WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 206

(By Senators Kessler, Oliverio, Chafin, Foster, Green, Hunter, Jenkins, Minard, Stollings, Wells, White, Barnes, Caruth, Deem, Hall, McKenzie and Yoder)

[Passed March 2, 2007; in effect ninety days from passage.]
AN ACT to amend and reenact §62-11C-9 of the Code of West Virginia, 1931, as amended, relating to assessing court costs for participants in pretrial diversion programs.

Be it enacted by the Legislature of West Virginia:

That §62-11C-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.


1 (a) Subject to the availability of community corrections programs in the county, a written pretrial diversion agreement, entered into pursuant to the
provisions of section twenty-two, article eleven, chapter sixty-one of this code, may require participation or supervision in a community corrections program as part of the prosecution and resolution of charges.

(b) Any pretrial diversion program for a defendant charged with a violation of the provisions of section twenty-eight, article two, chapter sixty-one of this code, subsection (b) or (c), section nine of said article where the alleged victim is a family or household member or the provisions of section two, article five, chapter seventeen-c of this code is to require the person charged to appear before the presiding judge or magistrate and either acknowledge his or her understanding of the terms of the agreement or tender a plea of guilty or nolo contendere to the charge or charges. Upon the defendant's motion, the court shall continue the matter for the period of time necessary for the person charged to complete the pretrial diversion program. If the person charged successfully completes the pretrial diversion program, the matter is to be resolved pursuant to the terms of the pretrial diversion agreement. If the person charged fails to successfully complete the pretrial diversion program, the matter, if no plea of guilty or nolo contendere has been tendered, is to be returned to the court's docket for resolution. If the person charged has tendered a plea of guilty or nolo contendere and fails to successfully complete the pretrial diversion program, the court shall accept the tendered plea of guilty or nolo contendere and proceed to sentencing.

(c) No provision of this article may be construed to limit the prosecutor's discretion to prosecute an individual who has not fulfilled the terms of a written pretrial diversion agreement by not completing the required supervision or participation in a community corrections program.

(d) Notwithstanding any provision of this code to the contrary, any person whose case is disposed of by entering into a pretrial diversion agreement, pursuant to the provisions of section twenty-two, article eleven of
this chapter, shall be liable for any applicable court costs. Payment of the court costs shall be made a condition of the pretrial diversion agreement.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the Day of , 2007.

Governor