
By: **Senator Conway**

Introduced and read first time: February 3, 2006

Assigned to: Education, Health, and Environmental Affairs

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 certain criminal history records
18 checks as a condition of certain licensure renewal and certain certificate
19 renewal on or before a certain date; requiring the Board to revoke certain
20 temporary licenses or certificates if certain criminal history record information
21 reveals certain violations; authorizing the Board to deny certain licenses or
22 certificates, grant certain probationary licenses, or reprimand, suspend, revoke,
23 or place on probation certain licensees or certificate holders for the failure to
24 submit to certain criminal history records checks; defining a certain term; and
25 generally relating to the requirement for a criminal history records check by the
26 State Board of Nursing.

27 BY renumbering

28 Article - Health Occupations
29 Section 8-316(a)(32) and (33), 8-6A-10(a)(32) and (33), and 8-6B-18(a)(26) and
30 (27), respectively
31 to be Section 8-316(a)(33) and (34), 8-6A-10(a)(33) and (34), and
32 8-6B-18(a)(27) and (28), respectively
33 Annotated Code of Maryland
34 (2005 Replacement Volume)

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

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

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

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

21 **Article - Health Occupations**

22 8-302.

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

27 8-303.

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

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

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

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

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

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

9 (D) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS
10 SECTION SHALL BE:

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

12 (2) USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS
13 TITLE.

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

18 8-304.

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

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

23 (2) Submit to the Board:

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

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

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

29 [(2)] (3) Pay to the Board the application fee set by the Board.

30 8-308.

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

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

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

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

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

7 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

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

9 (IV) SUBSEQUENT WORK HISTORY;

10 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

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

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

16 8-312.

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

19 (F) (1) BEGINNING ON JANUARY 1, 2008, A LICENSEE SHALL SUBMIT TO A
20 CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS
21 SUBTITLE AS A CONDITION OF LICENSE RENEWAL AND SHALL SUBMIT TO AN
22 ADDITIONAL CRIMINAL HISTORY RECORDS CHECK EVERY 10 YEARS THEREAFTER.

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

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

28 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

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

30 (IV) SUBSEQUENT WORK HISTORY;

31 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

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

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

4 8-315.

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

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

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

9 [(2)] (3) Submits to the Board:

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

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

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

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

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

21 8-316.

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

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

28 8-6A-05.

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

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

32 (II) Submit an application to the Board on the form that the Board
33 requires;

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

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

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

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

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

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

12 8-6A-07.

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

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

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

20 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

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

22 (IV) SUBSEQUENT WORK HISTORY;

23 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

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

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

29 8-6A-08.

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

1 (I) (1) BEGINNING ON JANUARY 1, 2008, A CERTIFICATE HOLDER SHALL
2 SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF
3 THIS TITLE AS A CONDITION OF RENEWAL AND SHALL SUBMIT TO AN ADDITIONAL
4 CRIMINAL HISTORY RECORDS CHECK EVERY 10 YEARS THEREAFTER.

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

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

10 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

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

12 (IV) SUBSEQUENT WORK HISTORY;

13 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

14 (VI) OTHER EVIDENCE THAT DEMONSTRATES THAT THE
15 CERTIFICATE HOLDER DOES NOT POSE A THREAT TO THE PUBLIC HEALTH OR
16 SAFETY.

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

20 8-6A-10.

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

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

27 8-6B-08.

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

31 8-6B-09.

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

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

1 (2) Submit to the Board:

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

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

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

7 [(2)] (3) Pay to the Board a fee set by the Board.

8 8-6B-12.

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

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

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

13 (C) (1) ON RECEIPT OF THE CRIMINAL HISTORY RECORD INFORMATION OF
14 AN APPLICANT FOR LICENSURE FORWARDED TO THE BOARD IN ACCORDANCE WITH §
15 8-303 OF THIS TITLE, IN DETERMINING WHETHER TO GRANT A LICENSE, THE BOARD
16 SHALL CONSIDER:

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

18 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

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

20 (IV) SUBSEQUENT WORK HISTORY;

21 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

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

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

27 8-6B-14.

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

30 (J) (1) BEGINNING ON JANUARY 1, 2008, A LICENSEE SHALL SUBMIT TO A
31 CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH § 8-303 OF THIS TITLE

1 AS A CONDITION OF LICENSE RENEWAL AND SHALL SUBMIT TO AN ADDITIONAL
2 CRIMINAL HISTORY RECORDS CHECK EVERY 10 YEARS THEREAFTER.

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

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

8 (II) THE CIRCUMSTANCES SURROUNDING THE CRIME;

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

10 (IV) SUBSEQUENT WORK HISTORY;

11 (V) EMPLOYMENT AND CHARACTER REFERENCES; AND

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

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

17 8-6B-18.

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

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

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