

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2631

BY DELEGATES HOWELL, MARTIN, HILL, ARVON,
SHOTT, HANSHAW, LEWIS, CRISS, HAMRICK, PAYNTER
AND HOLLEN

[Introduced February 21, 2017; Referred
to the Committee on Government Organization then
the Judiciary.]

1 A BILL to amend and reenact §30-1-5 of the Code of West Virginia, 1931, as amended, relating
2 to time standards for disposition of complaint proceedings and tolling the time periods for
3 delays attributable to the accused.

Be it enacted by the Legislature of West Virginia:

1 That §30-1-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF
EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

§30-1-5. Meetings; quorum; investigatory powers; duties.

1 (a) Every board referred to in this chapter shall hold at least one meeting each year, at
2 such time and place as it may prescribe by rule, for the examination of applicants who desire to
3 practice their respective professions or occupations in this state and to transact any other
4 business which may legally come before it. The board may hold additional meetings as may be
5 necessary, which shall be called by the secretary at the direction of the president or upon the
6 written request of any three members. A majority of the members of the board constitutes a
7 quorum for the transaction of its business.

8 (b) The board may compel the attendance of witnesses, to issue subpoenas, to conduct
9 investigations and hire an investigator and to take testimony and other evidence concerning any
10 matter within its jurisdiction. The president and secretary of the board may administer oaths for
11 these purposes.

12 (c) Every board referred to in this chapter shall investigate and resolve complaints which
13 it receives and shall, within six months of the complaint being filed, send a status report to the
14 party filing the complaint by certified mail with a signed return receipt and within one year of the
15 status report's return receipt date issue a final ruling, unless the party filing the complaint and the
16 board agree in writing to extend the time for the final ruling. The time period for final ruling shall

17 be tolled for any delay requested or caused by the accused or by counsel for the accused and in
18 no event shall a complaint proceeding be dismissed for exceeding the time standards in this
19 section when such overage is the result of procedural delay or obstructive action by the accused
20 or his or her counsel or agents.

21 (d) Every board shall provide public access to the record of the disposition of the
22 complaints which it receives in accordance with the provisions of chapter twenty-nine-b of this
23 code, and shall provide public access on a website to all completed disciplinary actions in which
24 discipline was ordered. If a board is unable to provide access, the Attorney General shall provide
25 a link to this information on the consumer protection division website, together with a link to the
26 website of all other boards subject to this chapter. Every board shall report violations of individual
27 practice acts contained in this chapter to the board by which the individual may be licensed and
28 shall do so in a timely manner upon receiving notice of the violations. Every person licensed or
29 registered by a board shall report to the board which licenses or registers him or her a known or
30 observed violation of the practice act or the board's rules by any other person licensed or
31 registered by the same board and shall do so in a timely manner. Law-enforcement agencies or
32 their personnel and courts shall report in a timely manner to the appropriate board any violations
33 of individual practice acts by any individual.

34 (e) Whenever a board referred to in this chapter obtains information that a person subject
35 to its authority has engaged in, is engaging in or is about to engage in any act which constitutes
36 or will constitute a violation of the provisions of this chapter which are administered and enforced
37 by that board, it may apply to the circuit court for an order enjoining the act. Upon a showing that
38 the person has engaged, is engaging or is about to engage in any such act, the court shall order
39 an injunction, restraining order or other order as the court may deem appropriate.

NOTE: The purpose of this bill is to prevent dismissal of complaints that exceed time standards for disposition when the accused causes delay that results in the time overage.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.