

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4683

**FISCAL
NOTE**

BY DELEGATE MILEY (BY REQUEST OF THE EXECUTIVE)

[Introduced February 23, 2016; Referred

To Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter,
2 designated §17H-1-1, §17H-1-2, §17H-1-3, §17H-1-4, §17H-1-5, §17H-1-6, §17H-1-7,
3 §17H-1-8, and §17H-1-9, all relating to the creation of the West Virginia Second Chance
4 Driver's License Act; short title; defining terms; providing legislative findings and purpose;
5 directing the director of the Division of Justice and Community Services to administer the
6 program; setting eligibility requirements to become a program participant; requiring an
7 accounting of all unpaid court costs; providing for development of a consolidated
8 repayment schedule and monthly payment; requiring the Division of Justice and
9 Community Services to collect and distribute unpaid court costs on a pro-rata basis;
10 establishing a moratorium on the collection of unpaid court fees by a court or its designee
11 while a participant is in good standing with the program; providing standards for proof of
12 compliance of good standing with the program; requiring the Division of Motor Vehicles to
13 stay a driver's license suspension with certain restrictions for a participant in good standing
14 with the program; allowing the Division of Motor Vehicles to reinstate a suspension or
15 revocation of a driver's license under certain conditions; creating requirements for notice
16 certification; creating a new account in the state treasury; and providing legislative and
17 emergency rulemaking 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 chapter, designated §17H-1-1, §17H-1-2, §17H-1-3, §17H-1-4, §17H-1-5, §17H-1-6, §17H-1-7,
3 §17H-1-8 and §17H-1-9, all to read as follows:

CHAPTER 17H. SECOND CHANCE DRIVER'S LICENSE ACT.

ARTICLE 1. SECOND CHANCE DRIVER'S LICENSE PROGRAM.

§17H-1-1. Short Title.

1 This article is known as and may be cited as the "Second Chance Driver's License Act."

§17H-1-2. Legislative findings and purpose.

1 (a) The Legislature finds that allowing individuals with unpaid court costs who have
2 historically been unable to obtain a driver's license to obtain a stay of the driver's license
3 suspension or revocation for unpaid court costs, will better enable these individuals to return to
4 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 is current in the repayment of unpaid
8 court costs in the program.

§17H-1-3. 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 determined by the director;

7 (3) "Court" or "Courts" means a municipal court, magistrate court, circuit court, family court,
8 or drug 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, and as
13 determined by the director;

14 (6) "Monthly payment" means the amount that a participant is scheduled to pay the director

15 each month, pursuant to the consolidated repayment schedule;

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

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

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

§17H-1-4. Second chance driver's license program; creation and administration by
director; program eligibility; moratorium on payment of unpaid court costs directly
to courts while in good standing.

1 (a) The director shall create and administer the program pursuant to the requirements of
2 this article.

1 (b) To be eligible to participate in the program, a person must meet the following minimum
2 criteria:

3 (1) Have a suspended or revoked driver's license for failure to remit unpaid court costs;

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

6 (3) Not have any unpaid court costs that involve driving a commercial motor vehicle or
7 which violate the commercial driver's license requirements in chapter seventeen-e of this code;

8 (4) File an application with the director; and
9 (5) Meet other requirements pursuant to the rules developed under section nine of this
10 article.

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

§17H-1-5. Program acceptance; development of consolidated repayment schedule;
disbursement to courts; no other court fee payments required; good standing;
failure to comply with the program.

1 (a) Upon application to the program, the director may coordinate with officials from the
2 courts and the commissioner to verify the total amount of the applicant's unpaid court costs in the
3 State of West Virginia at the time of the application.

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

6 (2) Any unpaid court costs not reported to the director by the courts within thirty days may
7 not be collected separately by the applicable court during the time in which the applicant is a
8 participant in the program.

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

13 (b) After verification of unpaid court costs under subsection (a) of this section, the director
14 may determine a consolidated repayment schedule for the total amount of unpaid court costs for
15 an applicant according to guidelines created by the director, subject to the following conditions:

16 (1) The monthly payment shall be determined based on the participant's monthly income
17 and expenditures, but may not be less than fifty dollars per month;

18 (2) The consolidated repayment schedule shall require full payment of the unpaid court
19 costs within one year;

20 (3) The consolidated repayment schedule may be amended to reflect changes in a
21 participant's circumstances; and

22 (4) The director, in his or her discretion, may permit a hardship waiver of the requirements
23 of this subsection, upon a determination that in light of the applicant's circumstances, the
24 objectives of this article are best accomplished if the consolidated repayment schedule requires
25 a lesser monthly payment or a longer period of time to remit the unpaid court costs: *Provided,*
26 That the director may not waive the total amount of unpaid court costs submitted by the courts
27 according to subsection (a) of this section.

28 (c) If an applicant meets the requirements of the program, the director may accept the
29 applicant as a participant in the program in accordance with the developed consolidated
30 repayment schedule.

31 (d) Upon acceptance of a monthly payment from the participant in accordance with the
32 consolidated repayment schedule, the director shall deposit the amount received into the account
33 created in section eight of this article, and make disbursements from this account to the courts
34 identified in the consolidated repayment schedule on a pro-rata basis.

35 (e) The court or courts that receive disbursements pursuant to subsection (d) of this
36 section are responsible for making statutory disbursements of these unpaid court costs according
37 to the requirements of the code.

38 (f) The Division of Justice and Community Services is hereby authorized to remove from
39 the Second Chance Driver's License Program Account authorized in section eight of this article,

40 five percent of any participant's collected unpaid court costs for administration of the provisions
41 of this article. Any such administrative fee shall be documented in writing and deducted from the
42 final repayment to the court. Courts shall accept and document as payment in full by an individual,
43 payment of ninety-five percent of the total unpaid court costs owed to the court.

§17H-1-6. Proof of compliance.

1 (a) Upon receipt of the first monthly payment according to the participant's consolidated
2 repayment schedule, the director shall issue to the commissioner, in writing, a proof of compliance
3 of the participant's good standing in the program.

4 (b) If a participant fails to make a monthly payment within thirty days of the deadline for
5 his or her monthly payment, pursuant to the consolidated repayment schedule, the director shall
6 immediately issue a proof of non-compliance to the commissioner stating that the participant is
7 not in good standing in the program. Upon receipt of the proof of non-compliance, the
8 commissioner shall remove the stay of the participant's driver's license suspension or revocation.

9 (1) If a participant, after failing to make one or more timely monthly payments, remits the
10 total amount due at that time according to the consolidated repayment schedule, the director shall
11 issue a proof of compliance to the commissioner stating that the participant is once again in good
12 standing in the program. Upon receipt of the proof of compliance, the commissioner shall stay the
13 suspension or revocation of the participant's driver's license.

14 (2) If a participant fails three times to make timely monthly payments in accordance with
15 the consolidated repayment schedule, the director shall remove the participant from the program,
16 and shall issue a program removal notice to the commissioner and applicable courts receiving
17 payments under the program stating that the participant is no longer a participant in the program.
18 Upon receipt of the program removal notice, the commissioner shall remove the stay of the
19 participant's driver's license suspension or revocation.

20 (c) If a participant is convicted of a subsequent criminal offense after acceptance into the
21 program, the director may 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 Upon receipt of the program removal notice, the commissioner shall remove the stay of the
25 participant's driver's license suspension or revocation.

26 (d) Upon completion of all monthly payments in the consolidated repayment schedule by
27 the participant, the director shall issue a program completion certificate to the commissioner and
28 the applicable courts receiving payments under the program stating that the participant completed
29 the program in good standing.

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

**§17H-1-7. Stay of driver's license suspension or revocation; restrictions; reinstatement of
suspension or revocation; rule-making.**

1 (a) Upon receipt of the proof of compliance of the participant's good standing in the
2 program, the Division of Motor Vehicles shall stay the participant's driver's license suspension or
3 revocation for unpaid 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 proof of compliance.

7 (c) Upon receipt of a proof of non-compliance from the director stating that a participant is
8 not in good standing with the program, the commissioner shall remove the stay of the participant's

9 driver's license suspension or revocation until further notice from the director regarding the
10 participant's status in the program.

11 (d) Upon receipt of a program removal notice from the director stating that the participant
12 has been removed from the program, the commissioner shall remove the stay of the participant's
13 driver's license suspension or revocation.

§17H-1-8. Second chance driver's license program account; administrative fee.

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
3 from individuals participating in the program. The fund shall be administered by the Division of
4 Justice and Community Services solely for the purposes of this article. Any moneys remaining in
5 the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Funds
6 in the account shall not be invested, used, withdrawn, or transferred out of the account except for
7 the purpose of making payments to courts pursuant to the provisions of this article.

§17H-1-9. Rulemaking 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 of certificates for proof of compliance, proof of non-compliance, program
9 removal 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 times when a participant may utilize the driver’s
17 license issued under this article.

NOTE: The purpose of this bill is to create a program, administered by the director of the Division of Justice and Community Services, to allow a person to obtain a stay of a driver’s license suspension or removal from the commissioner of the Division of Motor Vehicles (“DMV”) for the purpose of obtaining and maintaining employment if he or she makes monthly contributions for unpaid court costs to the Division of Justice and Community Services.

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