

HB4399 CC 3-9

90 Days

Morgan 3345

Delegate Pritt, from the committee of conference on matters of disagreement between the two houses, as to

Eng. House Bill No. 4399, Creating the equitable right to expungement.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute on House Bill 4399 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, and that the Senate and House agree to an amendment as follows:

Page 5, Section 25, line 1 by striking all of subsection (a) and inserting in lieu thereof a new subsection (a), to read as follows:

(a) Any person who has been charged with a criminal offense under the laws of this state and who has been found not guilty of the offense, or against whom charges have been dismissed, and not in exchange for a guilty plea to another offense resulting in a conviction, may file a civil petition in the circuit court in which the charges were filed to expunge all records relating to the arrest, charge, or other matters arising out of the arrest or charge. Any person whose charges have been dismissed following a full and successful completion of a pre-trial diversion pursuant to §61-11-22 of this code, or whose charges have been dismissed following the full and successful completion of a deferred adjudication pursuant to §61-11-22a of this code, may file a civil petition in the circuit court for expungement of all charges originally brought, provided that the charges sought to be expunged arose from the same transaction or occurrence, and all records relating to

the arrest, charges, or other matters arising out of the arrest or charges may be expunged:

Provided, That no record in the Division of Motor Vehicles may be expunged by virtue of any order of expungement entered pursuant to §17C-5-2b of this code nor may any charges ultimately dismissed by way of full and successful completion of any deferred adjudication be expunged for violations of §61-2-28(a), §61-2-28(b), §61-2-9(a), §61-2-9a, §61-2-9(b), or §61-2-9(c) of this code where the alleged victim is a family or household member as defined in §48-27-204 of this code:

Provided, further, That any person who has previously been convicted of a felony may not file a petition for expungement pursuant to this section. The term records as used in this section includes, but is not limited to, arrest records, fingerprints, photographs, index references, or other data whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge. Criminal investigation reports and all records relating to offenses subject to the provisions of §15-12-1 et seq. of this code because the person was found not guilty by reason of mental illness, ~~mental retardation~~ intellectual disability, or addiction are exempt from the provisions of this section.

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Eng. Com. Sub. for House Bill 4399—A Bill to amend and reenact §61-11-22, §61-11-22a, and §61-11-25 of the Code of West Virginia, 1931, as amended, relating to general provisions concerning crimes; correcting internal citations; expungement of criminal records; and when a civil action may be filed to expunge criminal records for cases where charges have been dismissed following a full and successful completion of a pretrial diversion or deferred adjudication; relating to exceptions to the allowance to file a civil action for expungement.

Respectfully submitted,

David Stover

Chair.

Chris Pritt

Chair.

Vince Deeds

Ty Nestor

Mike Caputo

Conferees on the part of the Senate.

Joey Garcia

*Conferees on the part of the House of
Delegates.*