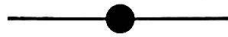


FILED

2014 MAR 28 P 5:04

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 3108

(By Delegates Campbell, Ellington and Perdue)



Passed March 8, 2014

In effect ninety days from passage.

HB 3108

FILED

2014 MAR 28 P 5:04

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 3108

(BY DELEGATES CAMPBELL, ELLINGTON AND PERDUE)

[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5C-21, relating to prohibiting employment by a nursing home of a person convicted of certain crimes unless a variance has been granted by the secretary; and authorizing the Secretary of the Department of Health and Human Resources to propose legislative rules.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §16-5C-21, to read as follows:

ARTICLE 5C. NURSING HOMES.

§16-5C-21 Employment restrictions.

(a) Notwithstanding a legislative rule or provider manual issued by the department, a person cannot be employed by a nursing home unless granted a variance by the secretary, or his or her designee, if convicted of:

- (1) Abduction or kidnapping;
- (2) Any violent felony crime including, but not limited to, rape, sexual assault, homicide, felonious physical assault or felonious battery;
- (3) Child or adult abuse or neglect;
- (4) Crimes which involve the exploitation of a child or an incapacitated adult;
- (5) Felony domestic battery or domestic assault;
- (6) Felony arson;
- (7) Felony or misdemeanor crime against a child or incapacitated adult which causes harm;
- (8) Felony drug-related offenses;
- (9) Felony driving under the influence of drugs or alcohol;
- (10) Hate crimes;
- (11) Murder or manslaughter;
- (12) Neglect or abuse by a caregiver;
- (13) Pornography crimes involving children or incapacitated adults including, but not limited to, use of minors or incapacitated adults in filming sexual explicit conduct,

24 distribution and exhibition of material depicting minors or
25 incapacitated adults in sexually explicit conduct or sending,
26 distributing, exhibiting, possessing, displaying or transporting
27 material by a parent, guardian or custodian, depicting a minor or
28 incapacitated adult engaged in sexually explicit conduct;

29 (14) Purchase or sale of a child;

30 (15) Sexual offenses including, but not limited to, incest,
31 sexual abuse or indecent exposure;

32 (16) Felony or misdemeanor involving financial exploitation
33 of a minor or elderly person;

34 (17) Felony offense related to fraud, theft, embezzlement,
35 breach of fiduciary responsibility or other financial misconduct
36 in connection with the delivery of a health care item or service,
37 or with respect to any act or omission in a health care program
38 operated or financed, in whole or in part, by any federal, state or
39 local government agency; or

40 (18) Any criminal offense related to the delivery of an item
41 or service under Medicare or a state health care program.

42 (b) The secretary shall propose rules for legislative approval
43 in accordance with article three, chapter twenty-nine-a of this
44 code, to allow persons to appeal decisions, demonstrate
45 rehabilitation, request a review of their initial negative
46 determinations and to implement any variance procedure as may
47 be required by state or federal law.

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

Donny Wells
Chairman, House Committee

[Signature]
~~Member~~ Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Bryan R. Bay
Clerk of the House of Delegates

Joseph M. Wines
Clerk of the Senate

David Cray
Speaker of the House of Delegates

Jeffery K
President of the Senate

The within *is approved* this the *28th*
day of *March*, 2014.

Carl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:45 AM