

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4599

By Delegates Burkhammer, Worrell, and Pushkin

[Originating in the Committee on Health and Human

Resources; Reported on February 12, 2026]

1 A BILL to amend and reenact §16B-15-3, §16B-15-5 and §16B-15-7 of the Code of West Virginia,
2 1931, as amended, relating to modifying the West Virginia Clearance for Access: Registry
3 and Employment Screening Act background check variance process; establishing a
4 review timeline; and establishing deadlines.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 15. WEST VIRGINIA CLEARANCE FOR ACCESS: REGISTRY AND
EMPLOYMENT SCREENING ACT.**

§16B-15-3. Prescreening and criminal background checks.

1 (a) Except as otherwise permitted in this article, the department, covered provider, or
2 covered contractor may not employ or engage an applicant prior to completing the background
3 check process.

4 (b) If the applicant has a negative finding on any required prescreening registry or
5 database, the employer shall notify the individual of such finding.

6 (c) If the applicant has a negative finding on any required prescreening registry or
7 database, that individual may not immediately be engaged by the department, covered provider, or
8 covered contractor.

9 (d) If the applicant does not have a negative finding in the prescreening process, the
10 applicant shall submit to fingerprinting for a state and federal criminal history record information
11 check.

12 (e) The State Police shall notify the Inspector General of the results of the criminal history
13 record information check.

14 (f) If the director's review of the criminal history record information reveals that the
15 applicant does not have a disqualifying offense, the director shall provide written notice to the
16 department's bureau, covered provider, or covered contractor that the individual may be engaged.

17 (g) An applicant shall submit to a subsequent required prescreening and background
18 check 90 days prior but no later than 60 days to the expiration date of the clearance. The director
19 shall review and provide approval prior to any lapse in clearance or approval.

§16B-15-5. Variance; appeals.

1 (a) If the director issues a notice of ineligibility, the applicant, or the employer on the
2 applicant's behalf, may file a written request for a variance with the director not later than 30 days
3 after the date of the notice required by §16B-15-3 or §16B-15-4 of this code.

4 (b) The director may grant a variance if:

5 (1) Mitigating circumstances surrounding the negative finding or disqualifying offense is
6 provided; and

7 (2) The director finds that the individual will not pose a danger or threat to residents,
8 members and their property.

9 (c) The director shall establish in legislative rule factors that qualify as mitigating
10 circumstances.

11 ~~(d) The director shall mail to the applicant and the department's bureau, covered provider,~~
12 ~~or covered contractor a written decision within 60 days of receipt of the request indicating whether~~
13 ~~a variance has been granted or denied. The director shall send notice to the applicant and the~~
14 ~~department's bureau, covered provider, or covered contractor of the written decision indicating~~
15 ~~whether a variance has been granted or denied within 30 days of receipt of the written request, if~~
16 ~~the written request is submitted after receipt of an ineligibility determination, or within 60 days of~~
17 ~~receipt of the written request if the written request is submitted at the same time as the~~
18 ~~application.~~

19 (e) If an applicant believes that their criminal history record information within this state is
20 incorrect or incomplete, they may challenge the accuracy of such information by writing to the
21 State Police for a personal review. However, if the discrepancies are at the charge or final

22 disposition level, the applicant must address this with the court or arresting agency that submitted
23 the record to the State Police.

24 (f) If an applicant believes that their criminal history record information outside this state is
25 incorrect or incomplete, they may appeal the accuracy of such information by contacting the
26 Federal Bureau of Investigation for instructions.

27 (g) If any changes, corrections, or updates are made in the criminal history record
28 information, the State Police shall notify the Inspector General that the applicant has appealed the
29 accuracy of the criminal history records and provide the Inspector General with the updated results
30 of the criminal history record information check, which the Inspector General shall review de novo
31 in accordance with the provisions of this article.

§16B-15-7. Clearance for subsequent employment.

1 (a) An applicant is not required to submit to fingerprinting and a criminal background check
2 if:

3 (1) The individual previously submitted to fingerprinting and a full criminal background
4 check as required by this article;

5 (2) The prior criminal background check confirmed that the individual did not have a
6 disqualifying offense or the individual received prior ~~approval~~ clearance by an approved variance
7 from the director to work for or with the same type of covered provider or covered contractor; and

8 (3) The Rap Back Program has not identified any criminal activity that constitutes a
9 disqualifying offense.

10 (b) The director shall provide notice of prior clearance or approved variance for direct
11 access status upon request by a subsequent bureau, covered provider, or covered contractor
12 inquiries within 10 days of the request.