

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 76**

BY SENATORS TARR, ROBERTS, AND MARONEY, *original*

*sponsors*

[Originating in the Committee on the Workforce;

reported on February 6, 2020]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §61-11-26c, relating to limiting the civil liability of employers in cases arising  
3 out of the employee's criminal or unlawful actions, or suitability for employment, if the  
4 misconduct or suitability relates to the criminal history record that has been expunged;  
5 and authorizing court to permit the inspection of sealed records.

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

**ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.**

**§61-11-26c. Employer immunity from liability.**

1 (a) An employer who employs or otherwise engages an individual whose criminal history  
2 record has been expunged pursuant to §61-11-26 or §61-11-26a of this code shall be immune  
3 from liability for any claim arising out of the employee's criminal or unlawful actions, or suitability  
4 for employment, if the misconduct or suitability relates to the criminal history record that has been  
5 expunged.

6 (b) Notwithstanding the provisions of subsection (m) of §61-11-26 of this code, inspection  
7 of the sealed records in the court's possession may be permitted by the court upon a petition by  
8 an employer against whom a claim of civil liability has been brought as described in subsection  
9 (a) of this section for purposes of defending against a claim of civil liability.