

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2922

BY DELEGATES BARRETT, S. BROWN AND CANESTRARO

[Introduced February 8, 2019; Referred
to the Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-407a, relating to authorizing a court to require participation and successful completion of a drug court program or drug treatment program in order for a defendant, pleading or being found guilty of possession of a controlled substance which is or contains a controlled substance listed in §60A-2-204 of this code, other than marijuana, or a controlled substance listed in §60A-2-206, §60A-2-208, or §60A-2-210 containing an opioid or opiate to qualify for a final order of discharge and dismissal.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-407a. Allowing additional requirements to obtain a final order of discharge and dismissal for persons pleading to, or being convicted of, possession of opiates or opioids.

(a) Notwithstanding any provision of this code to the contrary, when a person pleads guilty or is found guilty of a violation of §60A-4-401(c) of this code, or a municipal ordinance containing the same elements where the controlled substance possessed is listed in §60A-2-204 of this code, other than marijuana, or is a controlled substance listed in §60A-2-206, §60A-2-208, or §60A-2-210 of this code which contains an opiate or opioid as defined in this chapter, the court may, as an additional condition for the entry of a final order of discharge or dismissal under §60A-4-407 of this code or a municipal ordinance containing the same or substantially the same provision, require the defendant to be:

(1) Evaluated for admission into a drug court program if one is available in the county or municipality in which the defendant resides; or

(2) Required to participate in a drug treatment program if one is available in the county or municipality in which the defendant resides.

(b) Should a defendant be determined to be an appropriate candidate for admission to drug court or a drug treatment program, the court may make successful completion of drug court or drug treatment a requirement for obtaining a final order of discharge and dismissal.

NOTE: The purpose of this bill is to authorize a court to require participation and successful completion of a drug court program or drug treatment program in order for a defendant, pleading or being found guilty of possession of a controlled substance, not including marijuana, or certain controlled substances containing an opioid or opiate, to qualify for a final order of discharge and dismissal.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.