WEST VIRGINIA CODE: §60-6-26

§60-6-26. Conditional discharge for first offense of certain offenses related to nonintoxicating beer or alcoholic liquor.

(a) When a person pleads guilty to or is found guilty of a violation of subdivision (1), subsection (a), section nineteen, article sixteen, chapter eleven of this code; subsection (b), section nineteen, article sixteen, chapter eleven of this code; subsection (a), section twenty-two-a, article three of this chapter; subdivision (1), subsection (a), section twenty-four, article three-a of this chapter; subsection (b), section twenty-four, article three-a of this chapter; subsection (a) or (b), section twelve-a, article seven of this chapter; or subsection (a) or (b), section twenty-a, article eight of this chapter, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him or her on probation upon terms and conditions it considers appropriate, if the person has not previously been convicted of:

(1) Any of the offenses contained in the code provisions referenced in this subsection; or

(2) Any statute of the United States or of any state relating to underage purchase, consumption, sale, service or possession of nonintoxicating beer or alcoholic liquor.

(b) If the person violates a term or condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

(c) Upon fulfillment of the terms and conditions of the probation, the court shall discharge the person and dismiss the proceedings against him or her.

(1) Discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or the section of the original charge, or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(2) The effect of the discharge and dismissal is to restore the person in contemplation of law to the status he or she occupied prior to arrest and trial.

(3) A person to whom a discharge and dismissal have been effected under this section may not be found guilty of perjury, false swearing or otherwise giving a false statement by reason of his or her failure to disclose or acknowledge his or her arrest or trial relating to a charge discharged and dismissed by this section in response to any inquiry made of him or her for any purpose.

(d) There may be only one discharge and dismissal under this section with respect to any one person.

(e) After a period of not less than six months after the expiration of a term of probation imposed upon a person under the provisions of this section, the person may apply to the

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court for an order to expunge from all official records all recordations of his or her arrest, trial and discharge pursuant to this section. If the court determines after a hearing that the person during the period of his or her probation and during the period prior to his or her application to the court under this subsection has not been guilty of any serious or repeated violation of the conditions of his or her probation, it shall order the expungement.

(f) Notwithstanding any provision of this code to the contrary, any person prosecuted for an alleged violation of an offense listed in subsection (a) of this section, whose case is disposed of pursuant to the provisions of this section, is liable for all court costs assessable against a person convicted of a violation of the section under which the person was prosecuted. Payment of the costs may be made a condition of probation. The costs assessed pursuant to this section, whether as a term of probation or not, shall be distributed as other court costs in accordance with section two, article three, chapter fifty of this code; section four, article two-a, chapter fourteen of this code; section four, article twenty-nine, chapter thirty of this code; and sections two, seven and ten, article five, chapter sixty-two of this code.

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