

1 certain circumstances; requiring payment of regular court
2 costs by persons whose case is disposed of pursuant to this
3 section; and ensuring court costs assessed are distributed
4 according to code.

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

6 That the Code of West Virginia, 1931, as amended, be amended
7 by adding thereto a new section, designated §60-6-26, to read as
8 follows:

9 **ARTICLE 6. MISCELLANEOUS PROVISIONS.**

10 **§60-6-26. Conditional discharge for first offense of certain**
11 **offenses related to nonintoxicating beer or**
12 **alcoholic liquor.**

13 (a) When a person pleads guilty to or is found guilty of a
14 violation of subdivision (1), subsection (a), section nineteen,
15 article sixteen, chapter eleven of this code; subsection (b),
16 section nineteen, article sixteen, chapter eleven of this code;
17 subsection (a), section twenty-two-a, article three of this
18 chapter; subdivision (1), subsection (a), section twenty-four,
19 article three-a of this chapter; subsection (b), section twenty-
20 four, article three-a of this chapter; subsection (a) or (b),
21 section twelve-a, article seven of this chapter; or subsection (a)
22 or (b), section twenty-a, article eight of this chapter, the court,
23 without entering a judgment of guilt and with the consent of the

1 accused, may defer further proceedings and place him or her on
2 probation upon terms and conditions it considers appropriate, if
3 the person has not previously been convicted of:

4 (1) Any of the offenses contained in the code provisions
5 referenced in this subsection; or

6 (2) Any statute of the United States or of any state relating
7 to underage purchase, consumption, sale, service or possession of
8 nonintoxicating beer or alcoholic liquor.

9 (b) If the person violates a term or condition of the
10 probation, the court may enter an adjudication of guilt and proceed
11 as otherwise provided by law.

12 (c) Upon fulfillment of the terms and conditions of the
13 probation, the court shall discharge the person and dismiss the
14 proceedings against him or her.

15 (1) Discharge and dismissal under this section is without
16 adjudication of guilt and is not a conviction for purposes of this
17 section or the section of the original charge, or for purposes of
18 disqualifications or disabilities imposed by law upon conviction of
19 a crime.

20 (2) The effect of the discharge and dismissal is to restore
21 the person in contemplation of law to the status he or she occupied
22 prior to arrest and trial.

23 (3) A person to whom a discharge and dismissal have been
24 effected under this section may not be found guilty of perjury,

1 false swearing or otherwise giving a false statement by reason of
2 his or her failure to disclose or acknowledge his or her arrest or
3 trial relating to a charge discharged and dismissed by this section
4 in response to any inquiry made of him or her for any purpose.

5 (d) There may be only one discharge and dismissal under this
6 section with respect to any one person.

7 (e) After a period of not less than six months after the
8 expiration of a term of probation imposed upon a person under the
9 provisions of this section, the person may apply to the court for
10 an order to expunge from all official records all recordations of
11 his or her arrest, trial and discharge pursuant to this section.
12 If the court determines after a hearing that the person during the
13 period of his or her probation and during the period prior to his
14 or her application to the court under this subsection has not been
15 guilty of any serious or repeated violation of the conditions of
16 his or her probation, it shall order the expungement.

17 (f) Notwithstanding any provision of this code to the
18 contrary, any person prosecuted for an alleged violation of an
19 offense listed in subsection (a) of this section, whose case is
20 disposed of pursuant to the provisions of this section, is liable
21 for all court costs assessable against a person convicted of a
22 violation of the section under which the person was prosecuted.
23 Payment of the costs may be made a condition of probation. The
24 costs assessed pursuant to this section, whether as a term of

1 probation or not, shall be distributed as other court costs in
2 accordance with section two, article three, chapter fifty of this
3 code; section four, article two-a, chapter fourteen of this code;
4 section four, article twenty-nine, chapter thirty of this code; and
5 sections two, seven and ten, article five, chapter sixty-two of
6 this code.