WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Senate Bill 633

BY SENATOR TARR

[Passed March 8, 2019; in effect 90 days from passage]
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[Passed March 8, 2019; in effect 90 days from passage]
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-41-4, relating to authorizing the West Virginia Board of Physical Therapy to conduct criminal background checks on applicants seeking their initial license; providing the information may not be shared across state lines; and authorizing the board to obtain fingerprints from applicants for initial licenses.

Be it enacted by the Legislature of West Virginia:

§30-41-4. West Virginia Board of Physical Therapy criminal history record checks.

(a) The West Virginia Board of Physical Therapy is authorized to require state and national criminal history record checks for the purpose of issuing licenses. The West Virginia Board of Physical Therapy shall require an applicant, including physical therapists and physical therapy assistants, as a condition of eligibility for initial license to submit to a state and national criminal history record check as set forth in this section.

(b) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(1) Submitting fingerprints for the purposes set forth in this subsection; and

(2) Authorizing the board, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(c) The results of the state and national criminal history record check may not be released to or by a private entity except:

(1) To the individual who is the subject of the criminal history record check;

(2) With the written authorization of the individual who is the subject of the criminal history record check; or

(3) Pursuant to a court order.

(d) The criminal history record check and related records are not public records for the purposes of chapter 29B of this code.
(e) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for registration.

(f) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(g) The board may not disqualify an applicant for initial licensure because of a prior criminal conviction that has not been reversed unless that conviction is for a crime that bears a rational nexus to the occupation requiring licensure.

(h) The board may not use crimes involving moral turpitude in making licensure determinations.

(i) If an applicant is disqualified for licensure because of a criminal conviction that has not been reversed, the board shall afford the applicant the opportunity to reapply for licensure after the expiration of five years from the date of conviction or date of release from the penalty that was imposed, whichever is later, if the individual has not been convicted of any other crime during that period of time: Provided, That convictions for violent or sexual offenses or offenses shall subject an individual to a longer period of disqualification, to be determined by the board.

(j) An individual with a criminal record who has not previously applied for licensure, certification, or registration may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license or other authorization to practice. This petition shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction and the specific nature of the conviction. The board shall inform the individual of his or her standing within 60 days of receiving the petition from the applicant. The board may charge a fee established by rule to recoup its costs for each petition.

(k) The board shall propose rules or amendments to existing rules for legislative approval to comply with the provisions of this section. These rules or amendments to rules shall be
proposed pursuant to the provisions of §29A-3-1 et seq. of this code within the applicable time limit to be considered by the Legislature during its regular session in the year 2020.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mark R. Maynard
Chairman, Senate Committee

John Ed Specter
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Joe Morris
Clerk of the Senate

Steve Bloom
Clerk of the House of Delegates

Will H. Croslin
President of the Senate

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The within is approved, this the 27th Day of . . .

James P. Justice
Governor

2019.
PRESENTED TO THE GOVERNOR

MAR 19 2019

Time 3:33 pm