

# WEST VIRGINIA CODE: §16-49-9

## **§16-49-9. Rules; penalties; confidentiality; immunity.**

(a) The secretary shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement the provisions of this article. The secretary may promulgate emergency rules, if justified, pursuant to section fifteen, article three, chapter twenty-nine-a of this code as may be required.

(b) Failure of a covered provider or covered contractor to ensure proper completion of the background check process for each individual employed as direct access personnel may result in the imposition of monetary civil penalties. In addition, engaging individuals knowing that they are ineligible to work may subject the employer to monetary civil penalties.

(c) The secretary shall treat and maintain any criminal background search information obtained under this article as confidential. The secretary shall limit the use of records solely to the purposes authorized in this article. The criminal history record information in the custody of the secretary is not subject to subpoena, other than one issued in a criminal action or investigation; is confidential by law and privileged; and is not subject to discovery or admissible in evidence in any private civil action.

(d) The secretary, the department and its employees are immune from liability, civil or criminal, that might otherwise be incurred or imposed for good faith conduct in determining eligibility or granting variances permitted by this article.