

AGENDA
MORGAN COUNTY COMMISSION
77 Fairfax Street, Room 101
Berkeley Springs, WV 25411

October 18, 2012 - 9:30 AM Open Meeting

9:30 AM- Administrative & Approve Minutes

Assessor's Exonerations

Laura Breeden- Ambulance Fee Exonerations

Carol York, Grant Administrator- Resolution to apply for WV County Records Management & Preservation Board
Grant Program

Court Orders for re-appointments to the NEREMS (North Eastern Regional Emergency Services), Inc. Board
- Kevin Duckwall & Louis Herrell

Approval letters for 911 Hiring

AGENDA ITEMS

10:00 AM- Agreement with School Board regarding the Soccer Field

10:15 AM- Keith DeBlasio- Compliance with code for boards and commissions

10:30 AM- Charlene Gilliam- Potomac Edison- Short Presentation on Storm Response

10:50 AM- Joan Willard & Kevin Barney- PRO (Protection Resource Officer) Grant

11:05 AM- Roy Smith- Financial Statements

ADMINISTRATOR'S ITEMS

Approval of \$5,000 WVNPDES Annual Permit Fee for geothermal.

Approval to proceed with plumbing and drainage work on the animal control kennels.



Morgan County Commission

77 Fairfax Street, Room 101
Berkeley Springs, West Virginia 25411
304-258-8540

-COMMISSIONERS-

BRENDA J. HUTCHINSON
5154 MILO SCHOOL ROAD
GREAT CACAPON
WV 25422
304-947-7713

STACY A. DUGAN
401 S. LAUREL AVENUE
BERKELEY SPRINGS
WV 25411
304-258-9648

BRADLEY J. CLOSE
380 DRY RUN ROAD
BERKELEY SPRINGS
WV 25411
304-258-3795

RESOLUTION

WHEREAS; The Morgan County Commission is in support of the West Virginia County Records Management and Preservation Board Grant Program;

THEREFORE,
BE IT RESOLVED; This 18th day of October 2012 that the Morgan County Commission authorizes Stacy A. Dugan, its President, as the official representative for the Commission in the administration of the West Virginia County Records Management and Preservation Board Grant Program.

Stacy A. Dugan, President
Morgan County Commission

Brenda J. Hutchinson
Morgan County Commission

Bradley J. Close
Morgan County Commission

ATTEST: _____
Debra A. Kesecker
Clerk of the County Commission



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October 18, 2012

COURT ORDER

The Morgan County Commission hereby re-appoints KEVIN DUCKWALL to the North Eastern Regional Emergency Services, Inc. (NEREMS) to serve a two year term.

This appointment is effective immediately and will expire October 31, 2014.

Stacy A. Dugan, President
Morgan County Commission

Brenda J. Hutchinson
Morgan County Commission

Bradley J. Close
Morgan County Commission

ATTEST: _____
Debra Kesecker
Clerk of the County Commission



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October 18, 2012

COURT ORDER

The Morgan County Commission hereby re-appoints LOUIS HERRELL to the North Eastern Regional Emergency Services, Inc. (NEREMS) to serve a two year term.

This appointment is effective immediately and will expire October 31, 2014.

Stacy A. Dugan, President
Morgan County Commission

Brenda J. Hutchinson
Morgan County Commission

Bradley J. Close
Morgan County Commission

ATTEST: _____
Debra Kesecker
Clerk of the County Commission

MORGAN COUNTY COMMISSION
AGENDA REQUEST

DATE OF REQUEST: 10/15/12

NAME: Keith DeBlasio

ADDRESS: 15 Candlewood Ln.
Great Cacapon, WV 25422

HOME PHONE: 804-677-8421

BUSINESS PHONE:

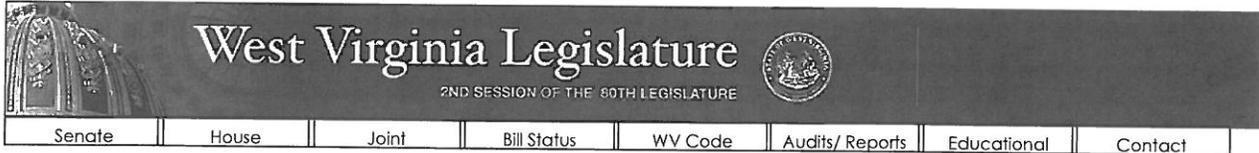
DATE OF MEETING REQUESTED: 10/18/2012

TOPIC (S) OF DISCUSSION:
Compliance with code for boards and commissions

SPECIAL EQUIPMENT NEEDS (i.e. Powerpoint, etc.)

* Please include any handouts or material that will be discussed or

General Duties



West Virginia Legislature
2ND SESSION OF THE 80TH LEGISLATURE

Senate	House	Joint	Bill Status	WV Code	Audits/ Reports	Educational	Contact
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WEST VIRGINIA CODE

§7-1-3. Jurisdiction, powers and duties.

The county commissions, through their clerks, shall have the custody of all deeds and other papers presented for record in their counties and the same shall be preserved therein, or otherwise disposed of as now is, or may be prescribed by law. They shall have jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts and in all matters relating to apprentices. They shall also, under the rules as now are or may be prescribed by law, have the superintendence and administration of the internal police and fiscal affairs of their counties, including the establishment and regulation of roads, ways, streets, avenues, drives and the like, and the naming or renaming thereof, in cooperation with local postal authorities, the division of highways and the directors of county emergency communications centers, to assure uniform, nonduplicative conversion of all rural routes to city-type addressing on a permanent basis, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. They shall, in all cases of contest, judge of the election, qualification and returns of their own members, and of all county and district officers, subject to appeal as prescribed by law. The tribunals as have been heretofore established by the Legislature under and by virtue of section thirty-four, article VIII of the constitution of one thousand eight hundred seventy-two, for police and fiscal purposes, shall, until otherwise provided by law, remain and continue as at present constituted in the counties in which they have been respectively established, and shall be and act as to police and fiscal matters in lieu of the county commission herein mentioned, until otherwise provided by law. And until otherwise provided by law, the clerk as is mentioned in section twenty-six of said article, as amended, shall exercise any powers and discharge any duties heretofore conferred on, or required of, any court or tribunal established for judicial purposes under said section, or the clerk of the court or tribunal, respectively, respecting the recording and preservation of deeds and other papers presented for record, matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts and in all matters relating to apprentices. The county commission may not limit the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any revolver, pistol, rifle or shotgun or any ammunition or ammunition components to be used therewith nor to so regulate the keeping of gunpowder so as to, directly or indirectly, prohibit the ownership of the ammunition: *Provided*, That no provision in this section may be construed to limit the authority of a county to restrict the commercial use of real estate in designated areas through planning or zoning ordinances.

Note: WV Code updated with legislation passed through the 2012 1st Special Session



West Virginia Legislature
2ND SESSION OF THE 40TH LEGISLATURE



Senate	House	Joint	Bill Status	WV Code	Audits/ Reports	Educational	Contact
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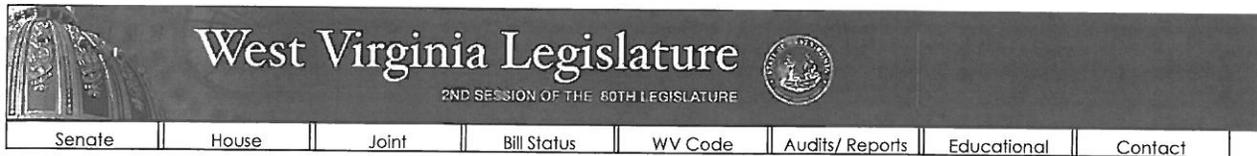
WEST VIRGINIA CODE

§7-1-3i. County commission may cooperate with other governmental units.

Any county commission may join together in the exercise of any of its powers, duties and responsibilities, or otherwise cooperate with any other county or counties, municipality or municipalities, the government of this state or of the United States in carrying out any lawful purpose not in conflict with the constitution of West Virginia: *Provided*, That the county commission of any county sharing a common border with any other state is hereby empowered to enter into reciprocal agreements with governmental subdivisions or agencies of such other state for the protection of people and property from fire and for emergency medical services and for the reciprocal use of county equipment and personnel for such purpose.

Note: WV Code updated with legislation passed through the 2012 1st Special Session

County Commissions on Crime, Delinquency and Correction



WEST VIRGINIA CODE

§7-1-3r. Purposes of section; county commissions on crime, delinquency and correction created and established; composition of commission; powers and duties of commission; executive secretary; duties of executive secretary.

(a) The enactment of the Omnibus Crime Control and Safe City Streets Act of 1968 and subsequent amendments thereto with millions of federal dollars available to local units of government in the fiscal year one thousand nine hundred seventy-two--one thousand nine hundred seventy-three, and the probability that this program will be continued and expanded in future years makes the establishment of a county agency to ensure that the county may make the best use of the benefits of this act.

(b) There is hereby established in each county a county commission on crime, delinquency and correction. The commission shall consist of the members of the county commission and such other members as may be designated by the county commission. Members other than the county commission members shall serve at the will and pleasure of the county commission.

(c) This commission shall collect and compile all data and other information with respect to police agencies, courts of record and justice of peace courts, prosecution of crimes, probation, jails, juvenile detention facilities and such other matters as might be concerned with the total criminal justice system.

(d) The commission shall work closely with the Governor's Committee on Crime, Delinquency and Correction established by Executive Order 7-A66 dated the first day of September, one thousand nine hundred sixty-six.

(e) The commission shall analyze the data and information herein required, shall determine federal funds available under the provisions of the state plan developed by the aforesaid Governor's Committee on Crime, Delinquency and Correction and shall make recommendations to the governing body with respect to priorities in the expenditure of funds.

(f) The commission may make recommendations with respect to steps to be taken in the county designed to improve the criminal justice system.

(g) The commission shall select one of its members to be the executive secretary to the commission and as such shall keep a record of all proceedings, shall collect and compile data and information as may be required by the commission and perform other duties as reasonably may be required by the commission to effectuate the purposes of this section.

Note: WV Code updated with legislation passed through the 2012 1st Special Session

Community Criminal Justice Boards

WEST VIRGINIA CODE

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.

§62-11C-1. Legislative intent.

(a) The Legislature hereby declares that the purpose of this article is to enable any county or Class I or II municipality or any combination of counties and Class I or II municipalities to develop, establish and maintain community-based corrections programs to provide the judicial system with sentencing alternatives for those offenders who may require less than institutional custody.

(b) The goals of developing community-based corrections programs include:

- (1) Allowing individual counties or combinations of a county or counties and a Class I or II municipality greater flexibility and involvement in responding to the problem of crime in their communities;
- (2) Providing more effective protection of society and promoting efficiency and economy in the delivery of correctional services;
- (3) Providing increased opportunities for offenders to make restitution to victims of crime through financial reimbursement;
- (4) Permitting counties or combinations of a county or counties and a Class I or II municipality to operate programs specifically designed to meet the rehabilitative needs of offenders;
- (5) Providing appropriate sentencing alternatives with the goal of reducing the incidence of repeat offenders;
- (6) Permitting counties or combinations of a county or counties and a Class I or II municipality to designate community-based programs to address local criminal justice needs;
- (7) Diverting offenders from the state regional jail or correctional facilities by punishing them with community-based sanctions, thereby reserving state regional jail or correctional facilities for those offenders who are deemed to be most dangerous to the community; and
- (8) Promoting accountability of offenders to their community.

§62-11C-2. Community corrections subcommittee.

(a) A community corrections subcommittee of the Governor's Committee on Crime, Delinquency and Correction is hereby created and assigned responsibility for screening community corrections programs submitted by community criminal justice boards or from other entities authorized by the provisions of this article to do so for approval for funding by the Governor's Committee and for making recommendations as to the disbursement of funds for approved community corrections programs. The subcommittee is to be comprised of fifteen members of the Governor's Committee including: A representative of the Division of Corrections, a representative of the Regional Jail and Correctional Facility Authority, a person representing the interests of victims of crime, an attorney employed by a public defender corporation, an attorney who practices criminal law, a prosecutor and a representative of the West Virginia Coalition Against Domestic Violence. At the discretion of the West Virginia Supreme Court of Appeals, the Administrator of the Supreme Court of Appeals, a probation officer and a circuit judge may serve on the subcommittee as ex officio, nonvoting members.

(b) The subcommittee shall elect a chairperson and a vice chairperson. The subcommittee shall meet quarterly. Special meetings may be held upon the call of the chairperson, vice chairperson or a majority of the members of the subcommittee. A majority of the members of the subcommittee constitute a quorum.

§62-11C-3. Duties of the governor's committee and the community corrections subcommittee.

(a) Upon recommendation of the community corrections subcommittee, the governor's committee shall propose for legislative promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code, emergency and legislative rules to:

- (1) Establish standards for approval of community corrections programs submitted by community criminal justice boards or other entities authorized by the provisions of this article to do so;
- (2) Establish minimum standards for community corrections programs to be funded, including requiring annual program evaluations;
- (3) Make any necessary adjustments to the fees established in section four of this article;
- (4) Establish reporting requirements for community corrections programs; and
- (5) Carry out the purpose and intent of this article.

(b) Upon recommendation of the community corrections subcommittee, the governor's committee shall:

- (1) Maintain records of community corrections programs including the corresponding community criminal justice board or other entity contact information and annual program evaluations, when available;
- (2) Seek funding for approved community corrections programs from sources other than the fees collected pursuant to section four of this article; and
- (3) Provide funding for approved community corrections programs, as available.

(c) The governor's committee shall submit, on or before the thirtieth day of September of each year, to the governor, the speaker of the House of Delegates, the president of the Senate and, upon request, to any individual member of the Legislature a report on its activities during the previous year and an accounting of funds paid into and disbursed from the special revenue account established pursuant to section four of this article.

§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) In addition to the fee required in section nine, article twelve of this chapter, a fee not to exceed \$35 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, deputy magistrate clerk, magistrate assistant, circuit clerk or deputy 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) In addition to the fee required in section five, article eleven-b of this chapter, a fee of \$2.50 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, municipal court clerk or his or her designee 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 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) 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 \$10 fee shall be added. The circuit clerk, magistrate clerk, municipal court clerk or his or her designee 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.

§62-11C-5. Establishment of programs.

(a) Any county or combination of counties or a county or counties and a Class I or II municipality may establish and operate community corrections programs, as provided for in this section, to be used both prior to trial as a condition of bond in circuit and magistrate court, as well as an alternative sentencing option for those offenders sentenced within the jurisdiction of the county or counties which establish and operate the program: *Provided*, That the chief judge must certify that the community corrections facility is available for use in connection with the imposition of pretrial bond conditions.

(b) Any county or combination of counties or a county or counties and a Class I or II municipality that seek to establish programs as authorized in this section shall submit plans and specifications for the programs to be established, including proposed budgets, for review and approval by the community corrections subcommittee established in section three of this article.

(c) Any county or combination of counties or a county or counties and a Class I or II municipality may establish and operate an approved community corrections program to provide alternative sanctioning options for an offender who is convicted of an offense for which he or she may be sentenced to a period of incarceration in a county or regional jail or a state correctional facility and for which probation or home incarceration may be imposed as an alternative to incarceration.

(d) Community corrections programs authorized by subsection (a) of this section may provide, but are not limited to providing, any of the following services:

(1) Probation supervision programs;

(2) Day fine programs;

(3) Community service restitution programs;

(4) Home incarceration programs;

(5) Substance abuse treatment programs;

(6) Sex offender containment programs;

(7) Licensed domestic violence offender treatment programs;

(8) Day reporting centers;

(9) Educational or counseling programs;

(10) Drug courts; or

(11) Community beautification and reclamation programs for state highways, municipal, county and state parks and recreation areas, and community gardens.

(e) A county or combination of counties or a county or counties and a Class I or II municipality which establish and operate community corrections programs as provided for in this section may contract with other counties to provide community corrections services.

(f) For purposes of this section, the phrase "may be sentenced to a period of incarceration" means that the statute defining the offense provides for a period of incarceration as a possible penalty.

(g) No provision of this article may be construed to allow a person participating in or under the supervision of a community corrections program to earn "good time" or any other reduction in sentence. **§62-11C-6. Community criminal justice boards.**

(a) Each county or combination of counties or a county or counties and a Class I or II municipality that seek to establish community-based corrections services shall establish a community criminal justice board: *Provided*, That if a county has not established a community criminal justice board by the first day of July, two thousand two, the chief probation officer of such county, with the approval of the chief judge of the circuit, may apply for and receive approval and funding from the governor's committee for such programs as are authorized by the provisions of section five of this article. Any county which chooses to operate without a community criminal justice board shall be subject to the regulations and requirements established by the community corrections subcommittee and the governor's committee.

(b) The community criminal justice board is to consist of no more than fifteen voting members.

(c) All members of the community criminal justice board are to be residents of the county or counties represented.

(d) The community criminal justice board is to consist of the following members:

(1) The sheriff or chief of police or, if the board represents more than one county or municipality, at least one sheriff or chief of police from the counties represented;

(2) The prosecutor or, if the board represents more than one county, at least one prosecutor from the counties represented;

(3) If a public defender corporation exists in the county or counties represented, at least one attorney employed by any public defender corporation existing in the counties represented or, if no public defender office exists, one criminal defense attorney from the counties represented;

(4) One member to be appointed by the local board of education or, if the board represents more than one county, at least one member appointed by a board of education of the counties represented;

(5) One member with a background in mental health care and services to be appointed by the commission or commissions of the county or counties represented by the board;

(6) Two members who can represent organizations or programs advocating for the rights of victims of crimes with preference given to organizations or programs advocating for the rights of victims of the crimes of domestic violence or driving under the influence; and

(7) Three at-large members to be appointed by the commission or commissions of the county or counties represented by the board.

(e) At the discretion of the West Virginia supreme court of appeals, any or all of the following people may serve on a community criminal justice board as ex officio, nonvoting members:

(1) A circuit judge from the county or counties represented;

(2) A magistrate from the county or counties represented; or

(3) A probation officer from the county or counties represented.

(f) Community criminal justice boards may:

(1) Provide for the purchase, development and operation of community corrections services;

(2) Coordinate with local probation departments in establishing and modifying programs and services for offenders;

(3) Evaluate and monitor community corrections programs, services and facilities to determine their impact on offenders; and

(4) Develop and apply for approval of community corrections programs by the governor's committee on crime, delinquency and correction.

(g) If a community criminal justice board represents more than one county, the appointed membership of the board, excluding any ex officio members, shall include an equal number of members from each county, unless the county commission of each county agrees in writing otherwise.

(h) If a community criminal justice board represents more than one county, the board shall, in consultation with the county commission of each county represented, designate one county commission as the fiscal agent of the board.

(i) Any political subdivision of this state operating a community corrections program shall, regardless of whether or not the program has been approved by the governor's committee on crime, delinquency and correction, provide to the governor's committee required information regarding the program's operations as required by legislative rule.

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

(a) A circuit judge, magistrate, municipal court judge or community criminal justice board may require the payment of a supervision or participation fee from any person required to be supervised by or participate in a community corrections program. The circuit judge, magistrate, municipal court judge or community criminal justice board shall consider the person's ability to pay in determining the imposition and amount of the fee.

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

§62-11C-8. Local community criminal justice accounts.

(a) The treasurer of the county designated as the fiscal agent for the board pursuant to section six of this article shall establish a separate fund designated the community criminal justice fund. He or she shall deposit all fees remitted by the municipal, magistrate and circuit clerks pursuant to section seven of this article and all funds appropriated by a county commission pursuant to section seven, article eleven-b of this chapter, or any other provision of this code and all funds provided by the governor's committee for approved community corrections programs in the community criminal justice fund. Funds in the community criminal justice account are to be expended by order of the designated county's commission upon recommendation of the community criminal justice board in furtherance of the operation of an approved community corrections program.

(b) A county commission representing the same county as a community criminal justice board may require the community criminal justice board to render an accounting, at intervals the county commission may designate, of the use of money, property, goods and services made available to the board by the county commission and to make available at quarterly intervals an itemized statement of receipts and disbursements, and its books, records and accounts during the preceding quarter, for audit and examination pursuant to article nine, chapter six of this code.

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

(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.

Note: WV Code updated with legislation passed through the 2012 1st Special Session

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Institution and Jail Inspections



West Virginia Legislature
2ND SESSION OF THE 60TH LEGISLATURE

Senate	House	Joint	Bill Status	WV Code	Audits/ Reports	Educational	Contact
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WEST VIRGINIA CODE

§7-1-5. Duties of county commissioners; payment for services other than services in court.

It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, to arrange for the feeding and care of the prisoners therein, to investigate the conditions of the poor within their county, not housed within such institutions; to visit detention homes for children within their counties, if any; to visit and inspect bridges and bridge approaches under their control, to provide for and have general supervision over the repair and maintenance of the county courthouse, jails, houses for the poor and other county property, so as to prevent the undue deterioration thereof; to supervise and control the maintenance and operation of airport or airports owned or operated by the county commission; to supervise and control the purchase, erection and maintenance of airport facilities; to supervise and control the purchase of furniture, fixtures and equipment and janitors' and other supplies for their county; to attend the annual meetings of county assessors and such district meetings as may be called by the state tax commissioner on matters pertaining to the work of the county assessors and the county commission as boards of review and equalization; to review and equalize the assessments made by the assessors; to inspect and review the lists of property, both real and personal, made up by the assessor and his deputies for taxable purposes, and to point out to the assessor any property, real and personal, which the said assessors of their respective counties may have overlooked or omitted to place on said tax lists; to call to the attention of the assessor all real estate or personal property belonging to churches, lodges, schools or other charitable institutions which may have been overlooked or omitted by the assessor or his deputies in making up his lists of property for entry on the land and personal property books; to supervise the general management of the fiscal affairs and business of each county; and as a further part of their duties they shall be empowered to purchase, lease, rent, control, supervise, inspect, maintain and erect public parks, playgrounds and recreational facilities, to purchase, lease or rent equipment therefor and to employ qualified recreational directors and personnel; to construct new Four-H camps on county property; to operate stone quarries and sand deposits on county-owned or leased property; to construct buildings for or aid in constructing or equipping buildings for emergency services on sites approved by the office of emergency services; to operate dog pounds for county-municipalities; to purchase, lease, rent, control, supervise, inspect, maintain and erect public markets and to purchase, rent or lease equipment therefor and to employ qualified personnel to operate such public markets; and as a further part of their duties they shall be empowered to purchase, lease, rent, control, supervise, inspect, maintain and erect county mental health clinics and engage in any program designated for the betterment of the mental and physical well-being of the residents of their county and to cooperate with any public or private agency for these purposes; to establish and participate in regional planning and development councils; to establish and participate in county commissions on intergovernmental relations as required by section three-q of this article; to establish and participate in county commissions on crime, delinquency and corrections as required by section three-r of this article; to conduct a survey of all orphaned roads within the county, which roads shall include roads or highways, not situated within a municipality, which are open to the public and which serve two or more persons, but shall exclude roads comprising or included within the state road system as defined by section two, article four, chapter seventeen of this code or comprising or included within any county road or highway system and which shall also exclude any road brought into the state road system for purposes of maintenance only by the commissioner of highways pursuant to statutory or regulatory authority; to prepare an inventory of all such orphaned roads within the county, which inventory shall be made available to any agency of the state or federal government upon request, and be filed and recorded in the office of the county clerk.

Compensation shall be allowed and paid out of the county treasury, in the same manner as salaries are paid, to each county commissioner of each county (except as otherwise provided by law for the county of Ohio) for services performed for such county concerning the visiting of the poor, inspection of jails, bridges and bridge approaches and for visiting detention homes for children and for providing for and supervising the repair and maintenance of the county courthouse, jails, houses for the poor and other county property; for supervising and controlling the maintenance and operation of airport or airports owned or operated by the county commission and supervising and controlling the purchase, erection and maintenance of airport facilities; for supervising and controlling the purchase of furniture, fixtures and equipment and janitors' and other supplies for their county; for attending the annual meeting of assessors and such district meetings as may be called by the state tax commissioner on matters pertaining to the work of assessors and county commissions as boards of review and equalization; for reviewing and equalizing the assessments made by the assessors; for inspecting and reviewing the lists of property, both real and personal, made up by the assessor and his deputies for taxable purposes and for pointing out to the assessor any property, real and personal, which the said assessors of their respective counties may have overlooked or omitted to place on said tax lists; for calling to the attention of the assessor all real estate or personal property belonging to churches, lodges, schools or other charitable institutions which may have been overlooked or omitted by the assessor or his deputies in making up their lists of property for entry on the land and personal property books; for purchasing, leasing, renting, controlling, supervising, inspecting, maintaining and erecting public parks, playgrounds and recreational facilities and the purchasing, leasing or renting the equipment therefor and employing qualified recreational directors and personnel therefor; for constructing new Four-H camps on county property; operating stone quarries and sand

deposits on county-owned or leased property, constructing buildings for or aiding in construction or equipping buildings for emergency services on sites approved by the office of emergency services; operating dog pounds for county-municipalities; to purchase, lease, rent, control, supervise, inspect, maintain and erect public markets, and to purchase, rent or lease equipment therefor and to employ qualified personnel to operate such public markets; for constructing fallout shelters and aiding individuals to construct fallout shelters through furnishing available information; for purchasing, leasing, renting, controlling, supervising, inspecting, maintaining or erecting county mental health clinics or engaging in programs for the betterment of the mental or physical well-being of the residents of their county; for conducting a survey of all abandoned and dilapidated buildings or structures within the county and to prepare an inventory thereof, which inventory shall be made available to any agency of state or federal government or to local governmental agencies upon request; for establishing and participating in regional planning and development councils; to conduct a survey of all orphaned roads within the county, which roads shall include roads or highways, not situated within a municipality, which are open to the public and which serve two or more persons, but shall exclude roads comprising or included within the state road system as defined by section two, article four, chapter seventeen of this code or comprising or included within any county road or highway system and which shall also exclude any road brought into the state road system for purposes of maintenance only by the commissioner of highways pursuant to statutory or regulatory authority; to prepare an inventory of all such orphaned roads within the county, which inventory shall be made available to any agency of the state or federal government upon request, and be filed and recorded in the office of the county clerk; for establishing and participating in county commissions on intergovernmental relations as required by section three-q of this article; for establishing and participating in county commissions on crime, delinquency and correction as required by section three-r of this article and for supervising the general management of the fiscal affairs and business of each county, within their counties, and other business by such commissioners.

Note: WV Code updated with legislation passed through the 2012 1st Special Session

Notification of Tax Changes and Signing of Record Books



WEST VIRGINIA CODE

§11-3-24. Review and equalization by county commission.

(a) The county commission shall annually, not later than February 1 of the tax year, meet as a board of equalization and review for the purpose of reviewing and equalizing the assessment made by the assessor. The board shall not adjourn for longer than three business days at a time, not including a Saturday, Sunday or legal holiday in this state, until this work is completed. The board may adjourn sine die anytime after February 15 of the tax year and shall adjourn sine die not later than the last day of February of the tax year.

(b) At the first meeting of the board, the assessor shall submit the property books for the current year, which shall be complete in every particular, except that the levies shall not be extended. The assessor and the assessor's assistants shall attend and render every assistance possible in connection with the value of property assessed by them.

(c) The board shall proceed to examine and review the property books, and shall add on the books the names of persons, the value of personal property and the description and value of real estate liable to assessment which was omitted by the assessor. The board shall correct all errors in the names of persons, in the description and valuation of property, and shall cause to be done whatever else is necessary to make the assessed valuations comply with the provisions of this chapter. But in no case shall any question of classification or taxability be considered or reviewed by the board.

(d) If the board determines that any property or interest is assessed at more or less than sixty percent of its true and actual value as determined under this chapter, it shall fix it at sixty percent of its true and actual value: *Provided*, That no assessment shall be increased without giving the taxpayer at least five days' notice, in writing, of the intention to make the increase and no assessment shall be greater than sixty percent of the true and actual value of the property.

(e) Service of notice of the increase upon the taxpayer shall be sufficient, or upon his or her agent or attorney, if served in person, or if sent by registered or certified mail to the property owner, his or her agent, or attorney, at the last known mailing address of the person as shown in the records of the assessor or the tax records of the county sheriff. If such person cannot be found and has no last known mailing address, then notice shall be given by publication thereof as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the county. The date of the publication shall be at least five days, not including a Saturday, Sunday or legal holiday in this state, prior to the day the board acts on the increase. When the board intends to increase the entire valuation in any one tax district by a general increase, notice shall be given by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the county. The date of the last publication shall be at least five days, not including a Saturday, Sunday or legal holiday in this state, prior to the meeting at which the increase in valuation is acted on by the board. When an increase is made, the same valuation shall not again be changed unless notice is again given as heretofore provided.

The clerk of the county commission shall publish notice of the time, place and general purpose of the meeting as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the county. The expense of publication shall be paid out of the county treasury.

(f) Any person who receives notice as provided in subsection (e) of this section may appear before the board at the time and place specified in the notice to object to the proposed increase in the valuation of taxpayer's property. After hearing the board's reason or reasons for the proposed increase, the taxpayer may present his or her objection or objections to the increase and the reason or reasons for the objections and may either orally or in writing advise the board that the taxpayer elects for the matter to be heard in the fall of the tax year when the county commission meets as a board of assessment appeals as provided in section twenty-four-b of this article: *Provided*, That taxpayer's election shall not stay a decision by the board to increase the assessed value of the property for the current tax year.

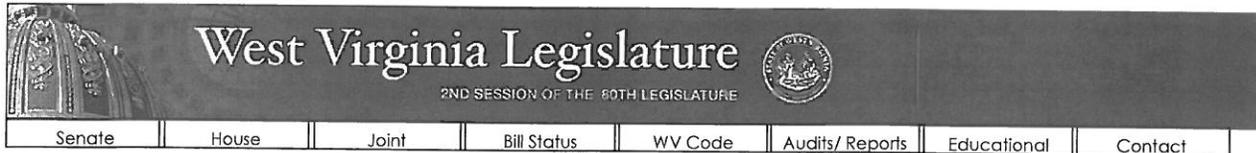
(g) The board may approve an agreement signed by the taxpayer or taxpayer's representative and the assessor, and by a representative of the Tax Commissioner when the property is industrial property or natural resources property, that resolves a valuation matter while the land and personal property books are before the board for equalization and review.

(h) If any person fails to apply for relief at this meeting, he or she shall have waived the right to ask for correction in the assessment list for the current year, and shall not thereafter be permitted to question the correctness of the list as finally fixed by the board, except on appeal to the circuit court or as otherwise provided in this article.

(i) After the board completes the review and equalization of the property books, a majority of the board shall sign a statement that it is the completed assessment of the county for the tax year. Then the property books shall be delivered to the assessor and the levies extended as provided by law.

(j) A taxpayer who elects to have a hearing before the board of equalization and review may appeal the board's order as provided in section twenty-five of this article. A taxpayer who elects to have a hearing before the board of assessment appeals may only appeal the assessed value as provided in section twenty-four-b of this article.

Note: WV Code updated with legislation passed through the 2012 1st Special Session



WEST VIRGINIA CODE

§11-3-24a. Protest of classification or taxability to assessor; appeal to Tax Commissioner.

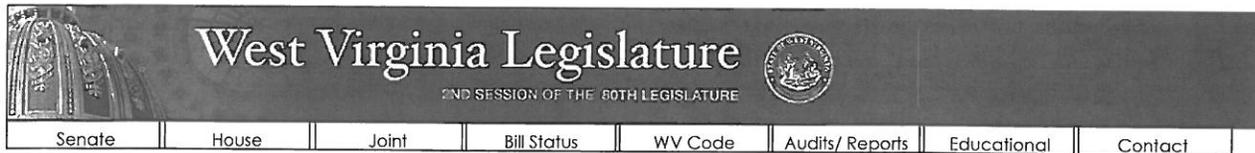
(a) At any time after property is returned for taxation, and up to and including the time the property books are before the county commission sitting as a board of equalization and review, any taxpayer may apply to the assessor for information regarding the classification and taxability of the taxpayer's property. In case the taxpayer is dissatisfied with the classification of property assessed to the taxpayer or believes that the property is exempt or otherwise not subject to taxation, the taxpayer shall file objections in writing with the assessor. The assessor shall decide the question by either sustaining the protest and making proper corrections, or by stating, in writing if requested, the reasons for refusal to grant the protest.

(b) The assessor may, and if the taxpayer requests, the assessor shall, certify the question to the State Tax Commissioner in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn statements, giving a full description of the property and any other information which the Tax Commissioner requires. The Tax Commissioner shall prescribe forms on which the aforesaid question shall be certified and the Tax Commissioner shall have the authority to pursue any inquiry and procure any information necessary for the disposition of the issue.

(c) The Tax Commissioner shall, as soon as possible on receipt of the question, but in no case later than February 28 of the assessment year, instruct the assessor as to how the property shall be treated. The instructions issued and forwarded by mail to the assessor shall be binding upon the assessor, but either the assessor or the taxpayer may apply to the circuit court of the county within thirty days after receiving written notice of the Tax Commissioner's ruling, for review of the question of classification or taxability in the same fashion as is provided for appeals from the county commission sitting as a board of equalization and review in section twenty-five of this article.

(d) The amendments to this section enacted in the year 2010 shall apply to classification and taxability rulings issued for taxes levied after December 31, 2011.

Note: WV Code updated with legislation passed through the 2012 1st Special Session



WEST VIRGINIA CODE

§11-3-25. Relief in circuit court against erroneous assessment.

(a) Any person claiming to be aggrieved by any assessment in any land or personal property book of any county who shall have appeared and contested the valuation as provided in section twenty-four or twenty-four-a of this article, or whose assessment has been raised by the county commission sitting as a board of equalization and review above the assessment fixed by the assessor may, at any time up to thirty days after the adjournment of the board sitting as a board of equalization and review, or at anytime up to thirty days after the order of the board of assessment appeals is served on the parties, apply for relief to the circuit court of the county in which the property books are made out; but any person applying for relief in circuit court shall, before any application is heard, give ten days' notice to the prosecuting attorney of the county, whose duty it shall be to attend to the interests of the state, county and district in the matter, and the prosecuting attorney shall give at least five days' notice of hearing to the Tax Commissioner.

(b) The right of appeal from any assessment by the board of equalization and review or order of the board of assessment appeals as provided in this section, may be taken either by the applicant or by the state, and in case the applicant, by his or her agent or attorney, or the state, by its prosecuting attorney or Tax Commissioner, desires to take an appeal from the decision of the either board, the party desiring to take an appeal shall have the evidence taken at the hearing of the application before either board, including a transcript of all testimony and all papers, motions, documents, evidence and records as were before the board, certified by the county clerk and transmitted to the circuit court as provided in section four, article three, chapter fifty-eight of this code, except that, any other provision of this code notwithstanding, the evidence shall be certified and transmitted within thirty days after the petition for appeal is filed with the court or judge, in vacation.

(c) If there was an appearance by or on behalf of the taxpayer before either board, or if actual notice, certified by the board, was given to the taxpayer, the appeal, when allowed by the court or judge, in vacation, shall be determined by the court from the record as so certified: *Provided*, That in cases where the court determines that the record made before the board is inadequate as a result of the parties having had insufficient time to present evidence at the hearing before the board to make a proper record, as a result of the parties having received insufficient notice of changes in the assessed value of the property and the reason or reasons for the changes to make a proper record at the hearing before the board, as a result of irregularities in the procedures followed at the hearing before the board, or for any other reason not involving the negligence of the party alleging that the record is inadequate, the court may remand the appeal back to the county commission of the county in which the property is located, even after the county commission has adjourned sine die as a board of equalization and review or a board of assessment appeals for the tax year in which the appeal arose, for the purpose of developing an adequate record upon which the appeal can be decided. The county commission shall schedule a hearing for the purpose of taking additional evidence at any time within ninety days of the remand order that is convenient for the county commission and for the parties to the appeal. If, however, there was no actual notice to the taxpayer, and no appearance by or on behalf of the taxpayer before the board, or if a question of classification or taxability is presented, the matter shall be heard de novo by the circuit court.

(d) If, upon the hearing of appeal, it is determined that any property has been assessed at more than sixty percent of its true and actual value determined as provided in this chapter, the circuit court shall, by an order entered of record, correct the assessment, and fix the assessed value of the property at sixty percent of its true and actual value. A copy of the order or orders entered by the circuit court reducing the valuation shall be certified to the Auditor, if the order or orders pertain to real property, by the clerk within twenty days after the entering of the same, and every order or judgment shall show that the prosecuting attorney or Tax Commissioner was present and defended the interest of the state, county and district. If it be ascertained that any property has been valued too high, and that the taxpayer has paid the excess tax, it shall be refunded or credited to the taxpayer in accordance with the provisions of section twenty-five-a of this article, and if not paid, he or she shall be relieved from the payment thereof. If it is ascertained that any property is valued too low, the circuit court shall, by an order entered of record, correct the valuation and fix it at sixty percent of its true and actual value. A copy of any order entered by any circuit court increasing the valuation of property shall be certified within twenty days, if the order pertains to real property, to the Auditor, the county clerk and the sheriff. However, if the order pertains only to personal property, then the copy shall be certified within twenty days to the county clerk and to the sheriff and it shall be the duty of the Auditor, the county clerk and the sheriff to charge the taxpayer affected with the increase of taxes occasioned by the increase of valuation by applying the rate of levies for every purpose in the district where the property is situated for the

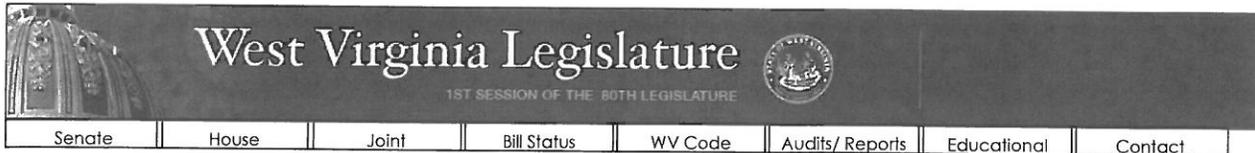
current year. The order shall also be filed in the office of the Auditor and clerk of the county commission. The circuit court shall review the record submitted from the board. If the court determines that the record is adequate, it shall establish a briefing and argument schedule that will result in the appeal being submitted to the court for decision within a reasonable time, but not to exceed eight months after the appeal is filed. All final decisions or orders of the circuit court shall be issued within a reasonable time, not to exceed ninety days, from the date the last brief is filed and the case is submitted to the court for decision. The state or the aggrieved taxpayer may appeal a question of valuation to the Supreme Court of Appeals if the assessed value of the property is \$50,000 or more, and either party may appeal a question of classification or taxability.

(e) All persons applying for relief to the circuit court under this section shall be governed by the same presumptions, burdens and standards of proof as established by law for taxpayers applying for such relief.

(f) *Effective date.* -- The amendments to this section enacted in 2010 shall apply to tax years beginning after December 31, 2011.

Note: WV Code updated with legislation passed through the 2012 1st Special Session

Liens for Common Interest Communities (HOA's)



WEST VIRGINIA CODE

§36B-3-116. Lien for assessments.

(a) The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charged pursuant to section 3- 102(a)(10), (11) and (12) are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to, (ii) a first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent, or, in a cooperative, the first security interest encumbering only the unit owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit or cooperative. The lien is also prior to all security interests described in clause (ii) above to the extent of the common expense assessments based on the periodic budget adopted by the association pursuant to section 3-115(a) which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. (The lien under this section is not subject to the provisions of (insert appropriate reference to state homestead, dower and curtesy, or other exemptions).)

(c) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

(d) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

(e) This section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

(g) The association upon written request shall furnish to a unit owner a statement setting forth the amount of unpaid assessments against the unit. If the unit owner's interest is real estate, the statement must be in recordable form. The statement must be furnished within ten business days after receipt of the request and is binding on the association, the executive board, and every unit owner.

(h) For the purpose of perfecting and preserving its lien, the association shall give notice to the unit owner in the manner set forth in section one (§56-2-1), article two, chapter fifty-six of this code, or by registered or certified mail, return receipt requested, and in a form reasonably calculated to inform the owner of his liability for payment of the assessment. The lien shall be discharged as to subsequent purchasers for value without notice unless the association shall cause to be recorded a notice of the lien in the office of the clerk of the county commission of any county wherein any part of the condominium is located. The notice shall contain:

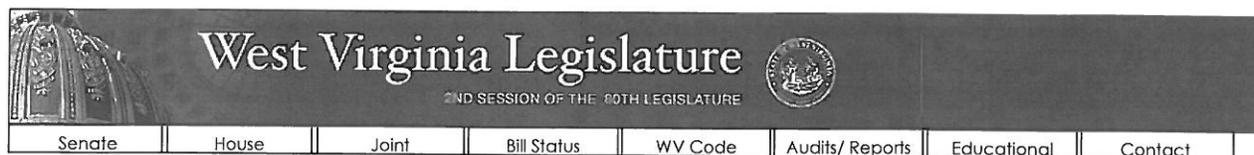
- (1) A legally sufficient description of the unit;
- (2) The name or names of the owners of the unit;
- (3) The amount of unpaid assessments due together with the date when each fell due; and
- (4) The date of recordation.

The clerk of the county commission in whose office the notice is recorded shall index the notice in the appropriate deedbooks and lien books in the name of the unit owners and of the association. The cost of recordation shall be assessed against any unit owner found to be delinquent in a subsequent proceeding to enforce the lien.

Upon payment of the assessment, the association shall execute a written release of the lien in the manner set forth in section one (§38-12-1), article twelve, chapter thirty-eight of this code. This release shall be recorded, at the expense of the association, in the office of the clerk of the county commission wherein the notice of the lien was filed.

(i) At any time before the association has disposed of a unit in a cooperative or entered into a contract for its disposition under the power of sale, the unit owners or the holder of any subordinate security interest may cure the unit owner's default and prevent sale or other disposition by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorney's fees of the creditor.

Note: WV Code updated with legislation passed through the 2011 2nd Special Session



WEST VIRGINIA CODE

CHAPTER 36B. UNIFORM COMMON INTEREST OWNERSHIP ACT.**ARTICLE 1. GENERAL PROVISIONS.**

PART I. DEFINITIONS AND OTHER GENERAL PROVISIONS.

§36B-1-101. Short Title.

This chapter may be cited as the "Uniform Common Interest Ownership Act."

§36B-1-102. Applicability.

Applicability of this chapter is governed by Part II of this article.

§36B-1-103. Definitions.

In the declaration and bylaws (section one hundred six, article three of this chapter), unless specifically provided otherwise or the context otherwise requires, and in this chapter:

- (1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person: (i) Is a general partner, officer, director or employer of the declarant; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the declarant; (iii) controls in any manner the election of a majority of the directors of the declarant; or (iv) has contributed more than twenty percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant: (i) Is a general partner, officer, director or employer of the person; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than twenty percent of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.
- (2) "Allocated interests" means the following interests allocated to each unit: (i) In a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association; (ii) in a cooperative, the common expense liability and the ownership interest and votes in the association; and (iii) in a planned community, the common expense liability and votes in the association.
- (3) "Association" or "unit owners' association" means the unit owners' association organized under section one hundred one, article three of this chapter.
- (4) "Common elements" means: (i) In a condominium or cooperative, all portions of the common interest community other than the units; and (ii) in a planned community, any real estate within a planned community owned or leased by the association, other than a unit.
- (5) "Common expenses" means expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.
- (6) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section one hundred seven, article two of this chapter.
- (7) "Common interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in a declaration: *Provided*, That any resort owner which, prior to the effective date of this article, began the development of a resort and imposed fees or assessments upon owners of real estate in the resort for maintenance and care of the roads, streets, alleys, sidewalks, parks, common areas and common facilities in and around the resort, for fire and police

protection and for such other services as may be made available to owners of real estate, may also impose the same fees and assessments to be used for the same or similar purposes upon persons purchasing real estate in the resort after the effective date of this article without creating a common interest community.

"Ownership of a unit" does not include holding a leasehold interest of less than twenty years in a unit, including renewal options.

(8) "Condominium" means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interest in the common elements are vested in the unit owners.

(9) "Conversion building" means a building that at any time before creation of the common interest community was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(10) "Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of his ownership interest in the association to exclusive possession of a unit.

(11) "Dealer" means a person in the business of selling units for his own account.

(12) "Declarant" means any person or group of persons acting in concert who: (i) As part of a common promotional plan, offers to dispose of his or its interest in a unit not previously disposed of; or (ii) reserves or succeeds to any special declarant right.

(13) "Declaration" means any instruments, however denominated, that create a common interest community, including any amendments to those instruments.

(14) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to: (i) Add real estate to a common interest community; (ii) create units, common elements or limited common elements within a common interest community; (iii) subdivide units or convert units into common elements; or (iv) withdraw real estate from a common interest community.

(15) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but the term does not include the transfer or release of a security interest.

(16) "Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.

(17) "Identifying number" means a symbol or address that identifies only one unit in a common interest community.

(18) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease, the expiration or termination of which will terminate the common interest community or reduce its size.

(19) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of subdivision (2) or (4), section one hundred two, article two of this chapter for the exclusive use of one or more but fewer than all of the units.

(20) "Master association" means an organization described in section one hundred twenty, article two of this chapter, whether or not it is also an association described in section one hundred one, article three of this chapter.

(21) "Offering" means any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a common interest community not located in this state, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the common interest community is located.

(22) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity. In the case of a trust, the corpus of which is real estate, however, "person" means the beneficiary of the trust rather than the trust or the trustee.

(23) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(24) "Proprietary lease" means an agreement with the association pursuant to which a member is entitled to exclusive possession of a unit in a cooperative.

(25) "Purchaser" means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than: (i) A leasehold interest (including renewal options) of less than twenty years; or (ii) as security for an obligation.

(26) "Real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures and other improvements and interest that by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(27) "Residential purposes" means use for dwelling or recreational purposes, or both.

(28) "Resort" means a destination location which consists of: (i) One or more persons offering recreational facilities and services such as skiing, golf, tennis or boating to the general public and commercial facilities such as retail stores, restaurants and hotels or other lodging accommodations; and (ii) at least one hundred residential units, a majority of which are used as vacation or second homes rather than primary residences.

(29) "Resort owner" means any person owning or operating substantially all of the recreational facilities located within a resort, or the predecessor in title of any such person.

(30) "Security interest" means an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

(31) "Special declarant rights" means rights reserved for the benefit of a declarant to: (i) Complete improvements indicated on plans and plans filed with the declaration (section one hundred nine, article two of this chapter) or, in a cooperative, to complete improvements described in the public offering statement pursuant to subdivision (2), subsection (a), section one hundred three, article four of this chapter; (ii) exercise any development right (section one hundred ten, article two of this chapter); (iii) maintain sales offices, management offices, signs advertising the common interest community, and models (section one hundred fifteen, article two of this chapter); (iv) use easements through the common elements for the purpose of making improvements within the common interest community or within real estate which may be added to the common interest community (section one hundred sixteen, article two of this chapter); (v) make the common interest community subject to a master association (section one hundred twenty, article two of this chapter); (vi) merge or consolidate a common interest community with another common interest community of the same form of ownership (section one hundred twenty-one, article two of this chapter); or (vii) appoint or remove any officer of the association or any master association or any executive board member during any period of declarant control (subsection (d), section one hundred three, article three of this chapter).

(32) "Time share" means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with an estate or interest in a common interest community or a specified portion thereof.

(33) "Unit" means a physical portion of the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to subdivision (5), subsection (a), section one hundred five, article two of this chapter. If a unit in a cooperative is owned by a unit owner or is sold, conveyed, voluntarily or involuntarily encumbered or otherwise transferred by a unit owner, the interest in that unit which is owned, sold, conveyed, encumbered, or otherwise

transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association's interest in that unit is not thereby affected.

(34)"Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease, the expiration or termination of which will remove the unit from the common interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated (section one hundred seven, article two of this chapter) until that unit has been conveyed to another person.

§36B-1-104. Variation by agreement.

Except as expressly provided in this chapter, provisions herein may not be varied by agreement, and rights conferred may not be waived. A declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.

§36B-1-105. Separate titles and taxation.

(a) In a cooperative, unless the declaration provides that a unit owner's interest in a unit and its allocated interests is real estate for all purposes, that interest is personal property. (That interest is subject to the provisions of all homestead exemptions from taxation provided by law, even if it is personal property.)

(b) In a condominium or planned community:

(1) If there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate.

(2) If there is any unit owner other than a declarant, each unit must be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no development rights.

(c) Any portion of the common elements for which the declarant has reserved any development right must be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.

(d) If there is no unit owner other than a declarant, the real estate comprising the common interest community may be taxed and assessed in any manner provided by law.

§36B-1-106. Applicability of local ordinances, regulations and building codes.

(a) A building code may not impose any requirement upon any structure in a common interest community which it would not impose upon a physically identical development under a different form of ownership.

(b) In condominiums and cooperatives, no zoning, subdivision, or other real estate use law, ordinance, or regulation may prohibit the condominium or cooperative form of ownership or impose any requirement upon a condominium or cooperative which it would not impose upon a physically identical development under a different form of ownership.

(c) Except as provided in subsections (a) and (b) of this section, the provisions of this chapter do not invalidate or modify any provision of any building code, zoning, subdivision, or other real estate use law, ordinance, rule, or regulation governing the use of real estate.

§36B-1-107. Eminent domain.

(a) If a unit is acquired by eminent domain, or part of a unit is acquired by eminent domain, leaving the unit owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award must compensate the unit owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, (i) that unit's allocated interests are

reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration and (ii) the portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

(c) If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken must be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element must be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

(d) The court decree must be recorded in every county in which any portion of the common interest community is located.

§36B-1-108. Supplemental general principles of law applicable.

The principles of law and equity, including the law of corporations and unincorporated associations, the law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this chapter, except to the extent inconsistent with this chapter.

§36B-1-109. Construction against implicit repeal.

This chapter being a general act intended as a unified coverage of its subject matter, no part of it shall be construed to be impliedly repealed by subsequent legislation if that construction can be reasonably be avoided.

§36B-1-110. Uniformity of application and construction.

This chapter shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§36B-1-111. Unconscionable agreement or term of contract.

(a) The court, upon finding as a matter of law that a contract or contract clause was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause, or limit the application of any unconscionable clause in order to avoid an unconscionable result.

(b) Whenever it is claimed, or appears to the court, that a contract or any contract clause is or may be unconscionable, the parties, in order to aid the court in making the determination, must be afforded a reasonable opportunity to present evidence as to:

(1) The commercial setting of the negotiations;

(2) Whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests by reason of physical or mental infirmity, illiteracy, inability to understand the language of the agreement, or similar factors;

(3) The effect and purpose of the contract or clause; and

(4) If a sale, any gross disparity, at the time of contracting, between the amount charged for the property and the value of that property measured by the price at which similar property was readily obtainable in similar transactions. A disparity between the contract price and the value of the property measured by the price at which similar property was readily obtainable in similar transactions does not, of itself, render the contract unconscionable.

§36B-1-112. Obligation of good faith.

Every contract or duty governed by this chapter imposes an obligation of good faith in its performance or enforcement.

§36B-1-113. Remedies to be liberally administered.

(a) The remedies provided by this chapter shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed. However, consequential, special or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

(b) Any right or obligation declared by this chapter is enforceable by judicial proceeding.

§36B-1-114. Adjustment of dollar amounts.

(a) From time to time the dollar amounts specified in sections 1-203 and 4-101(b)(7) must change, as provided in

subsections (b) and (c), according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: United States City Average, All Items 1967=100, compiled by the Bureau of Labor Statistics, United States Department of Labor, (the "Index"). The Index for December, 1979, which was 230, is the Reference Base Index.

(b) The dollar amounts specified in sections 1-203 and 4- 101(b)(7), and any amount stated in the declaration pursuant to those sections, must change July 1 of each year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding year and the Reference Base Index is ten percent or more, but

(i) The portion of the percentage change in the Index in excess of a multiple of ten percent must be disregarded and the dollar amounts shall change only in multiples of ten percent of the amounts appearing in this chapter on the date of enactment;

(ii) The dollar amounts must not change if the amounts required by this section are those currently in effect pursuant to this chapter as a result of earlier application of this section; and

(iii) In no event may the dollar amounts be reduced below the amounts appearing in this chapter on the date of enactment.

(c) If the Index is revised after December, 1979, the percentage of change pursuant to this section must be calculated on the basis of the revised Index. If the revision of the Index Changes the Reference Base Index, a revised Reference Base Index must be determined by multiplying the Reference Base Index then applicable by the rebasing factor furnished by the Bureau of Labor Statistics. If the Index is superseded, the Index referred to in this section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

PART II. APPLICABILITY.

§36B-1-201. Applicability to new common interest communities.

Except as provided in sections 1-202 and 1-203, this chapter applies to all common interest communities created within this state after the effective date of this chapter. The provisions of chapter fifty-three, acts of the Legislature, one thousand nine hundred sixty-three, chapter one hundred twenty-nine, acts of the Legislature, one thousand nine hundred eighty, and chapter thirty-eight, acts of the Legislature, one thousand nine hundred eighty-four, do not apply to common interest communities created after the effective date of this chapter.

§36B-1-202. Same -- Exception for small cooperatives.

If a cooperative contains only units restricted to nonresidential use, or contains no more than twelve units and is not subject to any development rights, it is subject only to sections 1-106, (applicability of local ordinances, regulations, and building codes) and 1-107 (eminent domain) of this chapter, unless the declaration provides that the entire chapter is applicable.

§36B-1-203. Applicability to new common interest communities. -- Exception for small and limited expense liability planned communities.

If a planned community:

(1) Contains no more than twelve units and is not subject to any development rights; or

(2) Provides, in its declaration, that the annual average common expense liability of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed three hundred dollars as adjusted pursuant to section 1-114 (adjustment of dollar amounts), it is subject only to sections 1-105 (separate titles and taxation), 1-106 (applicability of local ordinances, regulations and building codes) and 1-107 (eminent domain) unless the declaration provides that this entire chapter is applicable.

§36B-1-204. Applicability to preexisting common interest communities.

(a) Except as provided in section 1-205, Same; exception for small preexisting cooperatives and planned communities, sections 1-105 (separate titles and taxation), 1-106 (Applicability of local ordinances, regulations and building codes), 1-107 (Eminent domain), 2-103 (Construction and validity of declaration and bylaws), 2-104 (Description of units), 2-121 (Merger or consolidation of common interest communities), 3-102(a)(1) through (6) and (11) through (16) (Powers of unit owners' association), 3-111 (Tort and contract liability), 3-116 (Lien for assessments), 3-118 (Association records), 4-109 (Resales of units), and 4-117 (Effect of violation on rights of action; attorney's fees), and section 1-103 (Definitions) to the extent necessary in construing any of those sections, apply to all common interest communities created in this state before the

effective date of this chapter; but those sections apply only with respect to events and circumstances occurring after the effective date of this chapter and do not invalidate existing provisions of the declaration, bylaws or plats or plans of those common interest communities.

(b) The provisions of chapter one hundred fifty-three, Acts of the Legislature, one thousand nine hundred sixty-three, chapter one hundred twenty-nine, Acts of the Legislature, one thousand nine hundred eighty, or of chapter thirty-eight, Acts of the Legislature, one thousand nine hundred eighty-four, do not apply to condominiums or other common interest communities created after the effective date of this chapter and do not invalidate any amendment to the declaration, rules, bylaws, plats and plans and code of regulations of any condominium or common interest community created before the effective date of this chapter if the amendment would be permitted by this chapter. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by chapter one hundred fifty-three, Acts of the Legislature, one thousand nine hundred sixty-three. If the amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

(c) This chapter does not apply to condominiums or units located outside this state, but the public offering statement provisions, (sections 4-102 through 4-109) apply to all contracts for the disposition thereof signed in this state by any party unless exempt under section 4-101(b).

(d) The provisions of this chapter shall apply to all condominiums or common interest communities to the extent such provisions conflict or are inconsistent with the provisions of chapter one hundred fifty-three, Acts of the Legislature, one thousand nine hundred sixty-three: **Provided**, That the provisions of this chapter shall not modify, limit or nullify any rights, duties or obligations created or existing under any declaration, bylaws or plats or plans of condominiums created in this state before the effective date of this chapter.

§36B-1-205. Same -- Exception for small preexisting cooperatives and planned communities.

If a cooperative or planned community created within this state before the effective date of this chapter contains no more than twelve units and is not subject to any development rights, it is subject only to sections 1-105 (separate titles and taxation), 1-106 (applicability of local ordinances, regulations and building codes), and 1-107 (eminent domain) unless the declaration is amended in conformity with applicable law and with the procedures and requirements of the declaration to take advantage of the provisions of section 1-206, in which case all the sections enumerated in section 1-204 apply to that cooperative or planned community.

§36B-1-206. Same -- Amendments to governing instruments.

(a) In the case of amendments to the declaration, bylaws or plats and plans of any common interest community created before the effective date of this chapter:

(1) If the result accomplished by the amendment was permitted by law prior to this chapter, the amendment may be made either in accordance with that law, in which case that law applies to that amendment, or it may be made under this chapter; and

(2) If the result accomplished by the amendment is permitted by this chapter, and was not permitted by law prior to this chapter, the amendment may be made under this chapter.

(b) An amendment to the declaration, bylaws or plats and plans authorized by this section to be made under this chapter must be adopted in conformity with applicable law and with the procedures and requirements specified by those instruments. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

§36B-1-207. Applicability to nonresidential planned communities.

This chapter does not apply to a planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that the chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted, only if the declaration so provides or the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

Note: WV Code updated with legislation passed through the 2012 1st Special Session



West Virginia Legislature
2ND SESSION OF THE 60TH LEGISLATURE



Senate	House	Joint	Bill Status	WV Code	Audits/ Reports	Educational	Contact
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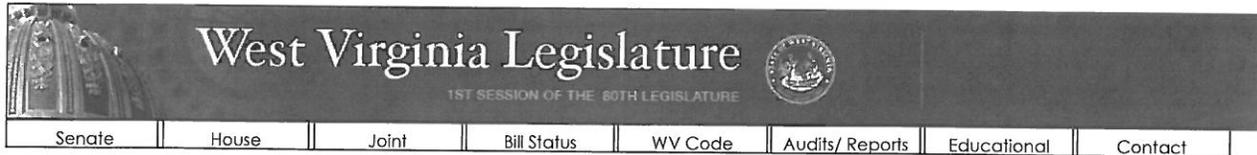
WEST VIRGINIA CODE

§56-2-1. Service of notices; personal service; substituted service; return.

A notice, no particular mode of serving which is prescribed, may be served by delivering a copy thereof in writing to the party in person; or if he (or she) be not found, by delivering such copy at his (or her) usual place of abode, and giving information of its purport, to his wife (or her husband), or to any other person found there who is a member of his (or her) family and above the age of sixteen years; or if neither his wife (or her husband) nor any such other person be found there, and he (or she) be not found, by leaving such copy posted at the front door of such place of abode. Any sheriff or constable, thereto required, shall serve a notice within his county and make return of the manner and time of service; for a failure so to do he shall forfeit twenty dollars. Such return, or a similar return by any other person who verified it by affidavit, shall be evidence of the manner and time of service.

Note: WV Code updated with legislation passed through the 2012 1st Special Session

Notice of Fraudulent Liens



WEST VIRGINIA CODE

PART IV. ACTIONS TO STRIKE OR REMOVE

NONCONSENSUAL COMMON LAW LIEN.

§38-16-401. Notice by clerk of fraudulent lien.

(a) If a clerk of the county commission has a reasonable basis to believe in good faith that a document or instrument purporting to evidence an invalid nonconsensual common law lien has been filed or recorded or offered for filing or recording, the clerk shall provide a written notice as follows:

(1) If the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of a purported court, the clerk shall provide written notice of the filing, recording, or submission for filing or recording to the stated or last known address of the person against whom the purported judgment, act, order, directive, or process is rendered; or

(2) If the document or instrument purports to create a lien or assert a claim on real or personal property or an interest in real or personal property, provide written notice of the filing, recording, or submission for filing or recording to the stated or last known address of the person named in the document or instrument as the obligor or debtor and to any person named as owning any interest in the real or personal property described in the document or instrument.

(b)(1) If the document is not yet filed or recorded, the clerk shall provide written notice under subsection (a) not later than the second business day after the date that the document is submitted for filing or recording; or

(2) If the document or instrument has been previously filed or recorded, the clerk shall provide written notice under subsection (a) not later than the second business day after the date that the clerk becomes aware that the document or instrument may be fraudulent.

(c) For purposes of this section, a document or instrument is presumed to be fraudulent if:

(1) The document is styled as a judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of a purported court; or

(2) The document or instrument purports to create a lien or security interest or otherwise create a charge against real or personal property and:

(A) It is not a document or instrument provided for by the constitution or laws of this state or of the United States;

(B) It is not created by implied or express consent or agreement of the alleged obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person; or

(C) It is not an equitable, constructive, or other lien imposed by a court of competent jurisdiction.

Note: WV Code updated with legislation passed through the 2011 2nd Special Session



Final Report of Peer TA Activity # 181

Welfare Peer Technical Assistance Network

Virginia Reentry and Innovative Prevention
Task Force Report

Winchester, VA

July 23-24th, 2009

Prepared for:

The Administration for Children and Families

Office of Family Assistance

Table of Contents

- I. Welfare Peer Technical Assistance Background
- II. Welfare Peer Technical Assistance Executive Summary
- III. Virginia Reentry and Innovative Prevention Task Force Report
- IV. Opening Task Force Session - Planning and Organizing Session
- V. AdvoCare Conference Presenter
 - i. Jeannie Amison, Executive Director, Gemeinschaft Home
 - ii. Patricia Caruso, Director, Michigan Department of Corrections
 - iii. Tara Kunkel, Chesterfield County, VA Drug Court
 - iv. John Horejsi, Founder and Coordinator, Social Action Linking Together (SALT)
 - v. CAPT Joseph R. Hibbeln, M.D., Acting Chief, Section on Nutritional, Neurochemistry, National Institute of Health
- VI. Questions to AdvoCare panel members
- VII. AdvoCare Conference Break-Out Session
 - i. Second Chances—Prisoner Reentry and the Therapeutic Community
 - ii. Messages of Parenting—Parenting from Prison and the ‘Messages’ Model for Skill Building
 - iii. Just Detention—Creating Assault Free Environments and Promoting a Positive Process for Survivors
- VIII. Closing Task Force Session - Reentry and Prevention Best Practices and Collaborations Task Force

Appendix A: Agenda

Appendix B: Participant List

Appendix C: Additional Research Materials

Welfare Peer Technical Assistance Background

On July 23rd and 24th, 2009, the Welfare Peer Technical Assistance Network (WPTA) offered technical assistance to the AdvoCare Conference with the primary purpose of creating a nationwide task force of organizations and agencies that can provide proven evidence based practice plans and ideas for innovative crime prevention, prisoner reentry, and family unification using collaboration models. The Task Force's long term goal would be to ultimately provide technical assistance to others.

The Peer Technical Assistance was offered after a request was submitted by Keith DeBlasio. Mr. DeBlasio is the Executive Director of AdvoCare Inc. AdvoCare is a non-profit, membership organization that is part of a national effort to reduce crime through criminal justice reform. AdvoCare's goals are: (a) to provide assistance to prisoners and ex-offenders in the form of education and employment referrals; (b) to provide prisoners, family members of prisoners and all others concerned with updates on legal issues regarding prison conditions and criminal legislation; (c) to provide a periodic newsletter to those concerned with prison related legal issues; and (d) to provide a link with other nonprofit organizations. AdvoCare supports projects that help reduce the reliance on incarceration in order to improve public safety.

AdvoCare's request was sponsored by Vickie Johnson-Scott, Northern Regional Director, and Northern Regional Virginia Department of Social Services Office. Ms. Johnson-Scott also participated in the Task Force as a member.

The TA request was to utilize WPTA funds to bring together specialists from the prisoner reentry, social services agencies, and judicial communities to form a task force that could solidifying a process that could be used to shape a cohesive prisoner reentry program and reduce the risk for those currently receiving Temporary Assistance for Needy Families (TANF) and those who may potentially become TANF recipients. The Task Force work group and sessions were held in Winchester, VA on July 23rd and 24th, 2009.

The initial goals of the task force were outlined by Mr. DeBlasio as:

- a. To unite or reunite families and encourage two parent households with community support;
- b. To reduce the need for dependence on social service programs and government assistance by providing evidence based collaboration models within local communities and developing household independence;
- c. To increase successful prisoner reentry models utilizing proven methods of collaboration and development at state and local levels;
- d. To reduce the case loads and financial burdens on state and local governments by using innovative and individualized local collaborations;

- e. To develop a plan to promote the proven models recognized by the task force and provide technical assistance on multiple levels;
- f. To reduce crime and increase public safety through innovation.

WPTA Executive Summary

Incarceration has both direct and indirect impact on the family structure and the community at large: families must deal with the loss of income; the household must cope with the loss of the two-parent component; employers must deal with the loss of a worker. The whole community is affected when a jail sentence is passed. More importantly, the whole community is affected when a jail sentence ends.

According to the U.S. Department of Justice's Bureau of Justice Statistics roughly 7.3 million people were under some form of correctional supervision in 2007. Correctional supervision is broken into four general categories: probation, parole, jail and prison.

Reentry programs are designed to facilitate a smoother reentry transition for all parties involved: the ex-offender, the family, the correctional system, and the community at large. The challenge of the task force was to identify the barriers that each entity has faced in collaboration. Ex-offenders reentering mainstream society have historically been subjected to segmented process with each entity in the chain acting independently. The Department of Corrections, Mental Health Services, Substance Abuse Counseling, the Department of Motor Vehicles, and various social services agencies often limited communication between agencies and collaboration efforts were mixed. Many of the more successful programs debunk this by offering open communication between agencies that foster an easier transition for the ex-offender.

While there are many quality programs serving ex-offenders they are small in scope. The limited capacity of these programs cannot handle the demand developing into long waiting lists. The large number of prisoners estimated between 7, 000 and 8,000 in Virginia and over 600,000 in the U.S. who are released every year overwhelm the available space in reentry programs.

The barriers faced by many ex-offenders, male or female, mirror the same barriers most TANF recipients face as they begin the transition to self sufficiency.

The Task Force was asked to identify the foremost barriers to successful prisoner reentry. The group identified the ability to obtain a driver's license in a timely and efficient manner as the foremost barrier to a successful transition. The remaining top barriers discussed by the Task Force are race, felony records, mental health, substance abuse, alternative sentencing and the cultural mindset.

This report attempts to recapture and chronicle the discussions of the differing task force participants.

Virginia Reentry and Innovative Prevention Task Force Report

The specialists came from varying prisoner reentry programs, social services agencies in Virginia, Michigan correctional department and the judicial communities to solidify a process that could be used to shape a cohesive prisoner reentry program and reduce the risk for recipients on the Temporary Assistance for Needy Families (TANF) case load.

The work group consisted of seventeen invited members of the Task Force. The initial work group session was held on Thursday, July 23rd in Winchester, Virginia. The session was facilitated by Dr. Randell Turner of ICF International, a member of the Welfare Peer Technical Assistance Network Team. The first question posed by Dr. Turner to the work group on Thursday afternoon was to identify the foremost barriers to successful prisoner reentry. These barriers as determined by the work group members include:

- The ability to obtain a driver's license in a timely and efficient manner;
- Limited access to reliable transportation whether in a rural or urban environment;
- Insufficient funds to set up or maintain a household and the inability to earn necessary funds ahead of release;
- Insufficient funding for reentry programs and services;
- The high unemployment rate among reentrants and the impact of the present economy on ex-offender job searches;
- The limited capacity of successful reentry programs;
- Limited job skills based on a limited work history as well as unfinished education and job training programs.

Other work group members pointed to the factor that ex-offenders receive little to no regular access to healthcare and mental healthcare services, including substance abuse services.

Lastly, the ex offenders' type of criminal conviction, especially as it pertains to those convicted of a sex offense, provides an additional barrier to employment and finding adequate housing and to successful post incarceration achievement.

- Organizational cultural mindset of the corrections, probation/parole and community regarding the need to invest time and resources to prisoner reentry:

- Geriatric needs of prisoners who are “aging out” of the prison system,
- Felony records that hinder access to jobs, housing, education and driver’s licenses,
- Accumulation of child support arrearages,
- Need to invest in a state-wide, large scale initiative that would attempt to return thousands of prisoners successfully back to their families and communities.

The next question posed to the work group by Dr. Turner was, “what are your successes? What do you see that is working in your state, community or organization?” The working group’s response was:

- Networking with local business leaders to provide employment and work with reentry programs.
- Michigan’s “Get Out & Stay Out” state-wide initiative directed by the Governor 5 years ago, resulting in increased community efforts to provide supports. Director Caruso reported the first thing they had to address was changing the organizational mindset of many corrections staff and communities who had come to see prisons as part of community economic re-vitalization and didn’t want to see their prison closed because it meant that people would be losing their jobs. Therefore emphasis was established within the Department that reentry begins “Day 1” that an individual is incarcerated; they begin working toward returning home.
- Reentry Coordinators who are the liaisons between corrections and communities.
- Utilizing former inmates within reentry programs as successful models and mentors for reentry programs.
- Having employment coordinators as part of the reentry programs
- Access to education, with Michigan’s high unemployment rate, money was made available to unemployed and under-employed individuals including former inmates to attend local community colleges enabling them to train for good paying jobs.
- Connecting to faith-based organizations that provide volunteers, support and some funding to reentry program that don’t cost any additional funds.
- One-Stop programs that provide wrap-around services including housing, health care, substance abuse services, employment training and legal services to address issues such as child support arrears.
- Increased involvement by faith-based organizations which may be able to provide education, training, life-skills, family support, mental health services and emotional

support for the family. Faith based organizations and community based organizations often fill the gaps between services offered by social service programs and the needs of the reentrant.

Morning Task Force Take-Aways

All members of the work group concluded that the top three barriers to successful reentry were:

1. Felony records that affected access to family sustaining wage jobs, which affect their ability to pay child support arrearages, obtain safe-affordable housing, and more specifically the inability to obtain state issued drivers licenses in a timely manner. Blockages come from multiple sources: the state Department of Motor Vehicles, while incarcerated the ex-offenders license may have expired or even been suspended before the prison sentence begin. Other difficulties arise from the inability to garner the fines and fees that are necessary to be remunerated to the local licensing bureau.
2. The need for organizational cultural mindset changes within Department of Corrections, Probation/Parole and communities where these ex-offenders are going to be returning. What was discussed was the need for reframing the organizational cultural mindset. The group indentified two types of cultural mindsets that are considered barriers to successful prisoner reentry. The first being the organizational mindset of the Department of Corrections and the second mindset of the general public that falsely believe that most crimes are committed by repeat offenders. The Department of Corrections operations vary state by state but many share the same characteristics.
3. The need for health services which could address mental/emotional healthy needs, substance abuse counseling/treatment and preventative health care for ex-offenders and their families.

IV. AdvoCare Conference Panel Presenters

Jeannie Amison is the Executive Director of Gemeinschaft House. Gemeinschaft is a sixty bed residential facility with a 25 year history of successfully providing residential programming for those transitioning out of jail or prison in Harrisonburg, VA. The House emphasizes proper conduct by having residents adhere to a highly regimented schedule. The House offers job skills training and teaches entrepreneurial skills on the micro level. Psychiatric counseling is mandatory both in individual and group sessions. The House is equipped with an on staff nurse. Gemeinschaft has on staff, a Jobs Coordinator to work with community to find space and available positions for residents.

Gemeinschaft partnered with James Madison University to conduct a true evaluation of their program. The evaluation was a statistical study conducted, based on recommitted, recidivism, currently has 75% success rate. We offer full wrap around services. We adopt elementary schools and volunteer for non -profit. That effort we place on community interaction, we believe attributes to the success we continue to see.

Patricia Caruso, Director, Michigan Department of Corrections Caruso is the appointed director of the Michigan Department of Corrections. The Department of Corrections experienced tremendous amount of prison growth in the 1980's due to a change in the judicial sentencing structure. The Michigan Governor, Jennifer Granholm felt a responsibility to project accurate numbers to the residents of the state. At one time there were 50, 000 beds being used. One in 3 state employees worked for the Michigan Department of Corrections. The Michigan economy began to recede earlier than the rest of the country's (economy as the recession started). Changes were prompted once the Department of Corrections budget reached a quarter of the general budget.

The election of Governor Granholm was the facilitation that brought on the conscious decision to implement changes to the Michigan Department of Corrections. The Department of Corrections was the main economic engine of the state, and one of the largest employers. The state could not break the cycle of locking-up. Transition begins with the 1st day of being locked up, no organizational structure and communication. We focused on changing the mindset of the entire Corrections department. That change was the beginning of the Get Out, Stay Out program. The all-time high prison population in Michigan was 51, 700. That number has been reduced greatly. Currently, we are down an about 5, 000 prisoners in three years to 46, 923. Truth in sentencing laws are another way that we have been able to change our organizational mindset so quickly. The Department of Corrections has closed 8 additional prisons. We anticipate dropping additional 3,000 prisoners from the system. We cannot guarantee that a former prisoner won't commit another crime after leaving prison; but returning to the old way of just locking them up will guarantee that. It only takes on re-entrant to become the poster child for returning to the old way of holding people in prison. This is the true test of 'new' way.

Tara Kunkel, Chesterfield County, VA Drug Court. Ms. Kunkel is a former probation officer. Thirteen years ago, she experienced frustration with lack of communication between departments, delays in service. She views drug courts as a break down to traditional boundaries. The Chesterfield County, Virginia Drug Court brings together individuals and helps divert about 80 individuals each year. The staff works in teams of eight to ten people. The Chesterfield County drug court has been in existence for nine years. After four years, 25% have had a misdemeanor arrest. Drug courts are voluntary in Virginia, 28 drug courts operating, no new funding in 6 years, operating without state funds, using federal funds. Two new drug courts opened in the last two years in Southeast and Southwest Virginia.

John Horejsi, Founder and Coordinator, Social Action Linking Together (SALT) SALT “give grassroots a new meaning” focusing on income security and family support issues. The organization first began as a small gathering at a Catholic Charities conference with eight members. SALT has now grown to over a thousand members. SALT’s first mission was to alert the public to the state of Virginia taxing food stamps. At the time, Virginia was one of nineteen states that were taxing food stamps benefits. We have also advocated on behalf of the HIP, a pilot program keeping people in their homes, rather than in shelter.

CAPT Joseph R. Hibbeln, M.D., Acting Chief, Section on Nutritional Neurochemistry. Captain Hibbeln is National Institute of Health biologist who wants to find the cause of so many going to prison and committing crime. His theory is that behavior ultimately imitates from the tissue of the brain. He believe that if you ‘Lock up the brain (with poor nutrition), lock up the body’. Is the something missing from the brain in a large number that makes them not act right? The brain is made of lipids and fats and oils. Essential oils come from fish. These essential oils cannot be made by the human body. We are dependent on the food system to replace these essential oils as they are depleted. Does that brain composition change from the different diet that humans are now consuming? In countries that do not eat fish as a regular part of their diet, rates of homicide are 30 fold higher than. In countries that do eat fish, crime is lower. Omega 3 fatty acids control frontal lobe. Substance abuse, alcohol deplete the brain of omega 3 acids, cocktail of omega 3 fatty acids and multi vitamin, given to prisoners – outcome was 40% reduction in new convictions for felony level violent crime in prisoners. When the sea falls on fertile soil, then the plants will grow – add proper fertilizers.

Questions to AdvoCare panel members

This is compilation of the questions asked of the AdvoCare Panelists:

Question address to Facilitator Turner: Sex offenders, what are you doing to counter that life time sentence?

Answer: Shed light on the myth about sex-offenders. Helping communities understand that 80% of those convicted of a sex offense never re-offend. It is the 20% that set the precedent and contribute to the cultural mindset of repeat offender. Barriers for released sex offenders include inability to find adequate housing and employment. Many are trying self employed but that process takes time to develop a successful business. We try to teach them to not use the word 'fair'. The system is not trying to be, it is a slow grind but a sure grind. Sex offenders are often categorized as one size fits all; however the typical sex offender is white, has some college education, married and has children.

Question addressed to Director P. Caruso: How have you laid the political ground work?

Answer: We deal directly with key legislators. We invited them to the table when we were doing the initial planning. They signed on early after Governor Jennifer Granholm was elected. We largely stayed away from partisan type issues and stuck to facts. We focused on the budget concerns and the impact of long term prisoner sentences. A foundation was established outside of Department of Corrections. A letter was written to everyone explaining what the program was and what we hoped to accomplish. That letter took reentry and the political argument about it off the table. With the facts in front of you can challenge the rhetoric. Now we have partnered with people on all sides of the aisle.

Question addressed to the panel: Is there some ways to counter-act the negativity, majority of crimes committed are not by ex-offenders (but perceived to be)?

Answer by Director P. Caruso: The salaciousness of the headlines (buy into the mind set), the reality is that probationers and parolees are about 20% of those arrested for new crimes. Facts don't seem to matter. Fear is what is keeps this going, we all feel vulnerable. Finding someone to blame is what keeps, we want to blame someone mentality.

Answer by J. Amison: Tough battle that we are facing, if you don't stand for something you will fall for anything, building a coalition of people that believe in what we are doing and taking a stand. Building that coalition that stand, (can) communicate the truth about ex-offenders and recommend what needs to happen. A galvanized community has more voice. Also need to educate the offenders, we fail to educate that alcohol is a drug.

Question to T. Kunkel: What can we do as citizens to help expand the drug court? And raise money?

Answer: Visit the court, bring everyone, invite judges to speak to community organizations about the benefits of drug court. Too often people feel intimidated by the idea of going to court. Additionally going to the legislature, speaking to them about the importance of drug courts as a successful, less expensive alternative to incarceration that benefit communities.

Question to T. Kunkel: Why do the drug court and the DUI court have to be separate?

Answer: The way the legislation is structured in Virginia. Also political concerns keep them separate; we don't want to give the impression of favoritism.

Question addressed to the Panel: Sex offenders and housing? What are some the steps for buying housing for sex offenders?

Answer from Facilitator Turner: Getting information about the county or community zoning rules and regulations. Understanding the local political landscape and providing good information to the leaders with facts and figures about sex offenders. Recommend that the housing is not within the city but on the outskirts of the community. Minnesota Department of Correction has had to purchase housing for sex offenders returning to Minneapolis, MN, because it was so difficult for ex-offenders to find housing. In Lancaster, PA, the half-way house for sex-offenders came under fire from the neighborhood and the community leaders. The lesson there is doing your homework and make sure you are working with the community leaders or it will be an up-hill battle that you won't win.

Question addressed to the J. Hibbeln: If you want to take Omega3 and multi vitamins, what is the correct dosage?

Answer by J. Hibbeln: If you want to take the supplements; begin with 1 gram, EPA and DHA, fish oil about 300mg. Un-concentrated is the cheapest. Concentrated is better for general prevention, a larger dose of 2-3 grams a day is more effective.

Question addressed to Panel: As a local program, I often run into bureaucracy. How do you engage in local level coalition building?

Answer by Director P. Caruso: It is a struggle; understand the challenge of turning a ship. Most people who went into corrections as a professional did it to help people and make a difference. Understand how the changes may make some people feel that their job is venerable. That's why it's important to, 'keep the end in mind'. Identify what do you need to do to get things done? People have to have some motivation to help. Others felt like they may be replaced. I always stress teamwork. Approach deals with collaborative case management approach. It's difficult to break through bureaucracy but, we need to try.

Answer by J. Amison: Many times it takes an understanding that (the bureaucracy) it is a matter of control, and territory. This gives them a sense of power and authority. You have to

recognize their power and authority, without “sucking up”. Learn the art of authority sharing, don’t get into power struggle and the key is making people feel included.

Appendix A: Agenda

10 am - 12 n In The Trenches - Updates and Discussions from Legislators and Organization Leaders

This session included a panel discussing reentry best practices and collaborations.

Panelists included:

Patricia L. Caruso, Director, Michigan Department of Corrections

Tara Kunkle, Chesterfield County Adult Drug Court

Jennie Amison, Executive Director, Gemeinschaft Home

John Horejsi, Founder and Coordinator, Social Action Linking Together (SALT)

CAPT Joseph R. Hibbeln, M.D., Acting Chief, Section on Nutritional Neurochemistry, NIH

12 n - 1 pm Lunch (Buffet included in conference registration)

1 pm- 4 pm Workshops

Second Chances—Prisoner Reentry and the Therapeutic Community

This was a detailed lecture and discussion on how transitional therapeutic communities provide a structured step down approach to reunification with community and families and what makes this approach so successful.

Facilitator: Jennie Amison, Executive Director of Gemeinschaft Home

Messages of Parenting—Parenting from Prison and the ‘Messages’ Model for Skill Building

This was a hands on workshop with information and ideas to improve parenting skills from prison, how and why the ‘messages’ concept was formulated, and some best practices for those interested in working with ‘messages’ in the prison environment.

Facilitator: Carolyn LeCroy, Founder and Director, The Messages Project

Just Detention—Creating Assault Free Environments and Promoting a Positive Process for Survivors

This training session covered the many aspects of identifying and dealing with sexual assault in the prison environment, using interactive exercises, survivor accounts, and discussion. The group worked on developing a multifaceted approach that recognizes corrections' concerns, mental health needs of survivors, the role of community rape crisis program, and barriers to reporting sexual violence in detention. This collaborative approach honors multiple goals and perspectives and yields the best outcomes for survivors, corrections, and the community.

Facilitator: Linda McFarlane

Workshop - Second Chances—Prisoner Reentry and the Therapeutic Community

This will be a detailed lecture and discussion on how transitional therapeutic communities provide a structured step down approach to reunification with community and families and what makes this approach so successful.

Facilitator: Jennie Amison, Executive Director of Gemeinschaft Home

- Skills taught in the institution but have not been applied to the real world.
- Reentrants do not have sufficient tools to find employment, self esteem and pride is holding ex offenders back from achieving success.
- Probation officers have control issues, like exercising power over ex-offenders
- Ex-offenders give wrong address, Home plan – not viable,
- No support network
- Location is rural, ministry for men.
- Restore order, maintain sense of home.

Three participants in program spoke on their past and the reasons why they choose Gemeinschaft Home program and how program has impacted their life. The participants were Eugene Scott Hampton, Garland and James Herbert.

How to build a transitional housing?

- First step is to find a house.
- The next step is to find a Community Leader (CL) to be your advocate or front person to the rest of the community. Your Community Leader needs to be respected by all parties. This person can be anyone from a neighborhood resident to business person.

- When recruiting the community leader place an emphasis on public safety. Approach your chosen community leader with the idea for town hall or meeting to 'discuss' the community helping reentrants. Ms. Amison likes to do something be a nuisance to the chosen community leader but continuous follow up with chosen CL should be sufficient to recruit them to your side.
- Let your community leader lead the meeting
- Allow your CL to present the idea. This gives everyone a shared ownership of problem. The community can believe that they are providing additional supervision as well as a sense of responsibility and charity.
- Secrecy will not go over well; by making the community apart of the decision making process you have included them in the process.
- After you have established your transitional home:
 - Conduct community outreach,
 - Fit into community profile and image,
- Know the zoning codes, building, occupancy codes, Permits and city regulations, Funding – donate clothes, fund raisers and dept of corrections.

Questions for Ms. Amison:

What is the average stay in Gemeinschaft Home? Average stay is about 3 months but we can request for extensions.

What are ways you have of retraining reentrants to adjust to the outside? We have a highly structured program with three types of rules: house rules, major rules and cardinal rules – theft, smoking.

How do you continue to justify your program? We track statistics and track the progress of those in the program and those who have finished the program.

How do you go about obtaining certification? The certification process is headed by Darlene Frye, I believe of the Virginia Department of Corrections.

What are other ways you help reentrants? We teach them to be responsible and hold them accountable for their actions. We believe in being pro-active with child support enforcement and other agencies to have fathers and mothers pay something.

Final Session: Reentry and Prevention Best Practices and Collaborations Task Force

During the final session Dr. Turner summarized the work group's input and recommendations:

- Think Exit Upon Entry
- Need to Develop a One Stop Shop for Program Services
- Countering the Blame Game within the community
- Overcoming the Fear Factor
- Collaborative Case Management Approach

After taking in all the workshops, questions during the panel presentations and the ideas that the work group had developed during the last two days, Dr. Turner asked 'What are the next steps you believe you need to take in order to put action into your ideas?'

Three proposed solutions were agreed upon:

1. Develop and present a plan that proposed solutions to government and community decision makers based upon a successful reentry model that can be replicated throughout the state. One that includes the input and involvement of families and the community.
2. The plan needs to include a "One Stop Shop" Model, that included the success of the Gemeinschaft Home and Michigan's Prisoner Reentry Initiative (MRPI)
3. Develop and implement a "Public Education/Marketing" initiative to combat/overcome the "Blame Game and Fear Factor" which result in creating additional barriers for ex-offenders within communities.

Dr. Turner then raised the question of "WHO" is going to develop and implement these plans? The work group had achieved a major accomplishment by developing these three proposed solutions. However one additional step that the work group needed to achieve was to indentify who was going to be responsible for following through with this proposed plan?

Seeing that the majority of the work group was from Virginia, it was recommended that the focus of the efforts be centered upon Virginia, initially. Furthermore the work group agreed that

some type of organized effort or organization needed to be formally or informally established in order to implement any plan of action.

Whoever the work group determined would be responsible for implementing the plan; they all agreed that it would need:

- Have a clear mission and vision statement.
- Need to have access to resources and information as to the “Promising Practices” regarding reentry in Virginia and around the country.
- Develop a timeframe for implementing the plan.
- Have the ability to communicate within the collaborative.

The work group determined that this would be their next step and communication would be sent to everyone inviting them to participate in the development of a formal collaborative organization.

Appendix B: Participant List

The Welfare Peer Technical Assistance Team:

David Camporeale,
Family Assistance Program
Specialist,
U.S. Department of Health &
Human Services, Administration
for Children & Families

Shai Monique Pipkin-
Cooper,
Research Coordinator,
The Dixon Group

Randel I Turner, Ph.D.
Senior Associate,
ICF International

AdvoCare, Inc:

Keith Wm. DeBlasio,
Executive Director

Patricia A. Dilts,
Treasurer

Annette E. Blankenship,
Secretary

Task Force Participants:

Jennie Amison,
Executive Director,
Gemeinschaft Home

Billy Atwell,
Justice Reform Coordinator,
Prison Fellowship

Dave Coman,
Director,
King George County,
Virginia Department of Social Services

Patricia L. Caruso,
Director,
Michigan Department of Corrections

Stan Cooper,
Regional Addiction Recovery Programs
Coordinator,
The Church of Jesus Christ of Latter Day Saints

Daniel Edge,
King George County,
Virginia Department of Social Services

Nan Foster,
Consultant,
Northern Regional Office TANF,
Virginia Department of Social Services

LeVerne Herring, MSW,
Clinical Social Worker,
Commonwealth Center for Children &
Adolescents

CAPT Joseph R. Hibbeln, M.D.,
USPHS, Acting Chief,
National Institute of Health,
Section on Nutritional Neurochemistry

John Horejsi,
Founder and Coordinator,
Social Action Linking Together (SALT)

Vickie Johnson-Scott, MPA,
Northern Regional Director,
Virginia Department of Social Services

Jessie W. Jones,
Outreach Coordinator,
Office of Community & Prevention
Partnerships,
Virginia Department of Social Services

Tara Kunkle,
Chesterfield County, VA Adult Drug Court

Carolyn LeCroy,
Founder and Director,
The Messages Project

Linda McFarlane, MSW, LCSW,
Deputy Executive Director,
Just Detention International

Lisa Peacock,
Culpepper County Reentry Advisory Council
Facilitator,
Virginia Department of Social Services

Ivan Sinclair,
Culpepper County Reentry Advisory Council

Appendix C: Additional Research Materials

2009 Survey and Best Practice: Status of Ex-Offender Reentry Efforts in Cities - A 79-City Survey

A Sneak Peek: Advice for State Policymakers on Designing Strategies That Improve Employment Outcomes and Increase Public Safety

Drug Free Alliance Presentation – Drug Courts in Virginia

Gemeinschaft Home: Transitional Therapeutic Community Program

Life After Lockup: Improving Reentry from Jail to the Community

National Resources for Reentry

Preparing Prisoners for Employment: The Power of Small Rewards

The Challenges of Prisoner Reentry: Facts and Figures

MORGAN COUNTY COMMISSION
AGENDA REQUEST

DATE OF REQUEST: 10/15/12

NAME: Charlene Gilliam, Potomac Edison

ADDRESS: _____

HOME PHONE: _____

BUSINESS PHONE: _____

DATE OF MEETING REQUESTED: 10/18/2012

TOPIC (S) OF DISCUSSION:
Short Presentation on Storm Response

SPECIAL EQUIPMENT NEEDS (i.e. Powerpoint, etc.)

* Please include any handouts or material that will be discussed or presented to the County Commission. Thank you !

MORGAN COUNTY COMMISSION
AGENDA REQUEST

DATE OF REQUEST: 10/10/12

NAME: Joan Willard & Kevin Barney

ADDRESS: _____

HOME PHONE: _____

BUSINESS PHONE: _____

DATE OF MEETING REQUESTED: 10/18/2012

TOPIC (S) OF DISCUSSION:
PRO Grant (Protection Resource Officer)

SPECIAL EQUIPMENT NEEDS (i.e. Powerpoint, etc.)

* Please include any handouts or material that will be discussed or

MORGAN COUNTY COMMISSION
AGENDA REQUEST

DATE OF REQUEST: 10/15/12

NAME: Roy Smith

ADDRESS: _____

HOME PHONE: _____

BUSINESS PHONE: _____

DATE OF MEETING REQUESTED: 10/18/2012

TOPIC (S) OF DISCUSSION:
Financial Statements

SPECIAL EQUIPMENT NEEDS (i.e. Powerpoint, etc.)

* Please include any handouts or material that will be discussed or presented to the County Commission. Thank you !



Division of Water and Waste Management

INVOICE

PHONE: (304) 926-0499 ext 4888

FAX: (304) 926-0481

Department of Environmental Protection
Division of Water and Waste Management
(TRES/RPD)
PO Box 364
Charleston, WV 25322

Page 1 of 1

INVOICE NO: 00289433

Invoice Date: 10/05/2012

Remit By: 11/04/2012

MAXIE MAGGIO
MORGAN COUNTY COURTHOUSE
77 FAIRFAX ST, RM 101
BERKELEY SPRINGS, WV 25411

10912

PLEASE
PAY THIS
AMOUNT **\$5,050.00**

Permit / ID No.	Anniversary Date	Description	Facility	Quantity	Unit Rate	Extension
WV0116394	10/08/2010	Groundwater Protection Fee	Morgan County Courthouse	1	50.00	\$50.00
	10/08/2010	WVNPDES Annual Permit Fee	Morgan County Courthouse	1	5,000.00	\$5,000.00
PLEASE PAY THIS AMOUNT >>>>						\$5,050.00

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as an image transaction. For inquiries, please call 1-866-243-9010.

When we use information from your check to make an electronic fund transfer. Funds may be withdrawn from your account as soon as the same day you make your payment, and you will not receive your check back from your financial institution.

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MORGAN COUNTY COURTHOUSE
77 FAIRFAX ST, RM 101
BERKELEY SPRINGS, WV 25411

INVOICE NO: 00289433
INVOICE DATE: 10/05/2012
REMIT BY: 11/04/2012
AMOUNT DUE: \$5,050.00

Remit To: Department of Environmental Protection
Division of Water and Waste Management
(TRES/RPD)
PO Box 364
Charleston, WV 25322
FEIN: 556000769W

To pay this invoice with a credit card, please call 304-926-0499 ext 4888. Only Visa and MasterCard are accepted.

11042012000050500000289433

**West Virginia Department of Environmental Protection
Division of Water and Waste Management
Annual Fee Invoice Information**

Water Pollution Control Annual Permit Fee: The Water Pollution Control Act, Chapter 22, Article 11, Section 10 of the West Virginia Code, requires all holders of a State water pollution control permit or a national pollutant discharge elimination system permit to be assessed an annual permit fee in accord with promulgated rules.

Water Pollution Control Permit Fee Schedules, Title 47, Series 26, Legislative Rules of the Department of Environmental Protection, establish an annual permit fee based upon the relative potential to degrade the waters of the State which, in most instances, relate to volume of discharge. Sewage facilities annual permit fee is based upon the number of customers served by the facility.

The annual permit fee is due no later than the anniversary of the date of permit issuance as required by Section 3 of the rules. The anniversary date depicted on the invoice is the date of the latest permit issued to a facility prior to July 1, 1999, or the original permit issuance date for a facility receiving its initial permit after July 1, 1999. Failure to submit the annual fee within ninety (90) days of the due date will render your permit void. However, if your permit expires this month, you must submit your permit fee promptly. The rules provide that a permit cannot be reissued until all annual fees due during the term of the permit have been paid in full.

Groundwater Protection Fee: The Groundwater Protection Act, Chapter 22, Article 12 of the West Virginia Code, requires the owners or operators of facilities or activities which have the potential to impact groundwater quality to be assessed a Groundwater Protection Fee in accord with promulgated rules.

Groundwater Protection Act Fee Schedule, Title 47, Series 55, Legislative Rules of the Department of Environmental Protection, establish an annual fee for persons who are required to obtain a permit issued under the authority of Chapter 22, Article 11 of the West Virginia Code.

Fees vary according to the category the facility or activity falls within. Fees for categories were determined by facility or activity type, and were based on the projected cost of administering the Groundwater Protection Act.

Failure to remit Groundwater Protection Fees shall result in withdrawal or denial of groundwater certification and subject the person to penalties outlined in Chapter 22, Article 12, Section 10 of the West Virginia Code. Furthermore, no permit may be issued, modified or renewed unless all Groundwater Protection Fees have been paid in full.

Sewage Sludge Management Program Fee (For Land Application): The Solid Waste Management Act, Chapter 22, Article 15, Section 20 of the West Virginia Code, requires fees to be paid by the producer, processor or transporter for land application of sewage sludge. According to the Act, fees generated shall be sufficient to cover the cost of the sewage sludge management program. Only those facilities which select land applications as a sewage sludge disposal option and demonstrate that sludge meets the criteria established by the rule, Title 33, Series 2, Legislative Rules of the Department of Environmental Protection, shall be allowed to land apply sewage sludge.

Fees are calculated based on the facility's volume and treatment technology and are assessed on a dry ton basis. The invoice reflects the fee for the facility for the preceding twelve months if land application has been selected as disposal option and sewage sludge has been actively disposed of at approved sites. Domestic sewage treatment facilities which have selected other disposal options and industrial facilities have not been assessed the fee.