House of Delegates

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

Arch A. Moore, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/17/72

Time 1:00 p.m.