

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2693

BY DELEGATE HOWELL, JEFFRIES, D., PACK, PHILLIPS,
WORRELL, SYPOLT, HOTT, MARTIN, C., CADLE, DEAN AND
STORCH

[Introduced January 28, 2019; Referred
to the Committee on Technology and Infrastructure
then the Judiciary.]

1 A BILL to amend and reenact §61-11-22a of the Code of West Virginia, 1931, as amended,
2 relating to traffic violations as qualifying for deferred adjudication and approved defensive
3 driving courses as permissible terms or conditions of deferred adjudication.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-22a. Deferred adjudication.

1 (a) Upon the entry of a guilty plea to a felony or misdemeanor, including any traffic
2 violation, before a circuit or magistrate court of this state entered in compliance with the provisions
3 of West Virginia Rule of Criminal Procedure 11 or Rule 10 of the West Virginia Rules of Criminal
4 Procedure for Magistrate Courts and applicable judicial decisions, the court may, upon motion,
5 defer acceptance of the guilty plea and defer further adjudication thereon and release the
6 defendant upon such terms and conditions as the court deems just and necessary. Terms and
7 conditions may include, but are not limited to, periods of incarceration, drug and alcohol treatment,
8 completion of an approved defensive driving course, counseling and participation in programs
9 offered under ~~articles eleven-a, eleven-b and eleven-c, chapter sixty-two~~ §62-11A-1 et seq., §62-
10 11A-2 et seq., and §62-11A-3 et seq. of this code.

11 (b) If the offense to which the plea of guilty is entered is a felony, the circuit court may
12 defer adjudication for a period not to exceed three years. If the offense to which the plea of guilty
13 is entered is a misdemeanor, the court may defer adjudication for a period not to exceed two
14 years.

15 (c) If the defendant complies with the court-imposed terms and conditions he or she shall
16 be permitted to withdraw his or her plea of guilty and the matter dismissed or, as may be agreed
17 upon by the court and the parties, enter a plea of guilty or no contest to a lesser offense.

18 (d) In the event the defendant is alleged to have violated the terms and conditions imposed
19 upon him or her by the court during the period of deferral the prosecuting attorney may file a
20 motion to accept the defendant's plea of guilty and, following notice, a hearing shall be held on

21 the matter.

22 (e) In the event the court determines that there is reasonable cause to believe that the
23 defendant violated the terms and conditions imposed at the time the plea was entered, the court
24 may accept the defendant's plea to the original offense and impose a sentence in the court's
25 discretion in accordance with the statutory penalty of the offense to which the plea of guilty was
26 entered or impose such other terms and conditions as the court deems appropriate.

27 (f) The procedures set forth in this section are separate and distinct from that set forth in
28 West Virginia Rule of Criminal Procedure 11(a)(2).

NOTE: The purpose of this bill is to include traffic violations as qualifying for deferred adjudication and completion of an approved defensive driving course as permissible terms or conditions of deferred adjudication.

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