

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3108**

4  
5 (By Delegates Campbell, Ellington and Perdue)  
6 (Originating in the Committee on the Judiciary)

7  
8 [February 17, 2014]  
9

10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §16-5C-21, relating  
12 to criminal background checks on applicants for employment by  
13 nursing homes.

14 *Be it enacted by the Legislature of West Virginia:*

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

18 **ARTICLE 5C. NURSING HOMES.**

19 **§16-5C-21. Criminal background check.**

20 (a) Notwithstanding a legislative rule or provider manual  
21 issued by the department, a nursing home shall conduct a criminal  
22 background check on all applicants before permanently employing  
23 such applicants.

24 (b) If an applicant has been convicted of a felony in any

1 jurisdiction within ten years prior to the date of application, and  
2 such conviction remains unreversed, he or she may not be employed  
3 by a nursing home.

4 (c) If an applicant has been convicted of a misdemeanor or  
5 felony offense involving abuse, neglect, assault or battery of a  
6 child or adult or an elderly or incapacitated person, or a  
7 misdemeanor or felony offense involving fraud, duress, coercion,  
8 embezzlement, conversion or any financial crime committed against  
9 an elderly or incapacitated person, he or she may not be employed  
10 by a nursing home.

11 (d) If an applicant is authorized to practice a profession  
12 under chapter thirty of this code, he or she shall only be required  
13 to meet the criminal background check standard established to  
14 obtain licensure in that particular profession in order to work in  
15 a nursing home in that particular profession. If a criminal  
16 background check standard is not established for that profession  
17 under chapter thirty of this code, the department shall implement  
18 a criminal background check standard by proposing a rule for  
19 legislative approval in accordance with the provisions of article  
20 three, chapter twenty-nine-a of this code.