

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 634

BY SENATORS COLE (MR. PRESIDENT) AND KESSLER

(BY REQUEST OF THE EXECUTIVE)

[Passed March 12, 2016; in effect 90 days from
passage]

1 AN ACT 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 and designating that the article may be cited as the William
5 R. Laird IV Second Chance Driver's License Act; setting forth legislative findings and
6 purpose; defining terms; establishing program; directing the Director of the Division of
7 Justice and Community Services to administer program; setting eligibility requirements to
8 become program participant; requiring application from person wishing to participate;
9 directing the director to coordinate with courts and Commissioner of the Division of Motor
10 Vehicles to verify total amount of unpaid court costs; setting deadlines for providing
11 information regarding unpaid court costs to director; requiring courts to provide an
12 accounting that separately identifies the portion of court costs that constitute fine, forfeiture
13 or penalty; prohibiting separate collection of unreported unpaid court costs while applicant
14 is participant of program; directing how unreported court costs are to be handled; requiring
15 notification to applicant concerning acceptance into program within thirty days; directing
16 the director to develop consolidated repayment schedule for participant; setting certain
17 requirements for consolidated repayment schedule; permitting modification of
18 consolidated repayment schedule; permitting hardship waiver; clarifying that participant is
19 under no obligation to make separate or additional payments directly to court if those costs
20 are included in consolidated repayment schedule; establishing moratorium on collection
21 of unpaid court fees by a court or its designee while participant is in good standing with
22 program; requiring monthly remittance of payments to director; directing issuance of
23 certificate of compliance, certificate of noncompliance, program removal notice and
24 program completion certificate under certain circumstances; directing courts to enter order
25 acknowledging receipt of program completion certificate; directing Division of Motor
26 Vehicles to place stay or lift stay on suspension or revocation of participant's driver's

27 license under certain circumstances; authorizing Division of Motor Vehicles to place
28 certain restrictions on driver's license of program participant; permitting Division of Motor
29 Vehicles to require retesting under certain circumstances; exempting participants from
30 certain retesting fees and reinstatement fees; creating Second Chance Driver's License
31 Program Account; providing for administration of account; directing deposit of funds into
32 account; authorizing expenditure of funds from account for certain purposes; providing
33 legislative and emergency rule-making authority for Division of Justice and Community
34 Services; and providing legislative and emergency rule-making authority for Division of
35 Motor Vehicles.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. SECOND CHANCE DRIVER'S LICENSE PROGRAM.

§17B-7-1. Short Title.

This article is known as and may be cited as the William R. Laird IV Second Chance 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 to obtain a
3 stay of the driver's license suspension or revocation will better enable these individuals to return
4 to the workforce and repay unpaid court costs in a timely 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 standing
21 is eligible for a temporary stay of a driver's license suspension or revocation due to certain unpaid
22 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 pursuant to section three-a or section three-c, article three, chapter seventeen-b of this
6 code;

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

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

12 (4) Meet other eligibility requirements established pursuant to the rules developed under
13 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 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 thirty 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 remaining unpaid by the
9 applicant for each order of the court for which unpaid balances remain.

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

13 (e) If a participant completes the program, any unpaid court costs, except for unpaid fines,
14 not submitted to the director pursuant to subsection (c) of this section shall be deemed waived
15 unless the unpaid court costs were part of an order entered after the date upon which the director
16 requested information for a participant. The driver's license suspension or revocation with respect
17 to any unpaid fine not reported by a court shall be released upon completion of the program by
18 the participant.

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

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

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

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

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

32 (i) The director, in his or her discretion, may permit a hardship waiver of the requirements
33 of subsection (g) of this section, upon a determination that the applicant's circumstances may
34 have changed, and that the objectives of this article are best accomplished if the consolidated
35 repayment schedule requires a lesser monthly payment or a longer period of time to remit the

36 unpaid court costs: *Provided*, That the director may not waive the total amount of unpaid court
37 costs submitted by the courts according to subsection (a) of this section.

38 (j) Upon acceptance into the program, a participant in good standing with the program is
39 under no obligation to make separate or additional payments of unpaid court costs directly to a
40 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: *Provided*, That the participant's driver's license shall be subject to restrictions upon
4 where and when the participant may operate a motor vehicle during this stay of the suspension
5 or revocation, as determined by the commissioner.

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

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

13 (d) Upon receipt of a program removal notice issued by the director, the commissioner

14 shall remove the stay of the participant's driver's license suspension or revocation.

15 (e) Notwithstanding any other provision of code to the contrary, no participant in the
16 program shall be required to pay any reinstatement fees for unpaid court costs within the scope
17 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 purposes allowed in the provisions of this article.

§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 in accordance with the information provided to the director
5 pursuant to subsection (c), section five of this article.

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

8 (1) Portions of payments identified as payment of a fine, forfeiture or penalty shall be
9 disbursed to the courts identified in the repayment schedule;

10 (2) Ninety-five percent of the portions of the payments remaining after payment as
11 required in subdivision (1) of this subsection shall be disbursed to the courts identified in the
12 participant's consolidated repayment schedule. Courts shall accept and document these
13 payments of ninety-five percent of the total unpaid court costs, not including court costs received

14 pursuant to subdivision (1) of this subsection, as payment in full of the amount owed by the
15 participant to the court for this portion of court costs owed; and

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

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

§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, which shall include, but not be limited to, the
4 following:

- 5 (1) The form, content and information required to be furnished in the application forms;
- 6 (2) The procedure and requirements of the eligibility review process;
- 7 (3) Guidelines for creation of a consolidated repayment schedule of unpaid court costs;
- 8 (4) Terms and conditions for acceptance into the program, maintenance of good standing,
9 and completion of the program;
- 10 (5) Forms for certificates of compliance, certificates of noncompliance, program removal
11 notice and program completion certificate; and
- 12 (6) The procedures for removal or suspension from the program.

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

- 16 (1) Establishing the procedures for issuing a stay of a participant's driver's license
17 suspension or revocation; and

18 (2) Establishing the restrictions upon where and when a participant may utilize his or her
19 driver's license to operate a motor vehicle during the stay of the suspension or revocation
20 authorized by this article.