

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 180

BY SENATORS BLAIR, CLINE, AND RUCKER

[Introduced January 9, 2020; referred
to the Committee on Transportation and
Infrastructure; and then to the Committee on Finance]

1 A BILL to amend and reenact §17B-7-5 and §17B-7-9 of the Code of West Virginia, 1931, as
2 amended, all relating to the Second Chance Driver's License Program; providing that a
3 court's accounting of amounts due for crime victim restitution be separately identified;
4 providing that any moneys for restitution that are not submitted in the accounting by the
5 court may not be waived by the participant's completion of the program; and providing that
6 amounts of court costs collected under the Second Chance Driver's License Program
7 attributable to crime victim restitution are not subject to the five percent offset for use by
8 the Director of the Division of Justice and Community Services in the administration of the
9 program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. SECOND CHANCE DRIVER'S LICENSE PROGRAM.

§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 Program shall
2 complete an application form prepared by the director.

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

6 (c) All courts shall provide a full accounting of all unpaid court costs assignable to the
7 applicant within 30 days of the request of the director. The accounting shall separately identify
8 the portion of the court costs that constitute a fine, forfeiture, or penalty, or the amount due as
9 restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund
10 pursuant to §62-5-10 of this code remaining unpaid by the applicant for each order of the court
11 for which unpaid balances remain.

12 (d) Any unpaid court costs not reported to the director by a court as provided by subsection
13 (c) of this section may not be collected separately by the court during the time in which the
14 applicant is a participant in the program.

15 (e) If a participant completes the program, any unpaid court costs, except for unpaid fines,
16 and unpaid amounts due as restitution to a crime victim or costs to be credited to the Crime
17 Victims Compensation Fund pursuant to §62-5-10 of this code, not submitted to the director
18 pursuant to subsection (c) of this section shall be ~~deemed~~ considered waived unless the unpaid
19 court costs were part of an order entered after the date upon which the director requested
20 information for a participant. The driver's license suspension or revocation with respect to any
21 unpaid fine not reported by a court shall be released upon completion of the program by the
22 participant.

23 (f) Within 30 days after receipt of information concerning unpaid court costs, the director
24 shall determine if the applicant is eligible to participate in the program. Upon determination, the
25 director shall promptly notify the applicant of his or her acceptance into the program.

26 (g) Upon acceptance of the applicant as a participant in the program, the director shall
27 develop a consolidated repayment schedule for the participant, which will require the participant
28 to remit payments on a monthly basis to the director according to guidelines established by the
29 director in legislative rules, subject to the following conditions:

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

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

34 (h) The consolidated repayment schedule may be amended to reflect changes in a
35 participant's circumstances.

36 (i) The director ~~in his or her discretion~~ may permit a hardship waiver of the requirements
37 of subsection (g) of this section, upon a determination that the applicant's circumstances may
38 have changed, and that the objectives of this article are best accomplished if the consolidated
39 repayment schedule requires a lesser monthly payment or a longer period of time to remit the
40 unpaid court costs: *Provided*, That the director may not waive the total amount of unpaid court
41 costs submitted by the courts according to subsection (a) of this section.

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

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

1 (a) The director shall deposit all money received from participants pursuant to a
2 consolidated repayment schedule into the Second Chance Driver's License Program Account.
3 The director shall prorate, separate, and identify the portion of each payment that constitutes
4 payment of a fine, forfeiture, or penalty, or an amount due as restitution to a crime victim or costs
5 to be credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code in
6 accordance with the information provided to the director pursuant to §17B-7-5(c) of this code.

7 (b) After deposit of a participant's monthly payment into this account, the director shall
8 make disbursements from this account as follows:

9 (1) Portions of payments identified as payment of a fine, forfeiture, or penalty, or an
10 amount due as restitution to a crime victim or costs to be credited to the Crime Victims
11 Compensation Fund pursuant to §62-5-10 of this code shall be disbursed to the courts identified
12 in the repayment schedule or as applicable to the Crime Victims Compensation Fund pursuant to
13 §62-5-10 of this code;

14 (2) The director shall disburse 95 percent of the portions of the payments remaining after
15 payment as required in subdivision (1) of this subsection ~~shall be disbursed~~ to the courts identified
16 in the participant's consolidated repayment schedule. Courts shall accept and document these
17 payments of 95 percent of the total unpaid court costs, not including court costs received pursuant
18 to subdivision (1) of this subsection, as payment in full of the amount owed by the participant to
19 the court for this portion of court costs owed; and

20 (3) The portion of the payments remaining in the account after payment of the court costs
21 in subdivisions (1) and (2) of this subsection may be appropriated by the Legislature to be
22 expended for costs incurred by the director in the administration of this article.

23 (c) Courts that receive disbursements pursuant to subsection (b) of this section are
24 responsible for making statutory disbursements of amounts received in satisfaction of unpaid
25 court costs according to the requirements of the code.

NOTE: The purpose of this bill is to provide that a court's accounting of amounts due for crime victim restitution be separately identified. The bill provides that any moneys for restitution that are not submitted in the accounting by the court may not be waived by the participant's completion of the program. The bill provides that amounts of court costs collected under the Second Chance Driver's License Program attributable to crime victim restitution are not subject to the five percent offset for use by the Director of the Division of Justice and Community Services in the administration of the program.

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