

# WEST VIRGINIA CODE: §29-3C-4

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

(a) The State Fire Marshal shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.*, of this code to establish a program for the certification of electrical inspectors. Proposed rules shall provide: Standards and procedures for certification, including applications, examinations, fees, qualifications, procedures for investigating complaints, revoking or suspending certifications and for renewing licenses. The State Fire Marshal is also authorized to propose emergency rules to implement the provisions of this article: *Provided*, That the emergency rules specify an initial certification fee of \$50.

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

(c) When considering whether an applicant possess the qualifications for certification as an electrical inspector, the State Fire Marshal shall consider whether an applicant's prior criminal convictions bear a rational nexus on the certification being sought.

(1) The State Fire Marshal may not disqualify an applicant from initial certification because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring certification. In determining whether a criminal conviction bears a rational nexus 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.

(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:

(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 certification 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.