

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 449**

BY SENATORS GAUNCH, BOSO, DRENNAN, MAYNARD,

RUCKER, SMITH, WELD, WOELFEL, AND CLINE

[Originating in the Committee on Government

Organization; Reported on February 21, 2018]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §30-1-22, relating to using records of criminal conviction to disqualify a person  
3 from receiving a license for a profession or occupation; requiring boards or licensing  
4 authorities to clearly define the criminal offenses or categories of offenses that would  
5 disqualify an applicant from receiving or renewing a license or other authorization to  
6 practice; requiring criminal offenses to be specifically and directly related to duties and  
7 responsibilities of the profession or occupation; limiting time of disqualification from  
8 criminal offense; providing exceptions; providing petition process for individual with a  
9 criminal record to obtain determination of effect of a criminal record on ability to obtain a  
10 license; and requiring boards and licensing authorities to update legislative rules.

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

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF  
EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

**§30-1-22. Use of criminal records as disqualification of authorization to practice.**

1 (a) Every board or licensing authority referred to in this chapter shall clearly define the  
2 criminal offenses or categories of criminal offenses for which a conviction would disqualify an  
3 applicant from receiving or renewing a license or other authorization to practice. Boards may only  
4 include as disqualifying those criminal offenses or categories of criminal offenses that are specific  
5 and directly related to the duties and responsibilities of the regulated profession or occupation.

6 (b) If an individual has been convicted of a criminal offense that would disqualify the  
7 individual from receiving a license or other authorization to practice, the disqualification shall not  
8 last longer than five years from the date of conviction if the individual has not been convicted of  
9 any other crime during that period of time: *Provided*, That convictions for violent or sexual offenses  
10 may subject an individual to a longer period of disqualification.

11 (c) An individual with a criminal record may petition a board at any time for a determination

12 of whether the individual's criminal record will disqualify the individual from obtaining a license or  
13 other authorization to practice. This petition shall include sufficient details on the individual's  
14 criminal record to enable the licensing authority to identify the jurisdiction where the conviction  
15 occurred and the date of the conviction. The licensing authority shall inform the individual of his  
16 or her standing within 30 days of receiving the petition from the applicant. The licensing authority  
17 may charge a fee to recoup its costs not to exceed \$25 for each petition.

18 (d) Every board shall propose rules or amendments to existing rules for legislative  
19 approval to comply with the provisions of this article. These rules or amendments to rules shall  
20 be proposed pursuant to the provisions of §29A-3-1 et seq. of this code within the applicable time  
21 limit to be considered by the Legislature during its regular session in the year 2019.

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