

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3289

By Delegates Eldridge and Dean

[Introduced March 10, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-11-26a of the code of West Virginia 1931, as amended, relating
2 to expungement of certain criminal convictions with certain programs; authorizing petition
3 for expungement of certain criminal convictions upon compliance with and approved
4 substance abuse treatment or recovery and counseling program for 90 days; graduation
5 from approved job readiness adult training course, successful completion of drug court
6 program, or any combination thereof.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-26a. Expungement of certain criminal convictions with approved treatment or recovery and job program, approved job program, or drug court treatment program.

1 (a) Notwithstanding any provisions of §61-11-26 of this code to the contrary, any person
2 who has been convicted of a nonviolent felony offense or multiple misdemeanors and that would
3 be eligible for expungement pursuant to the provisions of §61-11-26 of this code and who: (1) Has
4 a medically documented history of substance abuse and of successful compliance with a
5 substance abuse treatment or recovery and counseling program approved by the Secretary of the
6 Department of Health for 90 days; ~~or~~ (2) graduates from a ~~West Virginia Department of Education-~~
7 ~~approved job readiness adult training course~~ approved by the West Virginia Department of
8 Education; ~~or both~~ (3) successfully completes a drug court treatment program pursuant to §49-4-
9 703 of this code, §62-15-1 et seq. of this code, or §62-16-1 et seq. of this code, or (4) completes
10 any combination of the foregoing programs or courses, if applicable, may petition the circuit court
11 or circuit courts in which the conviction or convictions occurred for expungement of the conviction
12 or convictions and the records associated therewith as provided in §61-11-26 of this code as
13 follows:

14 (1) Any person who has been convicted of a single misdemeanor that would be eligible for
15 expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section, is
16 eligible for expungement pursuant to §61-11-26(a)(1) of this code ~~upon successful compliance~~

17 ~~with an approved substance abuse treatment and recovery and counseling program for 90 days or~~
18 ~~upon completion of an approved job readiness adult training course, or both, if applicable, meeting~~
19 ~~the criteria set forth in subsection (a) of this section,~~ but after the completion of any sentence of
20 incarceration or completion of any period of supervision, whichever is later in time.

21 (2) Any person who has been convicted of multiple misdemeanors that would be eligible for
22 expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section is
23 not eligible for expungement pursuant to §61-11-26(a)(1) of this code until one year after the last
24 conviction, completion of any sentence of incarceration, or completion of any period of supervision
25 ordered for the last conviction, whichever is later in time.

26 (3) Any person who has been convicted of a nonviolent felony offense that would be
27 eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this
28 section is not eligible for expungement pursuant to §61-11-26(a)(2) of this code until three years
29 after conviction, completion of any sentence of incarceration, or completion of any period of
30 supervision, whichever is later in time.

31 (b) In addition to the required content of a petition for expungement as required by §61-11-
32 26(d) of this code, any person petitioning for an expungement pursuant to the provisions of this
33 section shall also include the following, if applicable:

34 (1) Documentation of compliance with an approved treatment or recovery and counseling
35 program; and

36 (2) Certificate of graduation from an approved job readiness adult training course; or.

37 (3) Certificate of completion of a drug court treatment pursuant to §49-4-703 of this code,
38 §62-15-1 et seq. of this code, or §62-16-1 et seq. of this code.

39 (c) The fee of \$100 to the records division of the West Virginia State Police for the cost of
40 processing the order of expungement required in §61-11-26(n) of this code is waived for petitions
41 of expungement filed pursuant to the provisions of this section.

NOTE: The purpose of this bill is to authorize graduation from a drug court program as an alternative prerequisite to expungement of criminal records relating to certain criminal convictions.

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