WEST VIRGINIA CODE: §5-1-16a

§5-1-16a. Expungement of criminal record upon full and unconditional pardon.

(a) Any person who has received a full and unconditional pardon from the Governor, pursuant to the provisions of section eleven, article VII of the Constitution of West Virginia and section sixteen of this article, may petition the circuit court in the county where the conviction was had to have the record of such conviction expunged. The petition shall be served upon the prosecuting attorney of the county where the petition was filed. Any person petitioning the court for an order of expungement shall publish a notice of the time and place that such petition will be made, which notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the county where the petition is filed. The circuit court, upon verification of the act of pardon and after a hearing to determine that good cause exists, may enter an order directing that all public record of the petitioner's conviction be expunged. For the purposes of this section, "public record" or "record" does not include the records of the Governor, the Legislature or the Secretary of State that pertain to a grant of pardon. Such records that pertain to a grant of pardon are not subject to an order of expungement. The amendment to this section during the fourth extraordinary session of the Legislature in the year 2009 is not for the purpose of changing existing law, but is intended to clarify the intent of the Legislature as to existing law regarding expungement.

(b) The record expunged pursuant to the provisions of this section may not be considered in an application to any educational institution in this state or an application for any licensure required by any professional organization in this state.

(c) No person shall be eligible for expungement pursuant to this section until one year after having been pardoned.

(d) No person shall be eligible for expungement pursuant to this section until five years after the discharge of his or her sentence upon the conviction for which he or she was pardoned.

(e) No person shall be eligible for expungement of a record of conviction of first degree murder, as defined in section one, article two, chapter sixty-one of this code; treason, as defined in section one, article one of said chapter; kidnapping, as defined in section fourteen-a, article two of said chapter; or any felony defined in article eight-b of said chapter.

WV Legislature