

FILED

2002 MAR 18 P 5:34

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

House Bill No. 4318

(By Mr. Speaker, Mr. Kiss, and Delegates
Trump, Amores and Michael)



Passed March 8, 2002

In Effect from Passage

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H. B. 4318

(BY MR. SPEAKER, MR. KISS, AND DELEGATES
TRUMP, AMORES AND MICHAEL)

[Passed March 8, 2002; in effect from passage.]

AN ACT to amend and reenact section four hundred seven, article four, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to court costs for conditional discharge for certain first offense drug offenses; making a person whose case is disposed pursuant to this section liable for certain court costs; and permitting the assessment of court costs as a condition of probation in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That section four hundred seven, article four, chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-407. Conditional discharge for first offense of possession.

- 1 (a) Whenever any person who has not previously been
- 2 convicted of any offense under this chapter or under any statute

3 of the United States or of any state relating to narcotic drugs,
4 marihuana, or stimulant, depressant, or hallucinogenic drugs,
5 pleads guilty to or is found guilty of possession of a controlled
6 substance under section 401(c), the court, without entering a
7 judgment of guilt and with the consent of the accused, may
8 defer further proceedings and place him or her on probation
9 upon terms and conditions. Upon violation of a term or condi-
10 tion, the court may enter an adjudication of guilt and proceed as
11 otherwise provided. Upon fulfillment of the terms and condi-
12 tions, the court shall discharge the person and dismiss the
13 proceedings against him or her. Discharge and dismissal under
14 this section shall be without adjudication of guilt and is not a
15 conviction for purposes of this section or for purposes of
16 disqualifications or disabilities imposed by law upon conviction
17 of a crime, including the additional penalties imposed for
18 second or subsequent convictions under section 408. The effect
19 of the dismissal and discharge shall be to restore the person in
20 contemplation of law to the status he or she occupied prior to
21 arrest and trial. No person as to whom a dismissal and discharge
22 have been effected shall be thereafter held to be guilty of
23 perjury, false swearing, or otherwise giving a false statement by
24 reason of his or her failure to disclose or acknowledge his or her
25 arrest or trial in response to any inquiry made of him or her for
26 any purpose. There may be only one discharge and dismissal
27 under this section with respect to any person.

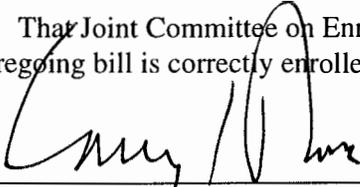
28 (b) After a period of not less than six months which shall
29 begin to run immediately upon the expiration of a term of
30 probation imposed upon any person under this chapter, the
31 person may apply to the court for an order to expunge from all
32 official records all recordations of his or her arrest, trial, and
33 conviction, pursuant to this section. If the court determines after
34 a hearing that the person during the period of his or her proba-
35 tion and during the period of time prior to his or her applica-
36 tion to the court under this section has not been guilty of any serious

37 or repeated violation of the conditions of his or her probation,
38 it shall order the expungement.

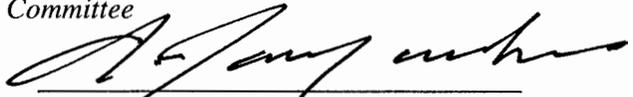
39 (c) Notwithstanding any provision of this code to the
40 contrary, any person prosecuted pursuant to the provisions of
41 this article whose case is disposed of pursuant to the provisions
42 of this section shall be liable for any court costs assessable
43 against a person convicted of a violation of section 401c of this
44 article. Payment of such costs may be made a condition of
45 probation.

46 The costs assessed pursuant to this section, whether as a
47 term of probation or not, shall be distributed as other court costs
48 in accordance with section two, article three, chapter fifty,
49 section four, article two-a, chapter fourteen, section four, article
50 twenty-nine, chapter thirty and sections two, seven and ten,
51 article five, chapter sixty-two of this code.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



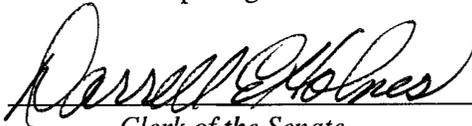
Chairman Senate Committee



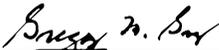
Chairman House Committee

Originating in the House.

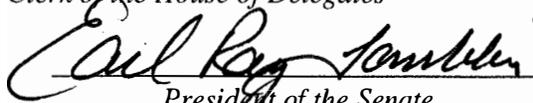
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 18th
day of March, 2002.



Governor

PRESENTATION

GOVERNOR

Date 3/18/02

Time 3:35 PM