

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Senate Bill 633

BY SENATOR TARR

[Passed March 8, 2019; in effect 90 days from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §30-41-4, relating to authorizing the West Virginia Board of Physical Therapy
3 to conduct criminal background checks on applicants seeking their initial license; providing
4 the information may not be shared across state lines; and authorizing the board to obtain
5 fingerprints from applicants for initial licenses.

Be it enacted by the Legislature of West Virginia:

§30-41-4. West Virginia Board of Physical Therapy criminal history record checks.

1 (a) The West Virginia Board of Physical Therapy is authorized to require state and national
2 criminal history record checks for the purpose of issuing licenses. The West Virginia Board of
3 Physical Therapy shall require an applicant, including physical therapists and physical therapy
4 assistants, as a condition of eligibility for initial license to submit to a state and national criminal
5 history record check as set forth in this section.

6 (b) The applicant shall meet all requirements necessary to accomplish the state and
7 national criminal history record check, including:

8 (1) Submitting fingerprints for the purposes set forth in this subsection; and

9 (2) Authorizing the board, the West Virginia State Police, and the Federal Bureau of
10 Investigation to use all records submitted and produced for the purpose of screening the applicant
11 for a license.

12 (c) The results of the state and national criminal history record check may not be released
13 to or by a private entity except:

14 (1) To the individual who is the subject of the criminal history record check;

15 (2) With the written authorization of the individual who is the subject of the criminal history
16 record check; or

17 (3) Pursuant to a court order.

18 (d) The criminal history record check and related records are not public records for the
19 purposes of chapter 29B of this code.

20 (e) The applicant shall ensure that the criminal history record check is completed as soon
21 as possible after the date of the original application for registration.

22 (f) The applicant shall pay the actual costs of the fingerprinting and criminal history record
23 check.

24 (g) The board may not disqualify an applicant for initial licensure because of a prior
25 criminal conviction that has not been reversed unless that conviction is for a crime that bears a
26 rational nexus to the occupation requiring licensure.

27 (h) The board may not use crimes involving moral turpitude in making licensure
28 determinations.

29 (i) If an applicant is disqualified for licensure because of a criminal conviction that has not
30 been reversed, the board shall afford the applicant the opportunity to reapply for licensure after
31 the expiration of five years from the date of conviction or date of release from the penalty that was
32 imposed, whichever is later, if the individual has not been convicted of any other crime during that
33 period of time: *Provided*, That convictions for violent or sexual offenses or offenses shall subject
34 an individual to a longer period of disqualification, to be determined by the board.

35 (j) An individual with a criminal record who has not previously applied for licensure,
36 certification, or registration may petition the board at any time for a determination of whether the
37 individual's criminal record will disqualify the individual from obtaining a license or other
38 authorization to practice. This petition shall include sufficient details about the individual's criminal
39 record to enable the board to identify the jurisdiction where the conviction occurred, the date of
40 the conviction and the specific nature of the conviction. The board shall inform the individual of
41 his or her standing within 60 days of receiving the petition from the applicant. The board may
42 charge a fee established by rule to recoup its costs for each petition.

43 (k) The board shall propose rules or amendments to existing rules for legislative approval
44 to comply with the provisions of this section. These rules or amendments to rules shall be

45 proposed pursuant to the provisions of §29A-3-1 *et seq.* of this code within the applicable time
46 limit to be considered by the Legislature during its regular session in the year 2020.

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

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the.....
Day of, 2019.

.....
Governor