

SB 370

FILED

2009 APR 30 PM 4: 08

**WEST VIRGINIA LEGISLATURE**

WEST VIRGINIA  
SECRETARY OF STATE

**SEVENTY-NINTH LEGISLATURE  
REGULAR SESSION, 2009**

—●—  
**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**Senate Bill No. 370**

(SENATOR KESSLER, *original sponsor*)

[Passed April 8, 2009; in effect ninety days from passage.]

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AN ACT to amend and reenact §62-11C-4 and §62-11C-7 of the Code of West Virginia, 1931, as amended, all relating to community corrections fees generally; clarifying that circuit clerks, magistrate clerks, municipal court clerks or his or her designee are all authorized to collect certain fees imposed pursuant to this article; and permitting only a community criminal justice board to have the authority to collect supervision or participation fees ordered by circuit courts, magistrate courts, municipal courts or the community criminal justice board.

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

That §62-11C-4 and §62-11C-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.**

**§62-11C-4. Special revenue account**

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

14 (b) In addition to the fee required in section nine, article  
15 twelve of this chapter, a fee not to exceed \$35 per month,  
16 unless modified by legislative rule as provided in section  
17 three of this article, is also to be collected from those  
18 persons on probation. This fee is to be based upon the  
19 person's ability to pay. The magistrate or circuit judge  
20 shall conduct a hearing prior to imposition of probation  
21 and make a determination on the record that the offender  
22 is able to pay the fee without undue hardship. The  
23 magistrate clerk, deputy magistrate clerk, magistrate  
24 assistant, circuit clerk or deputy circuit clerk shall collect  
25 all fees imposed pursuant to this subsection and deposit  
26 them in a separate account. Within ten calendar days  
27 following the beginning of the calendar month, the  
28 magistrate clerk or circuit clerk shall forward the amount  
29 deposited to the State Treasurer to be credited to the West  
30 Virginia Community Corrections Fund.

31 (c) In addition to the fee required in section five, article  
32 eleven-b of this chapter, a fee of \$2.50 per day is to be  
33 collected from those persons on home incarceration. The

34 circuit judge, magistrate or municipal court judge shall  
35 consider the person's ability to pay in determining the  
36 imposition of the fee. The circuit clerk, magistrate clerk,  
37 municipal court clerk or his or her designee shall collect  
38 all fees imposed pursuant to this subsection and deposit  
39 them in a separate account. Within ten calendar days  
40 following the beginning of the calendar month, the circuit  
41 clerk, magistrate clerk or municipal court clerk shall  
42 forward the amount deposited to the State Treasurer to be  
43 credited to the West Virginia Community Corrections  
44 Fund.

45 (d) In addition to the usual court costs in any criminal  
46 case taxed against any defendant convicted in a municipal,  
47 magistrate or circuit court, excluding municipal parking  
48 ordinances, a \$10 fee shall be added. The circuit clerk,  
49 magistrate clerk, municipal court clerk or his or her  
50 designee shall collect all fees imposed pursuant to this  
51 subsection and deposit them in a separate account. Within  
52 ten calendar days following the beginning of the calendar  
53 month, the circuit clerk, magistrate court clerk and the  
54 municipal court clerk shall forward the amount deposited  
55 to the State Treasurer to be credited to the West Virginia  
56 Community Corrections Fund.

57 (e) The moneys of the West Virginia Community Correc-  
58 tions Fund are to be disbursed by the Governor's Commit-  
59 tee on Crime, Delinquency and Correction, upon recom-  
60 mendation by the community corrections subcommittee,  
61 for the funding of community corrections programs and to  
62 pay expenses of the Governor's committee in administer-  
63 ing the provisions of this article, which expenses may not  
64 in any fiscal year exceed ten percent of the funds depos-  
65 ited to the special revenue account during that fiscal year.

66 (f) Any disbursements from the West Virginia Commu-  
67 nity Corrections Fund allocated for community corrections  
68 programs by the Governor's committee may be made

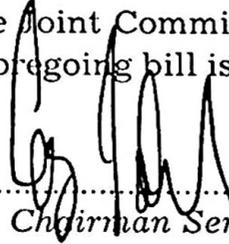
69 contingent upon local appropriations or gifts in money or  
70 in kind for the support of the programs. Any county  
71 commission of any county or the governing body of a  
72 municipality may appropriate and expend money for  
73 establishing and maintaining community corrections  
74 programs.

**§62-11C-7. Supervision or participation fee.**

1 (a) A circuit judge, magistrate, municipal court judge or  
2 community criminal justice board may require the pay-  
3 ment of a supervision or participation fee from any person  
4 required to be supervised by or participate in a community  
5 corrections program. The circuit judge, magistrate,  
6 municipal court judge or community criminal justice  
7 board shall consider the person's ability to pay in deter-  
8 mining the imposition and amount of the fee.

9 (b) All fees ordered by the circuit court, magistrate  
10 court, municipal court or community criminal justice  
11 board pursuant to this section are to be paid to the com-  
12 munity criminal justice board, who shall remit the fees  
13 monthly to the treasurer of the county designated as the  
14 fiscal agent for the board pursuant to section six of this  
15 article.

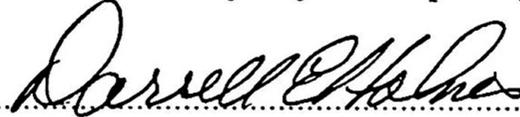
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee

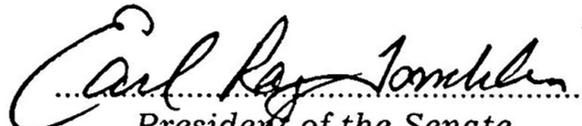
  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker House of Delegates

The within is appended ..... this the 30<sup>th</sup> .....  
Day of April ....., 2009.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 27 2009

Time 2:15pm