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By: **Delegates Mandel, Eckardt, Elliott, Goldwater, Hubbard, Morhaim, and Nathan-Pulliam**

Introduced and read first time: February 10, 2006

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations - State Board of Nursing - Criminal History Records**  
3 **Checks**

4 FOR the purpose of requiring certain applicants for licensure or certification by the  
5 State Board of Nursing to submit to a certain criminal history records check;  
6 requiring certain applicants to submit certain fingerprints and certain fees to  
7 the Criminal Justice Information System Central Repository of the Department  
8 of Public Safety and Correctional Services under certain circumstances;  
9 requiring the Central Repository to forward certain information to the Board  
10 and to certain applicants; providing that certain information is confidential and  
11 may only be used for certain purposes; authorizing certain subjects to contest  
12 certain contents of certain printed statements; requiring certain applicants for  
13 licensure or certification to submit certain evidence to the Board; requiring the  
14 Board to consider certain facts and circumstances in determining whether to  
15 grant or renew certain licenses or certificates; prohibiting the Board from  
16 issuing certain licenses or certificates if certain criminal history record  
17 information has not been received; requiring the Board to begin a process of  
18 requiring certain criminal history records checks as a condition of certain  
19 licensure renewal and certain certificate renewal as determined by certain  
20 regulations; requiring the Board to revoke certain temporary licenses or  
21 certificates if certain criminal history record information reveals certain  
22 violations; authorizing the Board to deny certain licenses or certificates, grant  
23 certain probationary licenses, or reprimand, suspend, revoke, or place on  
24 probation certain licensees or certificate holders for the failure to submit to  
25 certain criminal history records checks; defining a certain term; and generally  
26 relating to the requirement for a criminal history records check by the State  
27 Board of Nursing.

28 BY renumbering

29 Article - Health Occupations  
30 Section 8-316(a)(32) and (33), 8-6A-10(a)(32) and (33), and 8-6B-18(a)(26) and  
31 (27), respectively  
32 to be Section 8-316(a)(33) and (34), 8-6A-10(a)(33) and (34), and  
33 8-6B-18(a)(27) and (28), respectively

1 Annotated Code of Maryland  
2 (2005 Replacement Volume)

3 BY repealing and reenacting, with amendments,  
4 Article - Health Occupations  
5 Section 8-302(a), 8-304, 8-308(a), 8-312(e)(1), 8-315(a), 8-6A-05(c)(1),  
6 8-6A-07(a), 8-6A-08(f), 8-6B-08(a), 8-6B-09(a), 8-6B-12(a), and  
7 8-6B-14(f)  
8 Annotated Code of Maryland  
9 (2005 Replacement Volume)

10 BY adding to  
11 Article - Health Occupations  
12 Section 8-303, 8-308(c), 8-312(f), 8-315(e), 8-316(a)(32), 8-6A-07(g),  
13 8-6A-08(i), 8-6A-10(a)(32), 8-6B-12(c), 8-6B-14(j), and 8-6B-18(a)(26)  
14 Annotated Code of Maryland  
15 (2005 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That Section(s) 8-316(a)(32) and (33), 8-6A-10(a)(32) and (33), and  
18 8-6B-18(a)(26) and (27), respectively, of Article - Health Occupations of the  
19 Annotated Code of Maryland be renumbered to be Section(s) 8-316(a)(33) and (34),  
20 8-6A-10(a)(33) and (34), and 8-6B-18(a)(27) and (28), respectively.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
22 read as follows:

23 **Article - Health Occupations**

24 8-302.

25 (a) Except as otherwise provided in this title, to qualify for a license or  
26 certification, an applicant shall be an individual who SUBMITS TO A CRIMINAL  
27 HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS SUBTITLE AND  
28 meets the requirements of this section.

29 8-303.

30 (A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE  
31 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC  
32 SAFETY AND CORRECTIONAL SERVICES.

33 (B) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE  
34 AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, AN APPLICANT SHALL SUBMIT  
35 TO THE CENTRAL REPOSITORY:

1 (1) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS TAKEN ON FORMS  
2 APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF  
3 THE FEDERAL BUREAU OF INVESTIGATION;

4 (2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL  
5 PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

6 (3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF  
7 INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

8 (C) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL  
9 PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE BOARD  
10 AND TO THE APPLICANT THE CRIMINAL HISTORY RECORD INFORMATION OF THE  
11 APPLICANT.

12 (D) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS  
13 SECTION SHALL BE:

14 (1) CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

15 (2) USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS  
16 TITLE.

17 (E) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS  
18 SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY  
19 THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE  
20 ARTICLE.

21 8-304.

22 To apply for a license to practice registered nursing or licensed practical nursing,  
23 an applicant shall:

24 (1) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE  
25 WITH § 8-303 OF THIS SUBTITLE;

26 (2) Submit to the Board:

27 (i) An application on the form that the Board requires; [and]

28 (II) WRITTEN, VERIFIED EVIDENCE THAT THE REQUIREMENT OF  
29 ITEM (1) OF THIS SUBSECTION IS BEING MET; AND

30 [(ii)] (III) Written, verified evidence of completion of the appropriate  
31 education requirements of § 8-302 of this subtitle; and

32 [(2)] (3) Pay to the Board the application fee set by the Board.

1 8-308.

2 (a) [The] SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE Board shall  
3 issue the appropriate license to any applicant who meets the requirements for a  
4 license as:

5 (1) A registered nurse under this title; and

6 (2) A licensed practical nurse under this title.

7 (C) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF  
8 AN APPLICANT FOR LICENSURE OR CERTIFICATION FORWARDED TO THE BOARD IN  
9 ACCORDANCE WITH § 8-303 OF THIS SUBTITLE, IN DETERMINING WHETHER TO  
10 GRANT A LICENSE OR A CERTIFICATE, THE BOARD SHALL CONSIDER:

11 (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

12 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

13 (III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;

14 (IV) SUBSEQUENT WORK HISTORY;

15 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

16 (VI) OTHER EVIDENCE THAT DEMONSTRATES THAT THE APPLICANT  
17 DOES NOT POSE A THREAT TO THE PUBLIC HEALTH OR SAFETY.

18 (2) THE BOARD MAY NOT ISSUE A LICENSE OR A CERTIFICATE IF THE  
19 CRIMINAL HISTORY RECORD INFORMATION REQUIRED UNDER § 8-303 OF THIS  
20 SUBTITLE HAS NOT BEEN RECEIVED.

21 8-312.

22 (e) (1) [The] SUBJECT TO SUBSECTION (F) OF THIS SECTION, THE Board  
23 shall renew the license of each licensee who meets the requirements of this section.

24 (F) (1) BEGINNING JANUARY 2008, THE BOARD SHALL BEGIN A PROCESS  
25 REQUIRING CRIMINAL BACKGROUND CHECKS ON SELECTED ANNUAL RENEWAL  
26 APPLICANTS AS DETERMINED BY REGULATIONS ADOPTED BY THE BOARD IN  
27 ACCORDANCE WITH § 8-303 OF THIS SUBTITLE. ADDITIONAL CRIMINAL HISTORY  
28 RECORDS CHECK WILL BE PERFORMED EVERY 10 YEARS THEREAFTER.

29 (2) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF  
30 A LICENSEE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 8-303 OF THIS  
31 SUBTITLE, IN DETERMINING WHETHER TO RENEW A LICENSE, THE BOARD SHALL  
32 CONSIDER:

33 (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

34 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

- 1 (III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;
- 2 (IV) SUBSEQUENT WORK HISTORY;
- 3 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND
- 4 (VI) OTHER EVIDENCE THAT DEMONSTRATES THAT THE LICENSEE
- 5 DOES NOT POSE A THREAT TO THE PUBLIC HEALTH OR SAFETY.

6 (3) THE BOARD MAY NOT RENEW A LICENSE IF THE CRIMINAL HISTORY  
7 RECORD INFORMATION REQUIRED UNDER § 8-303 OF THIS SUBTITLE HAS NOT BEEN  
8 RECEIVED.

9 8-315.

10 (a) The Board may issue a temporary license to any applicant who:

11 (1) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN  
12 ACCORDANCE WITH § 8-303 OF THIS SUBTITLE;

13 (2) Is licensed by any other state; and

14 [(2)] (3) Submits to the Board:

15 (i) An application on the form required by the Board; [and]

16 (II) WRITTEN, VERIFIED EVIDENCE THAT THE REQUIREMENT OF  
17 ITEM (1) OF THIS SUBSECTION IS BEING MET; AND

18 [(ii)] (III) Any other document required by the Board; and

19 (3) Pays the fee required by the Board.

20 (E) THE BOARD SHALL REVOKE A TEMPORARY LICENSE OR TEMPORARY  
21 CERTIFICATE IF THE CRIMINAL HISTORY RECORD INFORMATION FORWARDED TO  
22 THE BOARD IN ACCORDANCE WITH § 8-303 OF THIS SUBTITLE REVEALS THAT THE  
23 APPLICANT, CERTIFICATE HOLDER, OR LICENSEE PLEADED GUILTY OR PLEADED  
24 NOLO CONTENDERE TO A VIOLATION UNDER § 8-316(A) OF THIS SUBTITLE OR TO A  
25 VIOLATION UNDER § 8-6A-10(A) OR § 8-6B-18(A) OF THIS TITLE.

26 8-316.

27 (a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may  
28 deny a license or grant a probationary license to any applicant, reprimand any  
29 licensee, place any licensee on probation, or suspend or revoke the license of a licensee  
30 if the applicant or licensee:

31 (32) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN  
32 ACCORDANCE WITH § 8-303 OF THIS SUBTITLE;

1 8-6A-05.

2 (c) (1) An applicant for a certificate shall:

3 (i) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN  
4 ACCORDANCE WITH § 8-303 OF THIS TITLE;

5 (II) Submit an application to the Board on the form that the Board  
6 requires;

7 (III) SUBMIT WRITTEN, VERIFIED EVIDENCE THAT THE  
8 REQUIREMENT OF ITEM (I) OF THIS PARAGRAPH IS BEING MET;

9 [(ii)] (IV) Provide evidence, as required by the Board, of successful  
10 completion of an approved nursing assistant training program or an approved course  
11 in medication administration;

12 [(iii)] (V) Pay to the Board an application fee set by the Board;

13 [(iv)] (VI) Be of good moral character;

14 [(v)] (VII) Be at least 16 years old to apply for certification as a  
15 nursing assistant; and

16 [(vi)] (VIII) Be at least 18 years old to apply for certification as a  
17 medication technician.

18 8-6A-07.

19 (a) [The] SUBJECT TO SUBSECTION (G) OF THIS SECTION, THE Board shall  
20 issue a certificate to any applicant who meets the requirements of this subtitle.

21 (G) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF  
22 AN APPLICANT FOR A CERTIFICATE FORWARDED TO THE BOARD IN ACCORDANCE  
23 WITH § 8-303 OF THIS TITLE, IN DETERMINING WHETHER TO GRANT A CERTIFICATE,  
24 THE BOARD SHALL CONSIDER:

25 (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

26 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

27 (III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;

28 (IV) SUBSEQUENT WORK HISTORY;

29 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

30 (VI) OTHER EVIDENCE THAT DEMONSTRATES THAT THE APPLICANT  
31 DOES NOT POSE A THREAT TO THE PUBLIC HEALTH OR SAFETY.

1           (2)     THE BOARD MAY NOT ISSUE A CERTIFICATE IF THE CRIMINAL  
2 HISTORY RECORD INFORMATION REQUIRED UNDER § 8-303 OF THIS TITLE HAS NOT  
3 BEEN RECEIVED.

4 8-6A-08.

5       (f)     [The] SUBJECT TO SUBSECTION (I) OF THIS SECTION, THE Board shall  
6 renew the certificate of each nursing assistant or medication technician who meets  
7 the requirements of this section.

8       (I)     (1)     BEGINNING JANUARY 2008, THE BOARD SHALL BEGIN A PROCESS  
9 REQUIRING CRIMINAL BACKGROUND CHECKS ON SELECTED APPLICANTS WHO  
10 RENEW THEIR CERTIFICATES EVERY 2 YEARS AS DETERMINED BY REGULATIONS  
11 ADOPTED BY THE BOARD IN ACCORDANCE WITH § 8-303 OF THIS TITLE. ADDITIONAL  
12 CRIMINAL HISTORY RECORDS CHECK WILL BE PERFORMED EVERY 10 YEARS  
13 THEREAFTER.

14           (2)     ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF  
15 A CERTIFICATE HOLDER FORWARDED TO THE BOARD IN ACCORDANCE WITH § 8-303  
16 OF THIS TITLE, IN DETERMINING WHETHER TO RENEW THE CERTIFICATE, THE  
17 BOARD SHALL CONSIDER:

18                   (I)     THE AGE AT WHICH THE CRIME WAS COMMITTED;

19                   (II)    THE CIRCUMSTANCES SURROUNDING THE CRIME;

20                   (III)   THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;

21                   (IV)   SUBSEQUENT WORK HISTORY;

22                   (V)     EMPLOYMENT AND CHARACTER REFERENCES; AND

23                   (VI)    OTHER EVIDENCE THAT DEMONSTRATES THAT THE  
24 CERTIFICATE HOLDER DOES NOT POSE A THREAT TO THE PUBLIC HEALTH OR  
25 SAFETY.

26           (3)     THE BOARD MAY NOT RENEW A CERTIFICATE IF THE CRIMINAL  
27 HISTORY RECORD INFORMATION REQUIRED UNDER § 8-303 OF THIS TITLE HAS NOT  
28 BEEN RECEIVED.

29 8-6A-10.

30       (a)     Subject to the hearing provisions of § 8-317 of this title, the Board may  
31 deny a certificate or issue a probationary certificate to any applicant, reprimand any  
32 certificate holder, place any certificate holder on probation, or suspend or revoke the  
33 certificate of a certificate holder, if the applicant or certificate holder:

34           (32)    FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN  
35 ACCORDANCE WITH § 8-303 OF THIS TITLE;

1 8-6B-08.

2 (a) To qualify for a license, an applicant shall be an individual who SUBMITS  
3 TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS  
4 TITLE AND meets the requirements of this section.

5 8-6B-09.

6 (a) To apply for a license, an applicant shall:

7 (1) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE  
8 WITH § 8-303 OF THIS TITLE;

9 (2) Submit to the Board:

10 (i) An application on the form that the Board requires; [and]

11 (ii) WRITTEN, VERIFIED EVIDENCE THAT THE REQUIREMENT OF  
12 ITEM (1) OF THIS SUBSECTION IS BEING MET; AND

13 [(ii)] (iii) Evidence of compliance with the requirements of §  
14 8-6B-08 of this subtitle; and

15 [(2)] (3) Pay to the Board a fee set by the Board.

16 8-6B-12.

17 (a) [The] SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE Board shall  
18 issue a license to any applicant who:

19 (1) Meets the requirements of this subtitle; and

20 (2) Pays a license fee set by the Board.

21 (C) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF  
22 AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH §  
23 8-303 OF THIS TITLE, IN DETERMINING WHETHER TO GRANT A LICENSE, THE BOARD  
24 SHALL CONSIDER:

25 (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

26 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

27 (III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;

28 (IV) SUBSEQUENT WORK HISTORY;

29 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

30 (VI) OTHER EVIDENCE THAT DEMONSTRATES THAT THE APPLICANT  
31 DOES NOT POSE A THREAT TO THE PUBLIC HEALTH OR SAFETY.



1 (2) THE BOARD MAY NOT ISSUE A LICENSE IF THE CRIMINAL HISTORY  
2 RECORD INFORMATION REQUIRED UNDER § 8-303 OF THIS TITLE HAS NOT BEEN  
3 RECEIVED.

4 8-6B-14.

5 (f) [The] SUBJECT TO SUBSECTION (J) OF THIS SECTION, THE Board shall  
6 renew the license of each licensee who meets the requirements of this section.

7 (J) (1) BEGINNING JANUARY 2008, THE BOARD SHALL BEGIN A PROCESS  
8 REQUIRING CRIMINAL BACKGROUND CHECKS ON SELECTED ANNUAL RENEWAL  
9 APPLICANTS AS DETERMINED BY REGULATIONS ADOPTED BY THE BOARD IN  
10 ACCORDANCE WITH § 8-303 OF THIS TITLE. ADDITIONAL CRIMINAL HISTORY  
11 RECORDS CHECK WILL BE PERFORMED EVERY 10 YEARS THEREAFTER.

12 (2) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF  
13 A LICENSEE FORWARDED TO THE BOARD IN ACCORDANCE WITH § 8-303 OF THIS  
14 TITLE, IN DETERMINING WHETHER TO RENEW A LICENSE, THE BOARD SHALL  
15 CONSIDER:

16 (I) THE AGE AT WHICH THE CRIME WAS COMMITTED;

17 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

18 (III) THE LENGTH OF TIME THAT HAS PASSED SINCE THE CRIME;

19 (IV) SUBSEQUENT WORK HISTORY;

20 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

21 (VI) OTHER EVIDENCE THAT DEMONSTRATES THAT THE LICENSEE  
22 DOES NOT POSE A THREAT TO THE PUBLIC HEALTH OR SAFETY.

23 (3) THE BOARD MAY NOT RENEW A LICENSE IF THE CRIMINAL HISTORY  
24 RECORD INFORMATION REQUIRED UNDER § 8-303 OF THIS TITLE HAS NOT BEEN  
25 RECEIVED.

26 8-6B-18.

27 (a) Subject to the hearing provisions of § 8-317 of this title and § 8-6B-19 of  
28 this subtitle, the Board may deny a license to an applicant, grant a probationary  
29 license to an applicant, reprimand a licensee, place a licensee on probation, or  
30 suspend or revoke a license if the applicant or licensee:

31 (26) FAILS TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN  
32 ACCORDANCE WITH § 8-303 OF THIS TITLE;

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
34 effect October 1, 2006.