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2007 MAR 16 PM 12: 51

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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.]

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[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.

§62-11C-9. Use of community corrections programs for those not under court supervision.

- 1 (a) Subject to the availability of community
- 2 corrections programs in the county, a written pretrial
- 3 diversion agreement, entered into pursuant to the

4 provisions of section twenty-two, article eleven, chapter
5 sixty-one of this code, may require participation or
6 supervision in a community corrections program as part
7 of the prosecution and resolution of charges.

8 (b) Any pretrial diversion program for a defendant
9 charged with a violation of the provisions of section
10 twenty-eight, article two, chapter sixty-one of this code,
11 subsection (b) or (c), section nine of said article where
12 the alleged victim is a family or household member or
13 the provisions of section two, article five, chapter
14 seventeen-c of this code is to require the person charged
15 to appear before the presiding judge or magistrate and
16 either acknowledge his or her understanding of the
17 terms of the agreement or tender a plea of guilty or nolo
18 contendere to the charge or charges. Upon the
19 defendant's motion, the court shall continue the matter
20 for the period of time necessary for the person charged
21 to complete the pretrial diversion program. If the
22 person charged successfully completes the pretrial
23 diversion program, the matter is to be resolved pursuant
24 to the terms of the pretrial diversion agreement. If the
25 person charged fails to successfully complete the
26 pretrial diversion program, the matter, if no plea of
27 guilty or nolo contendere has been tendered, is to be
28 returned to the court's docket for resolution. If the
29 person charged has tendered a plea of guilty or nolo
30 contendere and fails to successfully complete the
31 pretrial diversion program, the court shall accept the
32 tendered plea of guilty or nolo contendere and proceed
33 to sentencing.

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

40 (d) Notwithstanding any provision of this code to the
41 contrary, any person whose case is disposed of by
42 entering into a pretrial diversion agreement, pursuant
43 to the provisions of section twenty-two, article eleven of

44 this chapter, shall be liable for any applicable court
45 costs. Payment of the court costs shall be made a
46 condition of the pretrial diversion agreement.

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

Chandy White
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Barney E. Johnson
.....
Clerk of the Senate

Gregg M. Scott
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *16th* Day of *March*, 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 14 2007

Time 3:05p