

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 116

FISCAL
NOTE

BY SENATOR TRUMP

[Introduced January 10, 2018; Referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend and reenact §17B-7-5 and §17B-7-9 of the Code of West Virginia, 1931, as
 2 amended, all relating to the Second Chance Driver's License Program; and providing that
 3 amounts of court costs collected under the Second Chance Driver's License Program
 4 attributable to crime victim restitution are not subject to the five percent offset for use by
 5 the Director of the Division of Justice and Community Services in the administration of the
 6 program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. SECOND CHANCE DRIVER'S LICENSE PROGRAM.

§17B-7-5. Program acceptance; development of consolidated repayment schedule; no other court fee payments required.

1 (a) A person wishing to participate in the second chance driver's license program shall
 2 complete an application form prepared by the director.

3 (b) Upon receipt of a person's application, the director shall coordinate with the courts and
 4 the commissioner to verify the total amount of the applicant's unpaid court costs in the State of
 5 West Virginia at the time of the application.

6 (c) All courts shall provide a full accounting of all unpaid court costs assignable to the
 7 applicant within thirty days of the request of the director. The accounting shall separately identify
 8 the portion of the court costs that constitute a fine, forfeiture, or penalty, amount due as restitution
 9 to a crime victim or costs to be credited to the Crime Victims Compensation Fund pursuant to
 10 §62-5-10 of this code, remaining unpaid by the applicant for each order of the court for which
 11 unpaid balances remain.

12 (d) Any unpaid court costs not reported to the director by a court as provided by subsection
 13 (c) of this section may not be collected separately by the court during the time in which the
 14 applicant is a participant in the program.

15 (e) If a participant completes the program, any unpaid court costs, except for unpaid fines
 16 and unpaid amounts due as restitution to a crime victim or costs to be credited to the Crime

17 Victims Compensation Fund pursuant to §62-5-10 of this code, not submitted to the director
18 pursuant to subsection (c) of this section shall be deemed waived unless the unpaid court costs
19 were part of an order entered after the date upon which the director requested information for a
20 participant. The driver's license suspension or revocation with respect to any unpaid fine not
21 reported by a court shall be released upon completion of the program by the participant.

22 (f) Within thirty days after receipt of information concerning unpaid court costs, the director
23 shall determine if the applicant is eligible to participate in the program. Upon determination, the
24 director shall promptly notify the applicant of his or her acceptance into the program.

25 (g) Upon acceptance of the applicant as a participant in the program, the director shall
26 develop a consolidated repayment schedule for the participant, which will require the participant
27 to remit payments on a monthly basis to the director according to guidelines established by the
28 director in legislative rules, subject to the following conditions:

29 (1) The monthly payment shall be determined based on the participant's monthly income
30 and expenditures, but may not be less than \$50 per month; and

31 (2) The consolidated repayment schedule shall require full payment of the unpaid court
32 costs within one year.

33 (h) The consolidated repayment schedule may be amended to reflect changes in a
34 participant's circumstances.

35 (i) The director, in his or her discretion, may permit a hardship waiver of the requirements
36 of subsection (g) of this section, upon a determination that the applicant's circumstances may
37 have changed, and that the objectives of this article are best accomplished if the consolidated
38 repayment schedule requires a lesser monthly payment or a longer period of time to remit the
39 unpaid court costs: *Provided*, That the director may not waive the total amount of unpaid court
40 costs submitted by the courts according to subsection (a) of this section.

41 (j) Upon acceptance into the program, a participant in good standing with the program is
42 under no obligation to make separate or additional payments of unpaid court costs directly to a

43 court if those unpaid court costs are included in the consolidated repayment schedule.

§17B-7-9. Deposit of funds into account; disbursement of funds from account.

1 (a) The director shall deposit all money received from participants pursuant to a
2 consolidated repayment schedule into the Second Chance Driver's License Program Account.
3 The director shall prorate, separate and identify the portion of each payment that constitutes
4 payment of a fine, forfeiture, ~~or~~ penalty, amount due as restitution to a crime victim or costs to be
5 credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code, in
6 accordance with the information provided to the director pursuant to §17B-7-5(c) of this code.

7 (b) After deposit of a participant's monthly payment into this account, the director shall
8 make disbursements from this account as follows:

9 (1) Portions of payments identified as payment of a fine, forfeiture, ~~or~~ penalty, amount due
10 as restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund
11 pursuant to §62-5-10 of this code, shall be disbursed to the courts identified in the repayment
12 schedule, or as applicable to the Crime Victims Compensation Fund pursuant to §62-5-10 of this
13 code.

14 (2) Ninety-five percent of the portions of the payments remaining after payment as
15 required in subdivision (1) of this subsection shall be disbursed to the courts identified in the
16 participant's consolidated repayment schedule. Courts shall accept and document these
17 payments of ninety-five percent of the total unpaid court costs, not including court costs received
18 pursuant to subdivision (1) of this subsection, as payment in full of the amount owed by the
19 participant to the court for this portion of court costs owed; and

20 (3) The portion of the payments remaining in the account after payment of the court costs
21 in subdivisions (1) and (2) of this subsection may be appropriated by the Legislature to be
22 expended for costs incurred by the director in the administration of this article.

23 (c) Courts that receive disbursements pursuant to subsection (b) of this section are
24 responsible for making statutory disbursements of amounts received in satisfaction of unpaid

25 court costs according to the requirements of the code.

NOTE: The purpose of this bill is to provide that amounts of court costs collected under the Second Chance Driver's License Program attributable to crime victim restitution are not subject to the five percent offset for use by the Director of the Division of Justice and Community Services in the administration of the program.

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