

HB 4819

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

House Bill 4819

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2026 MAR 27 P 4: 14

FILED

BY DELEGATES CROUSE, HORNBY, LEAVITT, AND YOUNG

[Passed March 12, 2026; in effect 90 days from
passage (June 10, 2026)]

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1 AN ACT 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 directly and specifically relates to
4 the duties and responsibilities of the activity requiring licensure such that granting the applicant
5 licensure would pose a direct and substantial risk to the public because the applicant has not
6 been rehabilitated. In making its determination, the commissioner shall consider, at a minimum:

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

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

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

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

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

14 (B) The completion of the criminal sentence;

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

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

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

(F) Education and training;

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

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

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

(b) Notwithstanding any other provision of this code to the contrary, the commissioner may not disqualify an applicant from initial licensure because of a prior criminal conviction if:

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

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

(3) 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 commissioner.

(c) An individual with a criminal record who has not previously held a license under this section may petition the commissioner 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 commissioner to identify the jurisdiction where the conviction occurred, the date of the conviction, 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. If a criminal background check is reviewed, the disposition of any arrest or charge must be included.

(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 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 minimum:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75 (7) Any other purpose to carry out the requirements of §21-5-5a, §21-5-5b, §21-5-5c, and
76 §21-5-5d of this code.

ARTICLE 14. SUPERVISION OF PLUMBING WORK.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (4) The licensee violated any statute of this state, any legislative rule, or any ordinance of
15 any municipality or county of this state which protects the consumer or public against unfair,
16 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 directly and specifically relate to
8 the license being sought.

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

(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, 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 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.

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

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

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

60 (f) Notwithstanding any other provision of this chapter to the contrary, an individual may
61 not be required to disclose, nor may the State Fire Marshal consider, an arrest not followed by a
62 conviction in an application for initial licensure or a determination under §29-3B-4(b)(3) of this
63 code. If a criminal background check is reviewed, the disposition of any arrest or charge must be
64 included.

65 (g) The State Fire Marshal shall update his or her licensure forms, other relevant public-
66 facing documents, and website to explain the requirements of this section, including, but not
67 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 may
6 propose emergency rules to implement the provisions of this article: *Provided*, That the
7 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
11 as an electrical inspector, the State Fire Marshal shall consider whether an applicant's prior
12 criminal convictions directly and specifically relate to the certification being sought.

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

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

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

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

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

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

27 (ii) The completion of the criminal sentence;

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

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

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

33 (vi) Education and training;

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

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

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

37 (2) Notwithstanding any other provision of this code to the contrary, the State Fire Marshal
38 may not disqualify an applicant from initial licensure because of a prior criminal conviction if:

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

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

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

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

52 (d) Notwithstanding any other provision of this chapter to the contrary, an individual may
53 not be required to disclose, nor may the State Fire Marshal consider, an arrest not followed by a
54 conviction in an application for initial licensure or a determination under §29-3C-4(c)(3) of this
55 code. If a criminal background check is reviewed, the disposition of any arrest or charge must be
56 included.

57 (e) The State Fire Marshal shall update his or her licensure forms, other relevant public-
58 facing documents, and website to explain the requirements of this section, including, but not
59 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.

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

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

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

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

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

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

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

20 (ii) The completion of the criminal sentence;

21 (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, 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 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:

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

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

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

52 (c) Notwithstanding any other provision of this chapter to the contrary, an individual may
53 not be required to disclose, nor may the State Fire Marshal consider, an arrest not followed by a
54 conviction in an application for initial licensure or a determination under §29-3D-6(a)(3) of this
55 code. If a criminal background check is reviewed, the disposition of any arrest or charge must be
56 included.

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

Enr HB 4819

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.


Clerk of the House of Delegates


Clerk of the Senate

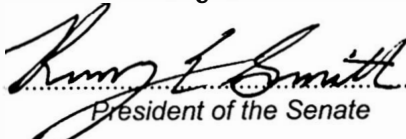
2026 MAR 27 P 4:14
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

Originated in the House of Delegates.

In effect 90 days from passage.


Speaker of the House of Delegates


President of the Senate

The within is approved this the 27th
Day of March, 2026.


Governor

PRESENTED TO THE GOVERNOR

MAR 25 2006

Time 3:30pm