

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Enrolled**

## **Senate Bill 180**

BY SENATORS BLAIR, CLINE, AND RUCKER

[Passed March 7, 2020; in effect 90 days from passage]



1 AN ACT to amend and reenact §17B-7-5 and §17B-7-9 of the Code of West Virginia, 1931, as  
2 amended; and to amend said code by adding thereto a new code section, designated  
3 §17B-7-11, all relating to the Second Chance Driver's License Program; providing that a  
4 court's accounting of amounts due for crime victim restitution be separately identified;  
5 providing that any moneys for restitution that are not submitted in the accounting by the  
6 court may not be waived by the participant's completion of the program; providing that  
7 amounts of court costs collected under the Second Chance Driver's License Program  
8 attributable to crime victim restitution are not subject to the five percent offset for use by  
9 the Director of the Division of Justice and Community Services in the administration of the  
10 program; and providing a sunset provision.

*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, 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 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 considered 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 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 may permit a hardship waiver of the requirements of subsection (g) of this  
36 section, upon a determination that the applicant's circumstances may have changed, and that the  
37 objectives of this article are best accomplished if the consolidated repayment schedule requires

38 a lesser monthly payment or a longer period of time to remit the unpaid court costs: *Provided*,  
39 That the director may not waive the total amount of unpaid court costs submitted by the courts  
40 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, penalty, or an amount due as restitution to a crime victim or costs to  
5 be 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, penalty, or an amount  
10 due as restitution to a crime victim or costs to be credited to the Crime Victims Compensation  
11 Fund 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) The director shall disburse 95 percent of the portions of the payments remaining after  
15 payment as required in subdivision (1) of this subsection to the courts identified in the participant's  
16 consolidated repayment schedule. Courts shall accept and document these payments of 95  
17 percent of the total unpaid court costs, not including court costs received pursuant to subdivision  
18 (1) of this subsection, as payment in full of the amount owed by the participant to the court for this  
19 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.

**§17B-7-11. Sunset provision.**

1           The Second Chance Driver's License Program established under §17B-7-1, *et seq.*, of  
2 this code shall cease to have effect on June 30, 2022, unless reauthorized by the West Virginia  
3 Legislature.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2020.

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*Governor*