

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4819**

By Delegates Crouse and Hornby

[Introduced January 26, 2026; referred to the  
Committee on Government Organization]

1 A BILL to amend and reenact §21-1-6, §21-5-5c, §21-14-6, and §21-16-7; and to amend and  
2 reenact §29-3B-4, §29-3C-4, and §29-3D-6 of the Code of West Virginia, 1931, as  
3 amended, relating generally to the use of criminal records as disqualification from initial  
4 licensure or other authorization to practice certain professions or occupations

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

## CHAPTER 21. LABOR

### ARTICLE 1. DIVISION OF LABOR.

#### **§21-1-6. Use of criminal records as disqualification from authorization to engage in licensed profession or occupation.**

1 (a) The commissioner may not disqualify an applicant from initial licensure, as required in  
2 this chapter, except under §21-5-5c of this code, because of a prior criminal conviction that  
3 remains unreversed unless that conviction is for a crime that ~~bears a rational nexus~~ directly and  
4 specifically relates to the duties and responsibilities of the activity requiring licensure such that  
5 granting the applicant licensure would pose a direct and substantial risk to the public because the  
6 applicant has not been rehabilitated. ~~In determining whether a criminal conviction bears a rational~~  
7 ~~nexus a profession or occupation~~ making its determination, the commissioner shall consider, at a  
8 minimum:

9 (1) The nature and seriousness of the crime for which the individual was convicted;

10 (2) The passage of time since the commission of the crime;

11 (3) The relationship of the crime to the ability, capacity, and fitness required to perform the  
12 duties and discharge the responsibilities of the profession or occupation; and

13 (4) Any evidence of rehabilitation or treatment undertaken by the individual, including the  
14 following, if applicable:

15 (A) The age of the individual when he or she committed the offense;

16 (B) The completion of the criminal sentence;

17           (C) A certificate of rehabilitation or good conduct;

18           (D) Completion of, or active participation in, rehabilitative mental health, drug, or alcohol  
19 treatment;

20           (E) Testimonials and recommendations, which may include a progress report from the  
21 individual's probation or parole officer;

22           (F) Education and training;

23           (G) Employment history relevant to the license being sought;

24           (H) Whether the individual will be bonded in the occupation; and

25           (I) Other evidence of rehabilitation the individual submits to the commissioner.

26           (b) Notwithstanding any other provision of this code to the contrary, ~~if an applicant is~~  
27 ~~disqualified from licensure because of a prior criminal conviction, the commissioner shall permit~~  
28 ~~the applicant to apply for initial licensure if~~ the commissioner may not disqualify an applicant from  
29 initial licensure because of a prior criminal conviction if:

30           (1) A period of five years has elapsed from the date of conviction or the date of release from  
31 incarceration, whichever is later;

32           (2) The individual has not been convicted of any other crime during the period of time  
33 following the disqualifying offense; and

34           (3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a  
35 conviction for an offense of a violent or sexual nature may subject an individual to a longer period  
36 of disqualification from licensure, to be determined by the commissioner.

37           (c) An individual with a criminal record who has not previously ~~applied for licensure~~ held a  
38 license under this section may petition the commissioner at any time for a determination of  
39 whether the individual's criminal record will disqualify the individual from obtaining a license. This  
40 petition shall include sufficient details about the individual's criminal record to enable the  
41 commissioner to identify the jurisdiction where the conviction occurred, the date of the conviction,  
42 and the specific nature of the conviction. The commissioner shall provide the determination within

60 days of receiving the petition from the applicant. The commissioner may charge a fee to recoup its costs for each petition.

(d) Notwithstanding any other provision of this chapter to the contrary, an individual may not be required to disclose, nor may the commissioner consider, an arrest not followed by a conviction in an application for initial licensure or a determination under subsection (c) of this section.

(e) The commissioner shall update his or her licensure forms, other relevant public-facing documents, and website to explain the requirements of this section, including, but not limited to, the availability of the process set forth in subsection (c) of this section.

## **ARTICLE 5. WAGE PAYMENT AND COLLECTION.**

### **§21-5-5c. License required for psychophysiological detection of deception examiners; qualifications; promulgation of rules governing administration of psychophysiological detection of deception examinations.**

(a) No person, firm, or corporation shall administer a psychophysiological detection of deception examination, lie detector, or other similar examination utilizing mechanical or electronic measures of physiological reactions to evaluate truthfulness without holding a current valid license to do so as issued by the Commissioner of Labor. No examination shall be administered by a licensed corporation except by an officer or employee thereof who is also licensed.

(b) A person is qualified to receive a license as an examiner if he or she:

(1) Is at least 21 years of age;

(2) Is a citizen of the United States;

(3) Has not been convicted of a felony: *Provided*, That the commissioner shall apply ~~§21-1-6 of this code to determine if the prior criminal~~ may not disqualify an applicant from initial licensure because of a prior felony conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to practicing as an examiner. In determining whether a felony conviction bears a rational nexus to the license being sought, the commissioner shall consider at a

14 minimum:

15 (A) The nature and seriousness of the crime for which the individual was convicted;

16 (B) The passage of time since the commission of the crime;

17 (C) The relationship of the crime to the ability, capacity, and fitness required to perform the  
18 duties and discharge the responsibilities of an examiner; and

19 (D) Any evidence of rehabilitation or treatment undertaken by the individual;

20 (4) Has not been released or discharged with other than honorable conditions from any of  
21 the armed services of the United States or that of any other nation;

22 (5) Has passed an examination conducted by the Commissioner of Labor or under his or  
23 her supervision to determine his or her competency to obtain a license to practice as an examiner;

24 (6) Has satisfactorily completed not less than six months of internship training; and

25 (7) Has met any other qualifications of education or training established by the  
26 Commissioner of Labor in his or her sole discretion which qualifications are to be at least as  
27 stringent as those recommended by the American Polygraph Association: Provided, That in no  
28 case shall a Class I license applicant be required to hold a baccalaureate degree, and in no case  
29 shall a Class II license applicant be required to hold an associate degree.

30 (c) The Commissioner of Labor may designate and administer any test he or she considers  
31 appropriate to those persons applying for a license to administer psychophysiological detection of  
32 deception, lie detector, or similar examination. The test shall be designed to ensure that the  
33 applicant is thoroughly familiar with the code of ethics of the American Polygraph Association and  
34 has been trained in accordance with association rules. The test must also include a rigorous  
35 examination of the applicant's knowledge of and familiarity with all aspects of operating  
36 psychophysiological detection of deception equipment and administering psychophysiological  
37 detection of deception examinations.

38 (d) The license to administer psychophysiological detection of deception, lie detector, or  
39 similar examinations to any person shall be issued for a period of one year. It may be reissued from

year to year. The licenses to be issued are:

(1) "Class I license" which authorizes an individual to administer psychophysiological detection of deception examinations for all purposes which are permissible under the provisions of this article and other applicable laws and rules.

(2) "Class II license" which authorizes an individual who is a full-time employee of a law-enforcement agency to administer psychophysiological detection of deception examinations to its employees or prospective employees only.

(e) The Commissioner of Labor shall charge an annual fee to be established by legislative rule. All fees paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account hereby created in the State Treasury to be known as the Psychophysiological Examiners Fund and expended for the implementation and enforcement of this section. Through June 30, 2019, amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this section may be utilized by the commissioner as needed to meet the division's funding obligations: *Provided*, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations. In addition to any other information required, an application for a license shall include the applicant's Social Security number.

(f) The Commissioner of Labor shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code governing the administration of psychophysiological detection of deception, lie detector, or similar examination to any person: *Provided*, That all applicable rules in effect on the effective date of §21-5-5a, §21-5-5b, §21-5-5c, and §21-5-5d of this code will remain in effect until amended, withdrawn, revoked, repealed, or replaced. The legislative rules shall include:

(1) The type and amount of training or schooling necessary for a person before which he or she may be licensed to administer or interpret a psychophysiological detection of deception, lie detector, or similar examination;

(2) Testing requirements, including the designation of the test to be administered to persons applying for licensure;

(3) Standards of accuracy which shall be met by machines or other devices to be used in psychophysiological detection of deception, lie detector, or similar examination;

(4) The conditions under which a psychophysiological detection of deception, lie detector, or similar examination may be administered;

(5) Fees for licenses, renewals of licenses, and other services provided by the commissioner;

(6) Any other qualifications or requirements, including continuing education, established by the commissioner for the issuance or renewal of licenses; and

(7) Any other purpose to carry out the requirements of §21-5-5a, §21-5-5b, §21-5-5c, and §21-5-5d of this code.

## **ARTICLE 14. SUPERVISION OF PLUMBING WORK.**

### **§21-14-6. Denial, suspension, and revocation of license.**

(a) The Commissioner of Labor may deny a license to any applicant who fails to comply with the rules established by the Commissioner of Labor, or who lacks the necessary qualifications: *Provided*, That the commissioner shall apply §21-1-6 of this code to determine if whether the prior criminal conviction bears a rational nexus directly and specifically relates to the license being sought.

(b) The Commissioner of Labor may, upon complaint or upon his or her own inquiry, and after notice to the licensee, suspend or revoke a licensee's license if:

(1) The license was granted upon an application or documents supporting the application which materially misstated the terms of the applicant's qualifications or experience;

(2) The licensee subscribed or vouched for a material misstatement in his or her application for licensure;

(3) The licensee incompetently or unsafely performs plumbing work; or

(4) The licensee violated any statute of this state, any legislative rule, or any ordinance of any municipality or county of this state which protects the consumer or public against unfair, unsafe, unlawful, or improper business practices.

## **ARTICLE 16. REGULATION OF HEATING, VENTILATING AND COOLING WORK.**

### **§21-16-7. Denial, suspension, and revocation of license.**

(a) The Commissioner of Labor may deny a license to any applicant who fails to comply with the provisions of this article or the rules established by the Commissioner of Labor, or who lacks the necessary qualifications: *Provided*, That the commissioner shall apply §21-1-6 of this code to determine if whether the prior criminal conviction ~~bears a rational nexus~~ directly and specifically relates to the license being sought.

(b) The Commissioner of Labor may, upon complaint or upon his or her own inquiry, and after notice to the licensee, suspend, or revoke a licensee's license if:

(1) The license was granted upon an application or documents supporting the application which materially misstated the terms of the applicant's qualifications or experience;

(2) The licensee subscribed or vouched for a material misstatement in his or her application for licensure;

(3) The licensee incompetently or unsafely performs heating, ventilating, and cooling work;  
or

(4) The licensee violated any statute of this state, any legislative rule, or any ordinance of any municipality or county of this state which protects the consumer or public against unfair, unsafe, unlawful, or improper business practices.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 3B. SUPERVISION OF ELECTRICIANS.**

**§29-3B-4. Licenses; classes of licenses; issuance of licenses by commissioner; qualifications required for license; nontransferability and nonassignability of**

**licenses; expiration of license; renewal; reciprocity.**

1 (a) The following classes of license may be issued by the State Fire Marshal: master  
2 electrician license, journeyman electrician license, and temporary electrician license. Additional  
3 classes of specialty electrician license may be issued by the State Fire Marshal.

4 (b) The State Fire Marshal shall issue the appropriate class of license upon a finding that  
5 the applicant possesses the qualifications for the class of license to be issued. When considering  
6 whether an applicant possesses the qualifications for the class of license, the State Fire Marshal  
7 shall consider whether an applicant's prior criminal convictions ~~bear a rational nexus on~~ directly  
8 and specifically relate to the license being sought.

9 (1) The State Fire Marshal may not disqualify an applicant from initial licensure because of  
10 a prior criminal conviction that remains unreversed unless that conviction is for a crime that ~~bears~~  
11 ~~a rational nexus~~ directly and specifically relates to the duties and responsibilities of the activity  
12 requiring licensure such that granting the applicant licensure would pose a direct and substantial  
13 risk to the public because the applicant has not been rehabilitated. In determining whether a  
14 criminal conviction ~~bears a rational nexus~~ directly and specifically relates to a profession or  
15 occupation, the State Fire Marshal shall consider, at a minimum:

16 (A) The nature and seriousness of the crime for which the individual was convicted;

17 (B) The passage of time since the commission of the crime;

18 (C) The relationship of the crime to the ability, capacity, and fitness required to perform the  
19 duties and discharge the responsibilities of the profession or occupation; and

20 (D) Any evidence of rehabilitation or treatment undertaken by the individual, including the  
21 following, if applicable:

22 (i) The age of the individual when he or she committed the offense;

23 (ii) The completion of the criminal sentence;

24 (iii) A certificate of rehabilitation or good conduct;

(iv) Completion of, or active participation in, rehabilitative mental health, drug, or alcohol treatment;

(v) Testimonials and recommendations, which may include a progress report from the individual's probation or parole officer;

(vi) Education and training;

(vii) Employment history relevant to the license being sought;

(viii) Whether the individual will be bonded in the occupation; and

(ix) Other evidence of rehabilitation the applicant submits to the State Fire Marshal.

(2) Notwithstanding any other provision of this code to the contrary, ~~if an applicant is disqualified from licensure because of a prior criminal conviction, the State Fire Marshal shall permit the applicant to apply for initial licensure if:~~ the State Fire Marshal may not disqualify an applicant from initial licensure because of a prior criminal conviction if:

(A) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(B) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(C) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the State Fire Marshal.

(3) An individual with a criminal record who has not previously ~~applied for licensure~~ held a license under this section may petition the State Fire Marshal at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the State Fire Marshal to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction.

50 (c) The State Fire Marshal shall propose rules for legislative approval regarding  
51 qualifications for testing, issuance of licenses, and renewal in accordance with the provisions of  
52 §29A-3-1 *et seq.* of this code.

53 (d) To the extent that other jurisdictions provide for the licensing of electricians, the State  
54 Fire Marshal shall grant the same or equivalent classification of license without written  
55 examination upon satisfactory proof furnished to the State Fire Marshal that the qualifications of  
56 the applicant demonstrate that the person can perform work safely and competently and is in good  
57 standing with all other jurisdictions where he or she is licensed, and upon payment of the required  
58 fee.

59 (e) In addition to any other information required, the applicant's social security number  
60 shall be recorded on any application for a license submitted pursuant to the provisions of this  
61 section.

62 (f) Notwithstanding any other provision of this chapter to the contrary, an individual may not  
63 be required to disclose, nor may the State Fire Marshal consider, an arrest not followed by a  
64 conviction in an application for initial licensure or a determination under §29-3B-4(b)(3) of this  
65 code.

66 (g) The State Fire Marshal shall update his or her licensure forms, other relevant public-  
67 facing documents, and website to explain the requirements of this section, including, but not  
68 limited to, the availability of the process set forth in §29-3B-4(b)(3) of this code.

## **ARTICLE 3C. CERTIFICATION OF ELECTRICAL INSPECTORS.**

### **§29-3C-4. Certification program; duties of the State Fire Marshal; rulemaking.**

1 (a) The State Fire Marshal shall propose rules for legislative approval in accordance with  
2 the provisions of §29A-3-1 *et seq.* of this code to establish a program for the certification of  
3 electrical inspectors. Proposed rules shall provide: Standards and procedures for certification,

4 including applications, examinations, fees, qualifications, procedures for investigating complaints,  
5 revoking or suspending certifications, and for renewing licenses. The State Fire Marshal is also  
6 ~~authorized to~~ may propose emergency rules to implement the provisions of this article: *Provided*,  
7 That the emergency rules specify an initial certification fee of \$50.

8 (b) The State Fire Marshal shall certify an electrical inspector upon a finding that the  
9 applicant possesses the requisite qualifications.

10 (c) When considering whether an applicant possesses the qualifications for certification as  
11 an electrical inspector, the State Fire Marshal shall consider whether an applicant's prior criminal  
12 convictions ~~bear a rational nexus on~~ directly and specifically relate to the certification being  
13 sought.

14 (1) The State Fire Marshal may not disqualify an applicant from initial certification because  
15 of a prior criminal conviction that remains unreversed unless that conviction is for a crime that  
16 ~~bears a rational nexus~~ directly and specifically relates to the duties and responsibilities of the  
17 activity requiring certification such that granting the applicant licensure would pose a direct and  
18 substantial risk to the public because the applicant has not been rehabilitated. In determining  
19 whether a criminal conviction ~~bears a rational nexus~~ directly and specifically relates to a profession  
20 or occupation, the State Fire Marshal shall consider, at a minimum:

21 (A) The nature and seriousness of the crime for which the individual was convicted;

22 (B) The passage of time since the commission of the crime;

23 (C) The relationship of the crime to the ability, capacity, and fitness required to perform the  
24 duties and discharge the responsibilities of the profession or occupation; and

25 (D) Any evidence of rehabilitation or treatment undertaken by the individual, including the  
26 following, if applicable:

27 (i) The age of the individual when he or she committed the offense;

28 (ii) The completion of the criminal sentence;

(iii) A certificate of rehabilitation or good conduct;

(iv) Completion of, or active participation in, rehabilitative mental health, drug, or alcohol treatment;

(v) Testimonials and recommendations, which may include a progress report from the individual's probation or parole officer;

(vi) Education and training;

(vii) Employment history relevant to the license being sought;

(viii) Whether the individual will be bonded in the occupation; and

(ix) Other evidence of rehabilitation the individual submits to the commissioner.

(2) Notwithstanding any other provision of this code to the contrary, ~~if an applicant is disqualified from certification because of a prior criminal conviction, the State Fire Marshal shall permit the applicant to apply for initial certification if~~ the State Fire Marshal may not disqualify an applicant from initial licensure because of a prior criminal conviction if:

(A) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(B) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(C) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from certification, to be determined by the State Fire Marshal.

(3) An individual with a criminal record who has not previously ~~applied for~~ held a certification under this section may petition the State Fire Marshal at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a certification. This petition shall include sufficient details about the individual's criminal record to enable the State Fire Marshal to identify the jurisdiction where the conviction occurred, the date of

the conviction, and the specific nature of the conviction.

(d) Notwithstanding any other provision of this chapter to the contrary, an individual may not be required to disclose, nor may the State Fire Marshal consider, an arrest not followed by a conviction in an application for initial licensure or a determination under §29-3C-4(c)(3) of this code.

(e) The State Fire Marshal shall update his or her licensure forms, other relevant public-facing documents, and website to explain the requirements of this section, including, but not limited to, the availability of the process set forth in §29-3C-4(c)(3) of this code.

### **ARTICLE 3D. SUPERVISION OF FIRE PROTECTION WORK.**

#### **§29-3D-6. Denial, suspension and revocation of license.**

(a) The State Fire Marshal may deny a license to any applicant who fails to comply with the rules established by the State Fire Marshal, or who lacks the necessary qualifications. When considering whether an applicant possesses the qualifications for a license, the State Fire Marshal shall consider whether an applicant's prior criminal convictions ~~bear a rational nexus on~~ directly and specifically relate to the license being sought.

(1) The State Fire Marshal may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that ~~bears a rational nexus~~ directly and specifically relates to the duties and responsibilities of the activity requiring licensure such that granting the applicant licensure would pose a direct and substantial risk to the public because the applicant has not been rehabilitated. In determining whether a criminal conviction ~~bears a rational nexus~~ directly and specifically relates to a profession or occupation, the State Fire Marshal shall consider, at a minimum:

(A) The nature and seriousness of the crime for which the individual was convicted;

(B) The passage of time since the commission of the crime;

(C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(D) Any evidence of rehabilitation or treatment undertaken by the individual, including the following, if applicable:

(i) The age of the individual when he or she committed the offense;

(ii) The completion of the criminal sentence;

(iii) A certificate of rehabilitation or good conduct;

(iv) Completion of, or active participation in, rehabilitative mental health, drug, or alcohol treatment;

(v) Testimonials and recommendations, which may include a progress report from the individual's probation or parole officer;

(vi) Education and training;

(vii) Employment history relevant to the license being sought;

(viii) Whether the individual will be bonded in the occupation; and

(ix) Other evidence of rehabilitation the individual submits to the State Fire Marshal.

(2) Notwithstanding any other provision of this code to the contrary, ~~if an applicant is disqualified from licensure because of a prior criminal conviction, the State Fire Marshal shall permit the applicant to apply for initial licensure if:~~ the State Fire Marshal may not disqualify an applicant from initial licensure because of a prior criminal conviction if:

(A) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(B) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(C) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period

of disqualification from licensure, to be determined by the State Fire Marshal.

(3) An individual with a criminal record who has not previously ~~applied for licensure~~ held a license under this section may petition the State Fire Marshal at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the State Fire Marshal to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction.

(b) The State Fire Marshal may, upon complaint or upon his or her own inquiry, and after notice to the licensee, suspend or revoke a licensee's license if:

(1) The license was granted upon an application or documents supporting the application which materially misstated the terms of the applicant's qualifications or experience;

(2) The licensee subscribed or vouched for a material misstatement in his or her application for licensure; or

(3) The licensee incompetently or unsafely performs fire protection work or damper work.

(c) Notwithstanding any other provision of this chapter to the contrary, an individual may not be required to disclose, nor may the State Fire Marshal consider, an arrest not followed by a conviction in an application for initial licensure or a determination under §29-3D-6(a)(3) of this code.

(d) The State Fire Marshal shall update its licensure forms, other relevant public-facing documents, and website to explain the requirements of this section, including, but not limited to, the availability of the process set forth in §29-3D-6(a)(3) of this code.

NOTE: The purpose of this bill is to modify the use of criminal records in determinations to allow an individual to practice a profession or occupation, by a board, authority, or other agency authorized to issue licenses, certifications, registrations, or other authorizations to engage in a particular profession or occupation.

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