

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2347**

BY DELEGATES FOSTER AND D. JEFFRIES

[Introduced February 12, 2021; Referred to the  
Committee on Government Organization]

1 A BILL to amend and reenact §29-3B-4 of the Code of West Virginia, 1931, as amended; to amend  
2 and reenact §29-3C-4 of said code; and to amend and reenact §29-3D-6 of said code; all  
3 relating to licensure qualifications and technical corrections.

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

### **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,” “apprentice electrician license” and  
3 “temporary electrician license.” Additional classes of specialty electrician license may be issued  
4 by the State Fire Marshal.

5 (b) The State Fire Marshal shall issue the appropriate class of license upon a finding that  
6 the applicant possesses the qualifications for the class of license to be issued. When considering  
7 whether an applicant possess the qualifications for the class of license, the State Fire Marshal  
8 shall consider whether an applicant’s prior criminal convictions bear a rational nexus on the  
9 license being sought.

10 (1) The State Fire Marshal may not disqualify an applicant from initial licensure because  
11 of a prior criminal conviction that remains unreversed unless that conviction is for a crime that  
12 bears a rational nexus to the activity requiring licensure. In determining whether a criminal  
13 conviction bears a rational nexus to a profession or occupation, the State Fire Marshal shall  
14 consider at a minimum:

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

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

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

19 (D) Any evidence of rehabilitation or treatment undertaken by the individual.

20 (2) Notwithstanding any other provision of this code to the contrary, if an applicant is  
21 disqualified from licensure because of a prior criminal conviction, the State Fire Marshal shall  
22 permit the applicant to apply for initial licensure if:

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

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

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

30 (3) An individual with a criminal record who has not previously applied for licensure may  
31 petition the State Fire Marshal at any time for a determination of whether the individual's criminal  
32 record will disqualify the individual from obtaining a license. This petition shall include sufficient  
33 details about the individual's criminal record to enable the State Fire Marshal to identify the  
34 jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of  
35 the conviction.

36 (c) The State Fire Marshal shall propose rules for legislative approval regarding  
37 qualifications for testing, issuance of licenses, and renewal in accordance with the provisions of  
38 §29A-3-1 *et seq.* of this code.

39 (d) To the extent that other jurisdictions provide for the licensing of electricians, the State  
40 Fire Marshal may grant the same or equivalent classification of license without written  
41 examination upon satisfactory proof furnished to the state Fire Marshal that the qualifications of  
42 the applicant are equal to the qualifications required by this article and upon payment of the  
43 required fee: *Provided*, That as a condition to reciprocity, the other jurisdictions must extend to  
44 licensed electricians of this state, the same or equivalent classification.

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

### **ARTICLE 3C. CERTIFICATION OF ELECTRICAL INSPECTORS.**

#### **§29-3C-4. Certification program; duties of the State Fire Marshal; rulemaking.**

(a) The State Fire Marshal shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish a program for the certification of electrical inspectors. Proposed rules shall provide: Standards and procedures for certification, including applications, examinations, fees, qualifications, procedures for investigating complaints, revoking or suspending certifications and for renewing licenses. The State Fire Marshal is also authorized to propose emergency rules to implement the provisions of this article: *Provided, That* the emergency rules specify an initial certification fee of \$50.

(b) The State Fire Marshal shall certify an electrical inspector upon a finding that the applicant possesses the requisite qualifications.

(c) When considering whether an applicant ~~possess~~ possesses the qualifications for certification as an electrical inspector, the State Fire Marshal shall consider whether an applicant's prior criminal convictions bear a rational nexus on the certification being sought.

(1) The State Fire Marshal may not disqualify an applicant from initial certification because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring certification. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the State Fire Marshal shall consider at a minimum:

- (A) The nature and seriousness of the crime for which the individual was convicted;
- (B) The passage of time since the commission of the crime;
- (C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

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

(2) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from certification because of a prior criminal conviction, the State Fire Marshal shall permit the applicant to apply for initial certification 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 certification, to be determined by the State Fire Marshal.

(3) An individual with a criminal record who has not previously applied for certification 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 certification. 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.

**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 ~~possess~~ possesses the qualifications for a license, the State  
4 Fire Marshal shall consider whether an applicant's prior criminal convictions bear a rational nexus  
5 on 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 bears a rational nexus to the activity requiring licensure. In determining whether a criminal  
9 conviction bears a rational nexus to a profession or occupation, the State Fire Marshal shall  
10 consider at a minimum:

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

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

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

15 (D) Any evidence of rehabilitation or treatment undertaken by the individual.

16 (2) Notwithstanding any other provision of this code to the contrary, if an applicant is  
17 disqualified from licensure because of a prior criminal conviction, the State Fire Marshal shall  
18 permit the applicant to apply for initial licensure if:

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

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

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

26 (3) An individual with a criminal record who has not previously applied for licensure may  
27 petition the State Fire Marshal at any time for a determination of whether the individual's criminal  
28 record will disqualify the individual from obtaining a license. This petition shall include sufficient  
29 details about the individual's criminal record to enable the State Fire Marshal to identify the  
30 jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of  
31 the conviction.

32 (b) The State Fire Marshal may, upon complaint or upon his or her own inquiry, and after  
33 notice to the licensee, suspend or revoke a licensee's license if:

- 34           (1) The license was granted upon an application or documents supporting the application  
35 which materially misstated the terms of the applicant's qualifications or experience;
- 36           (2) The licensee subscribed or vouched for a material misstatement in his or her  
37 application for licensure; or
- 38           (3) The licensee incompetently or unsafely performs plumbing, fire protection work or  
39 damper work.

NOTE: The purpose of this bill is to make technical corrections to certain licensure qualifications.

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