WEST VIRGINIA CODE CHAPTER 17B ARTICLE 7

WV Legislature

§17B-7-1. Short Title.

This article is known as and may be cited as the William R. Laird IV Second Chance Driver's License Act.

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§17B-7-2. Legislative findings and purpose.

(a) The Legislature finds that allowing individuals who have been unable to obtain a driver's license or to have their driver's licenses reinstated due to unpaid court costs to obtain a stay of the driver's license suspension or revocation will better enable these individuals to return to the workforce and repay unpaid court costs in a timely manner.

(b) The purpose of this article is to create a program that allows the commissioner to temporarily stay a driver's license suspension or revocation for individuals who are accepted into the second chance driver's license program if the individual thereafter remains current in the repayment of unpaid court costs as required by the program.

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§17B-7-3. Definitions.

For the purposes of this article:

(1) “Commissioner” means the Commissioner of the Division of Motor Vehicles, or his or her designee;

(2) “Consolidated repayment schedule” means the schedule by which a participant is expected to make monthly payments for unpaid court costs consistent with the requirements of the program as established by the director;

(3) “Court” means a municipal court, magistrate court, circuit court, family court or drug court in the State of West Virginia and the Supreme Court of Appeals of West Virginia;

(4) “Director” means Director of the Division of Justice and Community Services, or his or her designee;

(5) “Good standing” means compliance by a participant with the requirements of the program, as set forth in this article and legislative rules promulgated hereunder;

(6) “Monthly payment” means the amount that a participant is scheduled to remit to the director each month pursuant to the consolidated repayment schedule;

(7) “Participant” means a person who applies for, and is accepted into, the second chance driver’s license program by the director;

(8) “Second chance driver’s license program” or “program” means the program created under this article that establishes a payment structure for a participant to consolidate unpaid court costs into monthly payments over a defined period of time, coordinates the acceptance and distribution of monthly payments from a participant and certifies that a participant in good standing is eligible for a temporary stay of a driver’s license suspension or revocation due to certain unpaid court costs; and

(9) “Unpaid court costs” means any fee, fine, expense, cost or other moneys that are required to be paid by a person to a court, pursuant to one or more valid court orders, and have not been paid in full.

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§17B-7-4. Second chance driver's license program established; creation and administration by director; program eligibility.

(a) There is hereby established the second chance driver's license program which shall be administered by the director pursuant to the requirements of this article.

(b) To be eligible to participate in the program, a person must:

(1) Have his or her driver's license suspended or revoked for failure to remit unpaid court costs pursuant to section three-a or section three-c, article three, chapter seventeen-b of this code;

(2) Be at least twelve months delinquent in payment of unpaid court costs to a court or courts;

(3) Not have any unpaid court costs incurred from charges that involve driving a commercial motor vehicle or which otherwise violate the commercial driver's license requirements in chapter seventeen-e of this code; and

(4) Meet other eligibility requirements established pursuant to the rules developed under section nine of this article.

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

(a) A person wishing to participate in the Second Chance Driver's License Program shall complete an application form prepared by the director.

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

(c) All courts shall provide a full accounting of all unpaid court costs assignable to the applicant within 30 days of the request of the director. The accounting shall separately identify the portion of the court costs that constitute a fine, forfeiture, penalty, or the amount due as restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code remaining unpaid by the applicant for each order of the court for which unpaid balances remain.

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

(e) If a participant completes the program, any unpaid court costs, except for unpaid fines, and unpaid amounts due as restitution to a crime victim or costs to be credited to the Crime Victims Compensation Fund pursuant to §62-5-10 of this code, not submitted to the director pursuant to subsection (c) of this section shall be considered waived unless the unpaid court costs were part of an order entered after the date upon which the director requested information for a participant. The driver's license suspension or revocation with respect to any unpaid fine not reported by a court shall be released upon completion of the program by the participant.

(f) Within 30 days after receipt of information concerning unpaid court costs, the director shall determine if the applicant is eligible to participate in the program. Upon determination, the director shall promptly notify the applicant of his or her acceptance into the program.

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

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

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

(h) The consolidated repayment schedule may be amended to reflect changes in a

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participant's circumstances.

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

(j) Upon acceptance into the program, a participant in good standing with the program is under no obligation to make separate or additional payments of unpaid court costs directly to a court if those unpaid court costs are included in the consolidated repayment schedule.

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§17B-7-6. Payments to be made to director; certificate of compliance; failure to comply with consolidated repayment schedule.

(a) Upon acceptance into the program and establishment of a consolidated repayment schedule, the participant shall remit monthly payments to the director in the manner prescribed by the director and in compliance with the consolidated repayment schedule.

(b) Upon receipt of the first monthly payment required by the participant's consolidated repayment schedule, the director shall issue to the commissioner, in writing or electronically, a certificate of compliance verifying the participant's good standing in the program.

(c) If a participant fails to make a monthly payment within thirty days of a deadline set by the consolidated repayment schedule, the director shall immediately issue, in writing or electronically, a certificate of noncompliance to the commissioner stating that the participant is not in good standing in the program.

(1) If a participant, after failing to make one or more timely monthly payments, remits the total amount due at that time according to the consolidated repayment schedule, the director shall issue a certificate of compliance to the commissioner stating that the participant is once again in good standing in the program.

(2) If a participant fails to make timely monthly payments in accordance with the consolidated repayment schedule on three occasions, the director shall remove the participant from the program and shall issue a program removal notice to the commissioner and applicable courts receiving payments under the program stating that the participant is no longer a participant in the program.

(d) If a participant is convicted of a subsequent criminal offense after acceptance into the program, the director shall remove the participant from the program and, upon removal, the director shall issue a program removal notice to the commissioner and applicable courts receiving payments under the program stating that the participant is no longer a participant in the program.

(e) Upon completion of all monthly payments in the consolidated repayment schedule by the participant, the director shall issue a program completion certificate to the commissioner and the court or courts to whom the participant owed unpaid court costs under the program, stating that the participant completed the program in good standing.

(f) Upon receipt of a program completion certificate by the director stating that the participant has completed the program in good standing, the court or courts whose unpaid court costs were paid according to the consolidated repayment schedule shall enter an order acknowledging payment in full of the unpaid court costs.

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§17B-7-7. Stay of driver's license suspension or revocation.

(a) Upon receipt of a certificate of compliance prepared by the director, the Division of Motor Vehicles shall stay the participant's driver's license suspension or revocation for unpaid court costs: Provided, That the participant's driver's license shall be subject to restrictions upon where and when the participant may operate a motor vehicle during this stay of the suspension or revocation, as determined by the commissioner.

(b) The Division of Motor Vehicles may require retesting for a driver's license for any participant who has not had a valid driver's license within the six months prior to the date of receipt of the certificate of compliance. Notwithstanding any other provision of the code to the contrary, a participant shall not be required to pay any fees to the Division of Motor Vehicles for retesting.

(c) Upon receipt of a certificate of noncompliance prepared by the director, the commissioner shall remove the stay of the participant's driver's license suspension or revocation until further notice from the director regarding the participant's status in the program.

(d) Upon receipt of a program removal notice issued by the director, the commissioner shall remove the stay of the participant's driver's license suspension or revocation.

(e) Notwithstanding any other provision of code to the contrary, no participant in the program shall be required to pay any reinstatement fees for unpaid court costs within the scope of the consolidated repayment schedule.

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§17B-7-8. Second Chance Driver's License Program Account created.

There is hereby created in the State Treasury an account to be known as the Second Chance Driver's License Program Account. The account shall consist of all moneys received from individuals participating in the program. The fund shall be administered by the Division of Justice and Community Services solely for the purposes of this article. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Funds in the account shall not be invested, used, withdrawn or transferred out of the account except for the purposes allowed in the provisions of this article.

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

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

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

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

(2) The director shall disburse 95 percent of the portions of the payments remaining after payment as required in subdivision (1) of this subsection to the courts identified in the participant's consolidated repayment schedule. Courts shall accept and document these payments of 95 percent of the total unpaid court costs, not including court costs received pursuant to subdivision (1) of this subsection, as payment in full of the amount owed by the participant to the court for this portion of court costs owed; and

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

(c) Courts that receive disbursements pursuant to subsection (b) of this section are responsible for making statutory disbursements of amounts received in satisfaction of unpaid court costs according to the requirements of the code.

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§17B-7-10. Rule-making authority.

(a) To implement the provisions of this article, the director, in consultation with the commissioner, shall promulgate emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code, which shall include, but not be limited to, the following:

(1) The form, content and information required to be furnished in the application forms;

(2) The procedure and requirements of the eligibility review process;

(3) Guidelines for creation of a consolidated repayment schedule of unpaid court costs;

(4) Terms and conditions for acceptance into the program, maintenance of good standing, and completion of the program;

(5) Forms for certificates of compliance, certificates of noncompliance, program removal notice and program completion certificate; and

(6) The procedures for removal or suspension from the program.

(b) To implement the provisions of this article, the commissioner shall promulgate emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code, which may include, but are not limited to, the following:

(1) Establishing the procedures for issuing a stay of a participant's driver's license suspension or revocation; and

(2) Establishing the restrictions upon where and when a participant may utilize his or her driver's license to operate a motor vehicle during the stay of the suspension or revocation authorized by this article.

WV Legislature

§17B-7-11. Sunset provision.

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

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