

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 116**

BY SENATOR TRUMP

[Originating in the Committee on the Judiciary;

reported on January 19, 2018]



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; providing that  
3 court's accounting of amounts due for crime victim restitution be separately identified;  
4 providing that any moneys for restitution that are not submitted in the accounting by the  
5 court may not be waived by the participant's completion of the program; and providing that  
6 amounts of court costs collected under the Second Chance Driver's License Program  
7 attributable to crime victim restitution are not subject to the five percent offset for use by  
8 the Director of the Division of Justice and Community Services in the administration of the  
9 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 30 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, or the amount due as  
9 restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund  
10 pursuant to §62-5-10 of this code, remaining unpaid by the applicant for each order of the court  
11 for which unpaid balances remain.

12 (d) Any unpaid court costs not reported to the director by a court as provided by §17B-7-  
13 5(c) of this code may not be collected separately by the court during the time in which the applicant  
14 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 §17B-7-5(c) of this code shall be ~~deemed~~ considered waived unless the unpaid court  
19 costs were part of an order entered after the date upon which the director requested information  
20 for a 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 30 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 §17B-7-5(g) of this code, upon a determination that the applicant's circumstances may have  
37 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 §17B-7-5(a) of this code.

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 account. The director shall prorate, separate, and identify the portion of each payment that  
4 constitutes payment of a fine, forfeiture, ~~or~~ penalty, or an amount due as restitution to a crime  
5 victim or costs to be credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of  
6 this code, in accordance with the information provided to the director pursuant to §17B-7-5(c) of  
7 this code.

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

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

15 (2) The director shall disburse 95 percent of the portions of the payments remaining after  
16 payment as required in §17B-7-9(b)(1) of this code ~~shall be disbursed~~ to the courts identified in  
17 the participant's consolidated repayment schedule. Courts shall accept and document these  
18 payments of 95 percent of the total unpaid court costs, not including court costs received pursuant

19 to §17B-7-9(b)(1) of this code, as payment in full of the amount owed by the participant to the  
20 court for this portion of court costs owed; and

21 (3) The portion of the payments remaining in the account after payment of the court costs  
22 in §17B-7-9(b)(1) and §17B-7-9(b)(2) of this code may be appropriated by the Legislature to be  
23 expended for costs incurred by the director in the administration of this article.

24 (c) Courts that receive disbursements pursuant to §17B-7-9(b) of this code are responsible  
25 for making statutory disbursements of amounts received in satisfaction of unpaid court costs  
26 according to the requirements of the code.