

SENATE BILL 134

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9lr1107
CF HB 228

By: **Senators Nathan–Pulliam, Augustine, Carter, Eckardt, Elfreth, Ellis, Feldman, Griffith, Guzzone, Kelley, and Lee**

Introduced and read first time: January 18, 2019

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **State Board of Nursing – Criminal History Records Checks – ~~Certified Nursing~~**
3 **~~Assistants and Certified Medication Technicians~~ Revised Statement**

4 FOR the purpose of ~~requiring certain applicants for certification as a medication technician~~
5 ~~by the State Board of Nursing to submit to a certain criminal history records check;~~
6 requiring the Criminal Justice Information System Central Repository of the
7 Department of Public Safety and Correctional Services to provide a revised criminal
8 history record to the Board under certain circumstances; ~~requiring the Board to~~
9 ~~require a certain criminal history records check for certain applicants for~~
10 ~~certification and for certain former certified medication technicians who file for~~
11 ~~reinstatement; requiring the Board to require certain certified medication~~
12 ~~technicians to obtain a certain criminal history records check as a condition of a~~
13 ~~certain certificate renewal; providing for the application of this Act; and generally~~
14 relating to criminal history records checks for certified nurses and nursing assistants
15 ~~and certified medication technicians.~~

16 BY repealing and reenacting, with amendments,

17 Article – Health Occupations

18 Section 8–303, ~~8 GA 05(e), 8 GA 07(h), and 8 GA 08(k)(1)~~

19 Annotated Code of Maryland

20 (2014 Replacement Volume and 2018 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Health Occupations

8–303.

(a) In this section, “Central Repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:

(1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(d) [(1) Beginning January 1, 2015, the Board shall establish a rap back program through which the Central Repository reports all new and additional criminal history information to the Board for an applicant who has been fingerprinted in accordance with the requirements of this section.]

(1) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD A REVISED PRINTED STATEMENT OF THE INDIVIDUAL’S STATE CRIMINAL HISTORY RECORD.

(2) The Board shall notify each applicant that:

(i) The applicant’s fingerprints will be retained by the Central Repository; and

(ii) All new and additional criminal information will be reported to the Board.

(3) The Board may enter into an agreement with the Central Repository and the Federal Bureau of Investigation to carry out this subsection.

1 (e) If an applicant has made two or more unsuccessful attempts at securing
 2 legible fingerprints, the Board may accept an alternate method of criminal history records
 3 check as permitted by the Director of the Central Repository and the Director of the Federal
 4 Bureau of Investigation.

5 (f) Information obtained from the Central Repository under this section shall be:

6 (1) Confidential and may not be redisseminated; and

7 (2) Used only for the licensing purpose authorized by this title.

8 (g) The subject of a criminal history records check under this section may contest
 9 the contents of the printed statement issued by the Central Repository as provided in §
 10 10-223 of the Criminal Procedure Article.

11 ~~§ 6A-05.~~

12 ~~(e) (1) An applicant for a certificate shall:~~

13 ~~(i) Submit an application to the Board on the form that the Board~~
 14 ~~requires;~~

15 ~~(ii) Provide evidence, as required by the Board, of successful~~
 16 ~~completion of:~~

17 ~~1. An approved nursing assistant training program;~~

18 ~~2. An approved course in medication administration; or~~

19 ~~3. A portion of an approved nursing education program that~~
 20 ~~the Board determines meets the requirements of a nursing assistant training program or~~
 21 ~~medication administration course;~~

22 ~~(iii) Pay to the Board an application fee set by the Board;~~

23 ~~(iv) Be of good moral character;~~

24 ~~(v) Be at least 16 years old to apply for certification as a nursing~~
 25 ~~assistant; [and]~~

26 ~~(vi) Be at least 18 years old to apply for certification as a medication~~
 27 ~~technician[.]; AND~~

28 ~~[(2)] (VII) [Subject to paragraph (1) of this subsection, an applicant for~~
 29 ~~certification as a certified nursing assistant shall submit] SUBMIT to the Board;~~

~~[(i)] 1. A criminal history records check in accordance with § 8-303 of this title and § 8-6A-08(k) of this subtitle; and~~

~~[(ii)] 2. On the form required by the Board, written, verified evidence that the requirement of item [(i)] 1 of this [paragraph] ITEM is being met or has been met.~~

~~[(3)] (2) An applicant for certification as a certified medicine aide, in addition to the requirements under paragraph (1) of this subsection, shall submit an additional application to that effect to the Board on the form that the Board requires.~~

~~[(4)] (3) An applicant for a certificate may not:~~

~~(i) Have committed any act or omission that would be grounds for discipline or denial of certification under this subtitle; and~~

~~(ii) Have a record of abuse, negligence, misappropriation of a resident's property, or any disciplinary action taken or pending in any other state or territory of the United States against the certification of the nursing assistant or medication technician in the state or territory.~~

~~§ 6A-07.~~

~~(h) (1) **THE BOARD SHALL REQUIRE A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS TITLE FOR EVERY INITIAL APPLICANT FOR CERTIFICATION AS:**~~

~~(I) **A CERTIFIED NURSING ASSISTANT; AND**~~

~~(II) **BEGINNING JANUARY 1, 2020, A CERTIFIED MEDICATION TECHNICIAN.**~~

~~(2) On receipt of the criminal history record information of an applicant for certification [as a certified nursing assistant] forwarded to the Board in accordance with § 8-303 of this title, in determining whether to grant a certificate, the Board shall consider:~~

~~(i) The age at which the crime was committed;~~

~~(ii) The circumstances surrounding the crime;~~

~~(iii) The length of time that has passed since the crime;~~

~~(iv) Subsequent work history;~~

~~(v) Employment and character references; and~~

1 ~~(vi) Other evidence that demonstrates whether the applicant poses a~~
2 ~~threat to the public health or safety.~~

3 ~~[(2)] (3) The Board may not issue a certificate if the criminal history~~
4 ~~record information required under § 8-303 of this title has not been received.~~

5 ~~§ 6A-08.~~

6 ~~(k) (1) (i) The Board shall require criminal history records checks in~~
7 ~~accordance with § 8-303 of this title on:~~

8 ~~1. Selected applicants for certification [as a certified nursing~~
9 ~~assistant] who renew their certificates every 2 years as determined by regulations adopted~~
10 ~~by the Board; and~~

11 ~~2. Each former certified nursing assistant **OR CERTIFIED**~~
12 ~~**MEDICATION TECHNICIAN** who files for reinstatement under subsection (g) of this section~~
13 ~~after failing to renew the certificate for a period of 1 year or more.~~

14 ~~(ii) An additional criminal history records check shall be performed~~
15 ~~every 12 years thereafter.~~

16 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Nursing~~
17 ~~shall require each certified medication technician who is certified before the effective date~~
18 ~~of this Act to obtain a criminal history records check in accordance with § 8-303 of the~~
19 ~~Health Occupations Article as a condition of certificate renewal for the first renewal that~~
20 ~~occurs on or after the effective date of this Act.~~

21 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to~~
22 ~~apply only prospectively and may not be applied or interpreted to require any certified~~
23 ~~medication technician or applicant for certification as a medication technician to obtain a~~
24 ~~criminal history records check before the effective date of this Act.~~

25 ~~SECTION 4. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
26 ~~October 1, 2019.~~