

SB 149

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WEST VIRGINIA LEGISLATURE

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REGULAR SESSION, 1999



# ENROLLED

SENATE BILL NO. 149

(By Senator Wooten, et al)



PASSED February 25, 1999

In Effect ninety days from Passage

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OF THE SENATE

**ENROLLED**

**Senate Bill No. 149**

(BY SENATORS WOOTON, BALL, DITTMAR, KESSLER, MITCHELL,  
ROSS AND SNYDER)

[Passed February 25, 1999; in effect ninety days from passage.]

AN ACT to amend article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section sixteen-a, relating to expungement of criminal records of persons receiving a full, unconditional pardon from the governor; establishing the procedure for petitioning for an order of expungement; requiring service on the prosecuting attorney; requiring publication; requiring verification of pardon, a hearing and a showing of good cause; restricting the consideration of an expunged record in applications for educational institutions or professional organizations; and limiting the eligibility of those who may petition for an order of expungement.

*Be it enacted by the Legislature of West Virginia:*

That article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section sixteen-a, to read as follows:

**ARTICLE 1. THE GOVERNOR.**

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

1 (a) Any person who has received a full and unconditional  
2 pardon from the governor, pursuant to the provisions of  
3 section eleven, article VII of the constitution of West  
4 Virginia and section sixteen of this article, may petition  
5 the circuit court in the county where the conviction was  
6 had to have the record of such conviction expunged. The  
7 petition shall be served upon the prosecuting attorney of  
8 the county where the petition was filed. Any person  
9 petitioning the court for an order of expungement shall  
10 publish a notice of the time and place that such petition  
11 will be made, which notice shall be published as a Class I  
12 legal advertisement in compliance with the provisions of  
13 article three, chapter fifty-nine of this code, and the  
14 publication area for such publication shall be the county  
15 where the petition is filed. The circuit court, upon verifica-  
16 tion of the act of pardon and after a hearing to determine  
17 that good cause exists, may enter an order directing that  
18 all public record of the petitioner's conviction be ex-  
19 punged.

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

25 (c) No person shall be eligible for expungement pursuant  
26 to this section until two years after having been pardoned.

27 (d) No person shall be eligible for expungement pursu-  
28 ant to this section until twenty years after the discharge of  
29 his or her sentence upon the conviction for which he or she  
30 was pardoned.

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



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

*Ray Schasnow*  
.....  
Chairman Senate Committee

*Joe F. Suttle*  
.....  
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

*David E. White*  
.....  
Clerk of the Senate

*Gregory D. Sims*  
.....  
Clerk of the House of Delegates

*Carl Roy Tompkins*  
.....  
President of the Senate

*John*  
.....  
Speaker House of Delegates

The within..... *approved* ..... this the *9th*  
Day of..... *March* ....., 1988

*Jeff Alderman*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/4/49

5:02 pm