

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 3289

By Delegates Eldridge and Dean

[Originating in the Committee on the Judiciary;

Reported on March 20, 2025]

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; clarifying the criteria
3 for expungements with substance use treatment; authorizing petition for expungement of
4 certain criminal convictions upon compliance with and approved substance abuse
5 treatment or recovery and counseling program for 90 days, graduation from approved job
6 readiness adult training course, successful completion of drug court program, or any
7 combination thereof; clarifying that graduation from drug court may be grounds for
8 expungement under the section; and clarifying that the section does not supersede §61-
9 11-26b.

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

(1) Any person who has been convicted of a single misdemeanor that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section, is eligible for expungement pursuant to §61-11-26(a)(1) of this code ~~upon successful compliance with an approved substance abuse treatment and recovery and counseling program for 90 days or upon completion of an approved job readiness adult training course, or both, if applicable, meeting~~ the criteria set forth in subsection (a) of this section, but after the completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

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

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

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

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

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

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

(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.

42 (d) Nothing in this section shall be construed as superseding the provisions of §61-11-26b
43 of this code.