ENROLLED
Committee Substitute for
Senate Bill No. 66

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND
CARUTH, BY REQUEST OF THE EXECUTIVE)

[Passed March 5, 2007; in effect ninety days from passage.]
AN ACT to amend and reenact §62-11C-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Community Corrections Fund; establishing fee collected from persons on home incarceration; setting fee amount; and removing provision allowing modification of fee amount by legislative rule.

Be it enacted by the Legislature of West Virginia:
That §62-11C-4 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.

§62-11C-4. Special revenue account.

(a) There is hereby created in the State Treasury a special revenue account to be known as the West Virginia Community Corrections Fund. Expenditures from the fund are for the purposes set forth in subsection (e) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code. The West Virginia Community Corrections Fund may receive any gifts, grants, contributions or other money from any source which is specifically designated for deposit in the fund.

(b) Beginning on the first day of July, two thousand six, in addition to the fee required in section nine, article twelve of this chapter, a fee not to exceed thirty-five dollars per month, unless modified by legislative rule as provided in section three of this article, is also to be collected from those persons on probation. This fee is to be based upon the person's ability to pay. The magistrate or circuit judge shall conduct a hearing prior to imposition of probation and make a determination on the record that the offender is able to pay the fee without undue hardship. The magistrate clerk or circuit clerk shall collect all fees imposed pursuant to this subsection and deposit them in a separate account. Within ten calendar days following the beginning of the calendar month, the magistrate clerk or circuit clerk shall forward the amount deposited to the State
Treasurer to be credited to the West Virginia Community Corrections Fund.

(c) Beginning on the first day of July, two thousand seven, in addition to the fee required in section five, article eleven-b of this chapter, a fee of two dollars fifty cents per day is to be collected from those persons on home incarceration. The circuit judge, magistrate or municipal court judge shall consider the person's ability to pay in determining the imposition of the fee. The circuit clerk, magistrate clerk or municipal court clerk shall collect all fees imposed pursuant to this subsection and deposit them in a separate account. Within ten calendar days following the beginning of the calendar month, the circuit clerk or municipal court clerk shall forward the amount deposited to the State Treasurer to be credited to the West Virginia Community Corrections Fund.

(d) Beginning on the first day of July, two thousand six, in addition to the usual court costs in any criminal case taxed against any defendant convicted in a municipal, magistrate or circuit court, excluding municipal parking ordinances, a ten-dollar fee shall be added. The circuit clerk, magistrate clerk or municipal court clerk shall collect all fees imposed pursuant to this subsection and deposit them in a separate account. Within ten calendar days following the beginning of the calendar month, the circuit clerk, magistrate court clerk and the municipal court clerk shall forward the amount deposited to the State Treasurer to be credited to the West Virginia Community Corrections Fund.

(e) The moneys of the West Virginia Community Corrections Fund are to be disbursed by the Governor's Committee on Crime, Delinquency and Correction, upon recommendation by the community corrections
subcommittee, for the funding of community corrections programs and to pay expenses of the Governor's committee in administering the provisions of this article, which expenses may not in any fiscal year exceed ten percent of the funds deposited to the special revenue account during that fiscal year.

(f) Any disbursements from the West Virginia Community Corrections Fund allocated for community corrections programs by the Governor's committee may be made contingent upon local appropriations or gifts in money or in kind for the support of the programs. Any county commission of any county or the governing body of a municipality may appropriate and expend money for establishing and maintaining community corrections programs.

(g) Nothing in this article may be construed to mandate funding for the West Virginia Community Corrections Fund or to require any appropriation by the Legislature.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures for Chairman Senate Committee and Chairman House Committee]

Originated in the Senate.

In effect ninety days from passage.

[Signature for Clerk of the Senate]

[Signature for Clerk of the House of Delegates]

[Signature for President of the Senate]

[Signature for Speaker House of Delegates]

The within is approved this the 26 Day of March, 2007.

[Signature for Governor]
PRESENTED TO THE GOVERNOR

MAR 20 2007

Time 3:30pm