

**WEST VIRGINIA LEGISLATURE** FILED

2016 MAR 24 P 2:48

**2016 REGULAR SESSION**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

**House Bill 2494**

(BY DELEGATES WELD, FAST, SPONAUGLE, SKINNER AND  
SHOTT)

[Passed March 12, 2016; in effect ninety days from passage.]

HB 2494

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **ENROLLED**

## **House Bill 2494**

(BY DELEGATES WELD, FAST, SPONAUGLE, SKINNER AND  
SHOTT)

[Passed March 12, 2016; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §61-11-22a, relating to codifying deferred adjudication process for persons  
3 charged with felony and misdemeanor offenses in circuit and magistrate court; authorizing  
4 courts, upon motion, to defer acceptance and adjudication of entered guilty pleas for  
5 certain periods based upon severity of offense; authorizing court to impose such  
6 conditions and terms as it deems just and necessary as a condition of participation;  
7 authorizing periods of incarceration and participation in referenced programs as conditions  
8 of participation in the deferred adjudication process; authorizing acceptance of previously  
9 entered guilty plea upon violation of the terms and conditions of deferral; authorizing court  
10 to impose additional terms and conditions upon defendant if violation occurs; and clarifying  
11 that procedure hereby authorized is distinct from conditional plea under Rule 11(a)(2) of  
12 the West Virginia Rules of Criminal Procedure.

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

1 That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new  
2 section, designated §61-11-22a to read as follows:

## **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

### **ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.**

#### **§61-11-22a. Deferred adjudication.**

1 (a) Upon the entry of a guilty plea to a felony or misdemeanor before a circuit or magistrate  
2 court of this state entered in compliance with the provisions of West Virginia Rule of Criminal  
3 Procedure 11 or Rule 10 of the West Virginia Rules of Criminal Procedure for Magistrate Courts  
4 and applicable judicial decisions, the court may, upon motion, defer acceptance of the guilty plea  
5 and defer further adjudication thereon and release the defendant upon such terms and conditions  
6 as the court deems just and necessary. Terms and conditions may include, but are not limited to,  
7 periods of incarceration, drug and alcohol treatment, counseling and participation in programs  
8 offered under articles eleven-a, eleven-b and eleven-c, chapter sixty-two of this code.

9           (b) If the offense to which the plea of guilty is entered is a felony, the circuit court may  
10 defer adjudication for a period not to exceed three years. If the offense to which the plea of guilty  
11 is entered is a misdemeanor, the court may defer adjudication for a period not to exceed two  
12 years.

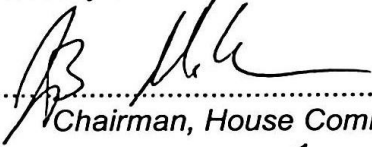
13           (c) If the defendant complies with the court-imposed terms and conditions he or she shall  
14 be permitted to withdraw his or her plea of guilty and the matter dismissed or, as may be agreed  
15 upon by the court and the parties, enter a plea of guilty or no contest to a lesser offense.

16           (d) In the event the defendant is alleged to have violated the terms and conditions imposed  
17 upon him or her by the court during the period of deferral the prosecuting attorney may file a  
18 motion to accept the defendant's plea of guilty and, following notice, a hearing shall be held on  
19 the matter.

20           (e) In the event the court determines that there is reasonable cause to believe that the  
21 defendant violated the terms and conditions imposed at the time the plea was entered, the court  
22 may accept the defendant's plea to the original offense and impose a sentence in the court's  
23 discretion in accordance with the statutory penalty of the offense to which the plea of guilty was  
24 entered or impose such other terms and conditions as the court deems appropriate.

25           (f) The procedures set forth in this section are separate and distinct from that set forth in  
26 West Virginia Rule of Criminal Procedure 11(a)(2).

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

  
.....  
Chairman, House Committee

  
.....  
Chairman, Senate Committee

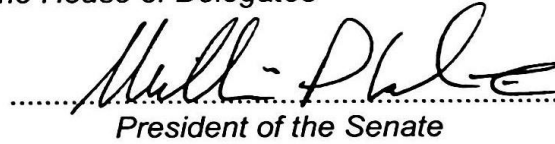
Originating in the House.

In effect ninety days from passage.

  
.....  
Clerk of the House of Delegates

  
.....  
Clerk of the Senate

  
.....  
Speaker of the House of Delegates

  
.....  
President of the Senate

\_\_\_\_\_

The within is approved..... this the 24<sup>th</sup>.....  
day of March....., 2016.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 23 2015

Time 2:58 pm