

FILED

2001 APR -3 A 10: 22

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

SENATE BILL NO. 261

(By Senator Bowman)

PASSED March 22, 2001

In Effect 90 days from Passage

FILED

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Senate Bill No. 261

(BY SENATOR BOWMAN)

[Passed March 22, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section sixteen-a, article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to reducing the time for eligibility for expungement of criminal records of persons receiving a full, unconditional pardon from the governor.

Be it enacted by the Legislature of West Virginia:

That section sixteen-a, article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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 uncondi-
- 2 tional pardon from the governor, pursuant to the provi-
- 3 sions of section eleven, article VII of the constitution of

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

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 seven 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; kidnapping, as defined in section fourteen-a,
36 article two of said chapter; or any felony defined in article
37 eight-b of said chapter.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
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Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is disapproved* this the *2nd*
Day of *April*, 2001.

[Signature]
.....
Governor

PRESENTED TO

GOVERNOR

Date 3/29/01

Time 12:16 pm