

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

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

check 90 days prior but no later than 60 days to the expiration date of the clearance. The director shall review and provide approval prior to any lapse in clearance or approval.

§16B-15-5.

Variance;

appeals.

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

(b) The director may grant a variance if:

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to modify the West Virginia Clearance for Access: Registry and Employment Screening Act ("WV Cares") background check variance process.

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