ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 3108

(By Delegates Campbell, Ellington and Perdue)

Passed March 8, 2014

In effect ninety days from passage.
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5C-21, relating to prohibiting employment by a nursing home of a person convicted of certain crimes unless a variance has been granted by the secretary; and authorizing the Secretary of the Department of Health and Human Resources to propose legislative rules.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §16-5C-21, to read as follows:
ARTICLE 5C. NURSING HOMES.

§16-5C-21 Employment restrictions.

I. (a) Notwithstanding a legislative rule or provider manual issued by the department, a person cannot be employed by a nursing home unless granted a variance by the secretary, or his or her designee, if convicted of:

1. (1) Abduction or kidnapping;
2. (2) Any violent felony crime including, but not limited to, rape, sexual assault, homicide, felonious physical assault or felonious battery;
3. (3) Child or adult abuse or neglect;
4. (4) Crimes which involve the exploitation of a child or an incapacitated adult;
5. (5) Felony domestic battery or domestic assault;
6. (6) Felony arson;
7. (7) Felony or misdemeanor crime against a child or incapacitated adult which causes harm;
8. (8) Felony drug-related offenses;
9. (9) Felony driving under the influence of drugs or alcohol;
10. (10) Hate crimes;
11. (11) Murder or manslaughter;
12. (12) Neglect or abuse by a caregiver;
13. (13) Pornography crimes involving children or incapacitated adults including, but not limited to, use of minors or incapacitated adults in filming sexual explicit conduct,
distribution and exhibition of material depicting minors or incapacitated adults in sexually explicit conduct or sending, distributing, exhibiting, possessing, displaying or transporting material by a parent, guardian or custodian, depicting a minor or incapacitated adult engaged in sexually explicit conduct;

(14) Purchase or sale of a child;

(15) Sexual offenses including, but not limited to, incest, sexual abuse or indecent exposure;

(16) Felony or misdemeanor involving financial exploitation of a minor or elderly person;

(17) Felony offense related to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct in connection with the delivery of a health care item or service, or with respect to any act or omission in a health care program operated or financed, in whole or in part, by any federal, state or local government agency; or

(18) Any criminal offense related to the delivery of an item or service under Medicare or a state health care program.

(b) The secretary shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, to allow persons to appeal decisions, demonstrate rehabilitation, request a review of their initial negative determinations and to implement any variance procedure as may be required by state or federal law.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member—Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 28th day of March, 2014.

Governor