

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 634**

BY SENATORS COLE (MR. PRESIDENT) AND KESSLER

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on the Judiciary;

reported on February 24, 2016.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §17B-7-1, §17B-7-2, §17B-7-3, §17B-7-4, §17B-7-5, §17B-7-6, §17B-7-7,  
3 §17B-7-8, §17B-7-9 and §17B-7-10, all relating to creation of the Second Chance Driver's  
4 License Act; creating short title; setting forth legislative findings and purpose; defining  
5 terms; establishing program; directing the Director of the Division of Justice and  
6 Community Services to administer program; setting eligibility requirements to become  
7 program participant; requiring application from person wishing to participate; directing the  
8 director to coordinate with officials from courts and commissioner to verify total amount of  
9 unpaid court costs; setting deadlines for provision of information regarding unpaid court  
10 costs to director; directing how unreported court costs are to be handled; requiring  
11 notification to applicant of acceptance into program; directing the director to develop  
12 consolidated repayment schedule for participant; setting requirements for consolidated  
13 repayment schedule; permitting modification of consolidated repayment schedule;  
14 permitting hardship waiver; clarifying that participant is under no obligation to make  
15 separate or additional payments directly to court if those costs are included in consolidated  
16 repayment schedule; establishing moratorium on collection of unpaid court fees by a court  
17 or its designee while a participant is in good standing with the program; requiring monthly  
18 remittance of payments to director; directing issuance of certificate of compliance,  
19 certificate of noncompliance, program removal notice and program completion certificate  
20 under certain conditions; directing Division of Motor Vehicles to place stay or lift stay on  
21 suspension or revocation of participant's driver's license under certain conditions;  
22 permitting Division of Motor Vehicles to require retesting under certain circumstances;  
23 exempting participants from certain retesting fees and reinstatement fees; creating  
24 Second Chance Driver's License Program Account; providing for administration of  
25 account; directing deposit of funds into account; authorizing expenditure of funds from  
26 account for certain purposes; requiring Division of Justice and Community Services to

27 collect and distribute unpaid court costs on a pro rata basis; and providing legislative and  
28 emergency rule-making authority.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 article, designated §17B-7-1, §17B-7-2, §17B-7-3, §17B-7-4, §17B-7-5, §17B-7-6, §17B-7-7,  
3 §17B-7-8, §17B-7-9, and §17B-7-10, all to read as follows:

**ARTICLE 1. SECOND CHANCE DRIVER'S LICENSE PROGRAM.**

**§17B-7-1. Short Title.**

1 This article is known as and may be cited as the William R. Laird IV Second Chance  
2 Driver's License Act.

**§17B-7-2. Legislative findings and purpose.**

1 (a) The Legislature finds that allowing individuals who have been unable to obtain a  
2 driver's license or to have their driver's licenses reinstated due to unpaid court costs will better  
3 enable these individuals to return to the workforce and repay unpaid court costs in a timely  
4 manner.

5 (b) The purpose of this article is to create a program that allows the commissioner to  
6 temporarily stay a driver's license suspension or revocation for individuals who are accepted into  
7 the second chance driver's license program if the individual thereafter remains current in the  
8 repayment of unpaid court costs as required by the program.

**§17B-7-3. Definitions.**

1 For the purposes of this article:

2 (1) "Commissioner" means the Commissioner of the Division of Motor Vehicles, or his or  
3 her designee;

4 (2) "Consolidated repayment schedule" means the schedule by which a participant is  
5 expected to make monthly payments for unpaid court costs consistent with the requirements of  
6 the program as established by the director;

7 (3) "Court" means a municipal court, magistrate court, circuit court, family court or drug  
8 court in the State of West Virginia and the Supreme Court of Appeals of West Virginia;

9 (4) "Director" means Director of the Division of Justice and Community Services, or his or  
10 her designee;

11 (5) "Good standing" means compliance by a participant with the requirements of the  
12 program, as set forth in this article and legislative rules promulgated hereunder;

13 (6) "Monthly payment" means the amount that a participant is scheduled to remit to the  
14 director each month pursuant to the consolidated repayment schedule;

15 (7) "Participant" means a person who applies for, and is accepted into, the second chance  
16 driver's license program by the director;

17 (8) "Second chance driver's license program" or "program" means the program created  
18 under this article that establishes a payment structure for a participant to consolidate unpaid court  
19 costs into monthly payments over a defined period of time, coordinates the acceptance and  
20 distribution of monthly payments from a participant, and certifies that a participant in good  
21 standing is eligible for a temporary stay of a driver's license suspension or revocation due to  
22 certain unpaid court costs; and

23 (9) "Unpaid court costs" means any fee, fine, expense, cost or other moneys that are  
24 required to be paid by a person to a court, pursuant to one or more valid court orders, and have  
25 not been paid in full.

**§17B-7-4. Second chance driver's license program established; creation and**  
**administration by director; program eligibility.**

1 (a) There is hereby established the second chance driver's license program, which shall  
2 be administered by the director pursuant to the requirements of this article.

3 (b) To be eligible to participate in the program, a person must:

4 (1) Have his or her driver's license suspended or revoked for failure to remit unpaid court  
5 costs;

6 (2) Be at least twelve months delinquent in payment of unpaid court costs to a court or  
7 courts;

8 (3) Not have any unpaid court costs incurred from charges that involve driving a  
9 commercial motor vehicle or which otherwise violate the commercial driver's license requirements  
10 in chapter seventeen-e of this code; and

11 (4) Meet other eligibility requirements established pursuant to the rules developed under  
12 section nine of this article.

**§17B-7-5. Program acceptance; development of consolidated repayment schedule; no  
other court fee payments required.**

1 (a) A person wishing to participate in the second chance driver's license application shall  
2 complete an application form prepared by the director.

3 (b) Upon receipt of a person's application, the director shall coordinate with officials from  
4 the courts and the commissioner to verify the total amount of the applicant's unpaid court costs in  
5 the State of West Virginia at the time of the application.

6 (1) All courts shall provide a full accounting of all unpaid court costs assignable to the  
7 applicant within thirty days of the request of the director.

8 (2) Any unpaid court costs not reported to the director by the courts as provided by  
9 subdivision (1) of this subsection may not be collected separately by the applicable court during  
10 the time in which the applicant is a participant in the program.

11 (3) If a participant completes the program, any unpaid court costs not submitted to the  
12 director pursuant to subdivision (1) of this subsection shall be deemed waived unless the unpaid  
13 court costs were part of an order occurring after the date upon which the director requested  
14 information for a participant.

15 (c) Within thirty days after receipt of information concerning unpaid court costs, the director  
16 shall determine if the applicant is eligible to participate in the program. Upon determination, the  
17 director shall promptly notify the applicant of his or her acceptance into the program.

18 (d) Upon acceptance of the applicant as a participant in the program, the director shall  
19 develop a consolidated repayment schedule for the participant, which will require the participant  
20 to remit payments on a monthly basis to the director according to guidelines established by the  
21 director in legislative rules, subject to the following conditions:

22 (1) The monthly payment shall be determined based on the participant's monthly income  
23 and expenditures, but may not be less than \$50 per month; and

24 (2) The consolidated repayment schedule shall require full payment of the unpaid court  
25 costs within one year.

26 (e) The consolidated repayment schedule may be amended to reflect changes in a  
27 participant's circumstances.

28 (f) The director, in his or her discretion, may permit a hardship waiver of the requirements  
29 of subsection (d) of this section, upon a determination that the applicant's circumstances may  
30 have changed, and that the objectives of this article are best accomplished if the consolidated  
31 repayment schedule requires a lesser monthly payment or a longer period of time to remit the  
32 unpaid court costs: *Provided*, That the director may not waive the total amount of unpaid court  
33 costs submitted by the courts according to subsection (a) of this section.

34 (g) Upon acceptance into the program, a participant in good standing with the program is  
35 under no obligation to make separate or additional payments of unpaid court costs directly to a  
36 court if those unpaid court costs are included in the consolidated repayment schedule.

**§17B-7-6. Payments to be made to director; certificate of compliance; failure to comply**  
**with consolidated repayment schedule.**

1 (a) Upon acceptance into the program and establishment of a consolidated repayment  
2 schedule, the participant shall remit monthly payments to the director in the manner prescribed  
3 by the director and in compliance with the consolidated repayment schedule.

4 (b) Upon receipt of the first monthly payment required by the participant's consolidated  
5 repayment schedule, the director shall issue to the commissioner, in writing or electronically, a  
6 certificate of compliance verifying the participant's good standing in the program.

7           (c) If a participant fails to make a monthly payment within thirty days of a deadline set by  
8 the consolidated repayment schedule, the director shall immediately issue, in writing or  
9 electronically, a certificate of noncompliance to the commissioner stating that the participant is  
10 not in good standing in the program.

11           (1) If a participant, after failing to make one or more timely monthly payments, remits the  
12 total amount due at that time according to the consolidated repayment schedule, the director shall  
13 issue a certificate of compliance to the commissioner stating that the participant is once again in  
14 good standing in the program.

15           (2) If a participant fails to make timely monthly payments in accordance with the  
16 consolidated repayment schedule on three occasions, the director shall remove the participant  
17 from the program and shall issue a program removal notice to the commissioner and applicable  
18 courts receiving payments under the program stating that the participant is no longer a participant  
19 in the program.

20           (d) If a participant is convicted of a subsequent criminal offense after acceptance into the  
21 program, the director shall remove the participant from the program and, upon removal, the  
22 director shall issue a program removal notice to the commissioner and applicable courts receiving  
23 payments under the program stating that the participant is no longer a participant in the program.

24           (e) Upon completion of all monthly payments in the consolidated repayment schedule by  
25 the participant, the director shall issue a program completion certificate to the commissioner and  
26 the court or courts to whom the participant owed unpaid court costs under the program, stating  
27 that the participant completed the program in good standing.

28           (f) Upon receipt of a program completion certificate by the director stating that the  
29 participant has completed the program in good standing, the court or courts whose unpaid court  
30 costs were paid according to the consolidated repayment schedule shall enter an order  
31 acknowledging payment in full of the unpaid court costs.

**§17B-7-7. Stay of driver's license suspension or revocation.**

1           (a) Upon receipt of a certificate of compliance prepared by the director, the Division of  
2 Motor Vehicles shall stay the participant's driver's license suspension or revocation for unpaid  
3 court costs.

4           (b) The Division of Motor Vehicles may require retesting for a driver's license for any  
5 participant who has not had a valid driver's license within the six months prior to the date of receipt  
6 of the certificate of compliance. Notwithstanding any other provision of the code to the contrary,  
7 a participant shall not be required to pay any fees to the Division of Motor Vehicles for retesting.

8           (c) Upon receipt of a certificate of noncompliance prepared by the director, the  
9 commissioner shall remove the stay of the participant's driver's license suspension or revocation  
10 until further notice from the director regarding the participant's status in the program.

11           (d) Upon receipt of a program removal notice issued by the director, the commissioner  
12 shall remove the stay of the participant's driver's license suspension or revocation.

13           (e) Notwithstanding any other provision of code to the contrary, no participant in the  
14 program shall be required to pay any reinstatement fees for unpaid court costs within the scope  
15 of the consolidated repayment schedule.

**§17B-7-8. Second chance driver's license program account created.**

1           There is hereby created in the State Treasury an account to be known as the Second  
2 Chance Driver's License Program Account. The account shall consist of all moneys received from  
3 individuals participating in the program. The fund shall be administered by the Division of Justice  
4 and Community Services solely for the purposes of this article. Any moneys remaining in the fund  
5 at the close of a fiscal year shall be carried forward for use in the next fiscal year. Funds in the  
6 account shall not be invested, used, withdrawn or transferred out of the account except for the  
7 purpose of making payments to courts pursuant to the provisions of this article.

**§17B-7-9. Deposit of funds into account; disbursement of funds from account.**

1           (a) Upon receipt of a monthly payment from the participant pursuant to the consolidated  
2 repayment schedule, the director shall deposit the amount received into the account.

3           (b) After deposit of a participant's monthly payment into this account, the director shall  
4 make disbursements from this account to the courts identified in the participant's consolidated  
5 repayment schedule of ninety-five percent of the amount remitted by the participant. Courts shall  
6 accept and document as payment in full by an individual, payment of ninety-five percent of the  
7 total unpaid court costs owed to the court.

8           (c) The court or courts that receive disbursements pursuant to subsection (b) of this  
9 section are responsible for making statutory disbursements of amounts received in satisfaction of  
10 unpaid court costs according to the requirements of the code.

11           (d) The Division of Justice and Community Services is hereby authorized to remove from  
12 the Second Chance Driver's License Program Account five percent of any participant's collected  
13 unpaid court costs for administration of the provisions of this article. Any such administrative fee  
14 shall be documented in writing and deducted from the final repayment to the court.

**§17B-7-10. Rule-making Authority.**

1           (a) To implement the provisions of this article, the director, in consultation with the  
2 commissioner, shall promulgate emergency and legislative rules pursuant to the provisions of  
3 article three, chapter twenty-nine-a of this code, including, but not limited to, the following:

4           (1) Application forms and eligibility review process;

5           (2) Guidelines for creation of a consolidated repayment schedule of unpaid court costs;

6           (3) Terms and conditions for acceptance into the program, maintenance of good standing,  
7 and completion of the program;

8           (4) Forms for certificates of compliance, certificates of noncompliance, program removal  
9 notice and program completion certificate; and

10           (5) The procedures for removal or suspension from the program.

11           (b) To implement the provisions of this article, the commissioner shall promulgate  
12 emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a  
13 of this code, which may include, but are not limited to, the following:

- 14            (1) The procedures for issuing a stay of a participant's driver's license suspension or  
15 revocation; and
- 16            (2) Restrictions on the locations where and the times when a participant may utilize the  
17 driver's license issued under this article.

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