

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4173

BY DELEGATE SUMMERS

[Introduced January 18, 2018; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §62-1C-1a and §62-1C-3 of the Code of West Virginia, 1931, as
 2 amended; and to amend and reenact §62-11F-4 of said code, all relating to bail in criminal
 3 cases; requiring the Supreme Court of Appeals of West Virginia to adopt an evidence-
 4 based standardized pretrial risk assessment to be used by a court or magistrate; requiring
 5 the court or magistrate to set bail at the minimum amount considered reasonable to ensure
 6 appearance of the defendant; and when the court or magistrate may set bail contrary to
 7 the pretrial risk assessment.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1C. BAIL.

§62-1C-1a. Release upon own recognizance authorized.

1 Any other provision of this article to the contrary notwithstanding, when ~~from all the~~
 2 ~~circumstances~~ pursuant to the pretrial risk assessment mandated by §62-11F-4 of this code, the
 3 court or magistrate is of the opinion that the defendant or person arrested will appear as may be
 4 required of him or her, either before or after conviction, ~~such~~ the defendant or person arrested
 5 may be released upon his or her own recognizance: *Provided*, That a court or magistrate may
 6 set bail contrary to the findings of the pretrial risk assessment, and that order shall be supported
 7 by written findings of facts and law.

§62-1C-3. Fixing of amount; bail may cover two or more charges.

1 The amount of bail shall be fixed by the court or ~~justice~~ magistrate with and shall be the
 2 minimum amount considered reasonable to ensure appearance. Consideration shall be given to
 3 the seriousness of the offense charged, the previous criminal record of the defendant, his or her
 4 financial ability, and the probability of his or her appearance. When two or more charges are filed
 5 or are pending against the same person at or about the same time, the bail given may be made
 6 to include all offenses charged against the defendant.

ARTICLE 11F. PRETRIAL RELEASE PROGRAMS.

§62-11F-4. Pretrial release assessment.

1 The Supreme Court of Appeals of West Virginia ~~may~~ shall adopt a an evidence-based
2 standardized pretrial risk assessment. The assessment shall be for use by courts, magistrates,
3 and pretrial release programs prior to, or at the initial hearing, to aid in making pretrial decisions
4 under §62-1C-1 *et seq.* of this code.

NOTE: The purpose of this bill is to require the Supreme Court of Appeals of West Virginia to adopt an evidence-based standardized pretrial risk assessment to be used by a court or magistrate in determining bail. The bill requires the court or magistrate to base bail on the minimum amount considered reasonable to ensure appearance. And, the bill permits the court or magistrate to set bail contrary to the pretrial risk assessment, when supported by written findings of fact.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.