

# **WEST VIRGINIA LEGISLATURE**

**2026 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4599**

BY DELEGATES BURKHAMMER, WORRELL, AND PUSHKIN

[Passed March 9, 2026; in effect 90 days from

passage (June 7, 2026)]



1 AN ACT to amend and reenact §16B-15-3, §16B-15-5 and §16B-15-7 of the Code of West  
2 Virginia, 1931, as amended, relating to modifying the West Virginia Clearance for Access:  
3 Registry and Employment Screening Act background check variance process;  
4 establishing a 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,  
8 or 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 send notice to the applicant and the department's bureau, covered  
12 provider, or covered contractor of the written decision indicating whether a variance has been  
13 granted or denied within 30 days of receipt of the written request, if the written request is submitted  
14 after receipt of an ineligibility determination, or within 60 days of receipt of the written request if  
15 the written request is submitted at the same time as the application.

16 (e) If an applicant believes that their criminal history record information within this state is  
17 incorrect or incomplete, they may challenge the accuracy of such information by writing to the  
18 State Police for a personal review. However, if the discrepancies are at the charge or final  
19 disposition level, the applicant must address this with the court or arresting agency that submitted  
20 the record to the State Police.

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

24 (g) If any changes, corrections, or updates are made in the criminal history record  
25 information, the State Police shall notify the Inspector General that the applicant has appealed  
26 the accuracy of the criminal history records and provide the Inspector General with the updated  
27 results of the criminal history record information check, which the Inspector General shall review  
28 de novo 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 clearance by an approved variance from the  
7 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.



The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect 90 days from passage.

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*Speaker of the House of Delegates*

.....  
*President of the Senate*

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The within is ..... this the.....  
Day of ....., 2026.

.....  
*Governor*