

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 3115**

By Delegates Eldridge, Parsons, Rohrbach, D.  
Cannon, Bridges, Hillenbrand, Pritt, Kelly, Campbell,  
and Ward

[Introduced March 04, 2025; referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §61-11-25 of the Code of West Virginia, as amended, relating to  
2 expungement of criminal records; authorizing expungement for defendants who plead  
3 guilty are convicted of certain misdemeanors upon completing pre-trial diversion or  
4 deferred adjudication; and clarifying that expungement includes any qualifying  
5 misdemeanor conviction pursuant to the pre-trial diversion or deferred adjudication.

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

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

**§61-11-25. Expungement of criminal records for those found not guilty of crimes or against  
whom charges have been dismissed; expungement of criminal records for those  
that have successfully completed all requirements of a deferred adjudication or  
pretrial diversion; exceptions.**

1 (a) Any person who has been charged with a criminal offense under the laws of this state  
2 and who has been found not guilty of the offense, or against whom charges have been dismissed,  
3 and not in exchange for a guilty plea to another offense resulting in a conviction, may file a civil  
4 petition in the circuit court in which the charges were filed to expunge all records relating to the  
5 arrest, charge, or other matters arising out of the arrest or charge. Any person whose charges  
6 have been dismissed following a full and successful completion of a pre-trial diversion pursuant to  
7 §61-11-22 of this code, or whose charges have been dismissed following the full and successful  
8 completion of a deferred adjudication pursuant to §61-11-22a of this code, or who have pled guilty  
9 and been convicted of a misdemeanor which qualifies for expungement under §61-11-26(a) of this  
10 code following a full and successful completion of the pretrial diversion of deferred adjudication  
11 may file a civil petition in the circuit court for expungement of all charges originally brought and any  
12 qualifying misdemeanor conviction pursuant to the pretrial diversion or deferred adjudication,  
13 provided that the charges sought to be expunged arose from the same transaction or occurrence,  
14 and all records relating to the arrest, charges, misdemeanor conviction, or other matters arising  
15 out of the arrest or charges or misdemeanor may be expunged: *Provided*, That no record in the

16 Division of Motor Vehicles may be expunged by virtue of any order of expungement entered  
17 pursuant to §17C-5-2b of this code nor may any charges ultimately dismissed by way of full and  
18 successful completion of any deferred adjudication be expunged for violations of §61-2-28(a),  
19 §61-2-28(b), §61-2-9(a), §61-2-9a, §61-2-9(b), or §61-2-9(c) of this code where the alleged victim  
20 is a family or household member as defined in §48-27-204 of this code: *Provided, further*, That any  
21 person who has previously been convicted of a felony may not file a petition for expungement  
22 pursuant to this section. The term records as used in this section includes, but is not limited to,  
23 arrest records, fingerprints, photographs, index references, or other data whether in documentary  
24 or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge.  
25 Criminal investigation reports and all records relating to offenses subject to the provisions of §15-  
26 12-1 *et seq.* of this code because the person was found not guilty by reason of mental illness,  
27 intellectual disability, or addiction are exempt from the provisions of this section.

28 (b) The expungement petition shall be filed not sooner than 60 days following the order of  
29 acquittal or dismissal or the entry of a misdemeanor conviction by the court. Any court entering an  
30 order of acquittal or dismissal or the entering a misdemeanor conviction shall inform the person  
31 who has been found not guilty or against whom charges have been dismissed of his or her rights to  
32 file a petition for expungement pursuant to this section.

33 (c) Following the filing of the petition, the court may set a date for a hearing. If the court  
34 does so, it shall notify the prosecuting attorney and the arresting agency of the petition and provide  
35 an opportunity for a response to the expungement petition.

36 (d) If the court finds that there are no current charges or proceedings pending relating to  
37 the matter for which the expungement is sought, the court may grant the petition and order the  
38 sealing of all records in the custody of the court and expungement of any records in the custody of  
39 any other agency or official including law enforcement records. Every agency with records relating  
40 to the arrest, charge, misdemeanor conviction, or other matters arising out of the arrest or charge,  
41 or misdemeanor conviction that is ordered to expunge records, shall certify to the court within 60

42 days of the entry of the expungement order, that the required expungement has been completed.

43 All orders enforcing the expungement procedure shall also be sealed.

44 (e) Upon expungement, the proceedings in the matter shall be considered never to have  
45 occurred. The court and other agencies shall reply to any inquiry that no record exists on the  
46 matter. The person whose record is expunged shall not have to disclose the fact of the record or  
47 any matter relating thereto on an application for employment, credit, or other type of application.

48 (f) Inspection of the sealed records in the court's possession may thereafter be permitted  
49 by the court only upon a motion by the person who is the subject of the records or upon a petition  
50 filed by a prosecuting attorney that inspection and possible use of the records in question is  
51 necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the  
52 court finds that the interests of justice will be served by granting the petition, it may be granted.

53 (g) There shall be no filing fees charged or costs assessed for filing an action pursuant to  
54 this section.

NOTE: The purpose of this bill is to authorize expungement of criminal records relating to  
qualifying misdemeanors following completion of pre-trial diversion or 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.