

HOUSE BILL 228

J2

9lr1696
CF SB 134

By: **Delegate Cullison**

Introduced and read first time: January 23, 2019

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing – Criminal History Records Checks – Certified Nursing**
3 **Assistants and Certified Medication Technicians**

4 FOR the purpose of requiring certain applicants for certification as a medication technician
5 by the State Board of Nursing to submit to a certain criminal history records check;
6 requiring the Criminal Justice Information System Central Repository of the
7 Department of Public Safety and Correctional Services to provide a revised criminal
8 history record to the Board under certain circumstances; requiring the Board to
9 require a certain criminal history records check for certain applicants for
10 certification and for certain former certified medication technicians who file for
11 reinstatement; requiring the Board to require certain certified medication
12 technicians to obtain a certain criminal history records check as a condition of a
13 certain certificate renewal; providing for the application of this Act; and generally
14 relating to criminal history records checks for certified nursing assistants and
15 certified medication technicians.

16 BY repealing and reenacting, with amendments,
17 Article – Health Occupations
18 Section 8–303, 8–6A–05(c), 8–6A–07(h), and 8–6A–08(k)(1)
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2018 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Health Occupations**

24 8–303.

25 (a) In this section, “Central Repository” means the Criminal Justice Information
26 System Central Repository of the Department of Public Safety and Correctional Services.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) As part of an application to the Central Repository for a State and national
2 criminal history records check, an applicant shall submit to the Central Repository:

3 (1) Two complete sets of legible fingerprints taken on forms approved by
4 the Director of the Central Repository and the Director of the Federal Bureau of
5 Investigation;

6 (2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure
7 Article for access to State criminal history records; and

8 (3) The processing fee required by the Federal Bureau of Investigation for
9 a national criminal history records check.

10 (c) In accordance with §§ 10–201 through 10–228 of the Criminal Procedure
11 Article, the Central Repository shall forward to the Board and to the applicant the criminal
12 history record information of the applicant.

13 (d) [(1) Beginning January 1, 2015, the Board shall establish a rap back
14 program through which the Central Repository reports all new and additional criminal
15 history information to the Board for an applicant who has been fingerprinted in accordance
16 with the requirements of this section.]

17 **(1) IF CRIMINAL HISTORY RECORD INFORMATION IS REPORTED TO**
18 **THE CENTRAL REPOSITORY AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY**
19 **RECORDS CHECK, THE CENTRAL REPOSITORY SHALL PROVIDE TO THE BOARD A**
20 **REVISED PRINTED STATEMENT OF THE INDIVIDUAL’S STATE CRIMINAL HISTORY**
21 **RECORD.**

22 (2) The Board shall notify each applicant that:

23 (i) The applicant’s fingerprints will be retained by the Central
24 Repository; and

25 (ii) All new and additional criminal information will be reported to
26 the Board.

27 (3) The Board may enter into an agreement with the Central Repository
28 and the Federal Bureau of Investigation to carry out this subsection.

29 (e) If an applicant has made two or more unsuccessful attempts at securing
30 legible fingerprints, the Board may accept an alternate method of criminal history records
31 check as permitted by the Director of the Central Repository and the Director of the Federal
32 Bureau of Investigation.

33 (f) Information obtained from the Central Repository under this section shall be:

1 (1) Confidential and may not be redisseminated; and

2 (2) Used only for the licensing purpose authorized by this title.

3 (g) The subject of a criminal history records check under this section may contest
4 the contents of the printed statement issued by the Central Repository as provided in §
5 10–223 of the Criminal Procedure Article.

6 8–6A–05.

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

8 (i) Submit an application to the Board on the form that the Board
9 requires;

10 (ii) Provide evidence, as required by the Board, of successful
11 completion of:

12 1. An approved nursing assistant training program;

13 2. An approved course in medication administration; or

14 3. A portion of an approved nursing education program that
15 the Board determines meets the requirements of a nursing assistant training program or
16 medication administration course;

17 (iii) Pay to the Board an application fee set by the Board;

18 (iv) Be of good moral character;

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

21 (vi) Be at least 18 years old to apply for certification as a medication
22 technician[.]; AND

23 [(2)] (VII) [Subject to paragraph (1) of this subsection, an applicant for
24 certification as a certified nursing assistant shall submit] **SUBMIT** to the Board:

25 [(i)] 1. A criminal history records check in accordance with §
26 8–303 of this title and § 8–6A–08(k) of this subtitle; and

27 [(ii)] 2. On the form required by the Board, written, verified
28 evidence that the requirement of item [(i)] 1 of this [paragraph] **ITEM** is being met or has
29 been met.

1 ~~[(3)]~~ **(2)** An applicant for certification as a certified medicine aide, in
2 addition to the requirements under paragraph (1) of this subsection, shall submit an
3 additional application to that effect to the Board on the form that the Board requires.

4 ~~[(4)]~~ **(3)** An applicant for a certificate may not:

5 (i) Have committed any act or omission that would be grounds for
6 discipline or denial of certification under this subtitle; and

7 (ii) Have a record of abuse, negligence, misappropriation of a
8 resident's property, or any disciplinary action taken or pending in any other state or
9 territory of the United States against the certification of the nursing assistant or
10 medication technician in the state or territory.

11 8-6A-07.

12 (h) (1) **THE BOARD SHALL REQUIRE A CRIMINAL HISTORY RECORDS**
13 **CHECK IN ACCORDANCE WITH § 8-303 OF THIS TITLE FOR EVERY INITIAL APPLICANT**
14 **FOR CERTIFICATION AS:**

15 **(I) A CERTIFIED NURSING ASSISTANT; AND**

16 **(II) BEGINNING JANUARY 1, 2020, A CERTIFIED MEDICATION**
17 **TECHNICIAN.**

18 **(2)** On receipt of the criminal history record information of an applicant for
19 certification [as a certified nursing assistant] forwarded to the Board in accordance with §
20 8-303 of this title, in determining whether to grant a certificate, the Board shall consider:

21 (i) The age at which the crime was committed;

22 (ii) The circumstances surrounding the crime;

23 (iii) The length of time that has passed since the crime;

24 (iv) Subsequent work history;

25 (v) Employment and character references; and

26 (vi) Other evidence that demonstrates whether the applicant poses a
27 threat to the public health or safety.

28 ~~[(2)]~~ **(3)** The Board may not issue a certificate if the criminal history
29 record information required under § 8-303 of this title has not been received.

1 8-6A-08.

2 (k) (1) (i) The Board shall require criminal history records checks in
3 accordance with § 8-303 of this title on:

4 1. Selected applicants for certification [as a certified nursing
5 assistant] who renew their certificates every 2 years as determined by regulations adopted
6 by the Board; and

7 2. Each former certified nursing assistant **OR CERTIFIED**
8 **MEDICATION TECHNICIAN** who files for reinstatement under subsection (g) of this section
9 after failing to renew the certificate for a period of 1 year or more.

10 (ii) An additional criminal history records check shall be performed
11 every 12 years thereafter.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Nursing
13 shall require each certified medication technician who is certified before the effective date
14 of this Act to obtain a criminal history records check in accordance with § 8-303 of the
15 Health Occupations Article as a condition of certificate renewal for the first renewal that
16 occurs on or after the effective date of this Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
18 apply only prospectively and may not be applied or interpreted to require any certified
19 medication technician or applicant for certification as a medication technician to obtain a
20 criminal history records check before the effective date of this Act.

21 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2019.