

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

House Bill 4955

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2020 MAR 24 A 10:21

FILED

BY DELEGATES HOUSEHOLDER, BARRETT, CRISS,

ESPINOSA, COWLES, BOGGS, GRAVES, ANDERSON,

HARTMAN AND PACK

[Passed March 3, 2020; in effect ninety days from
passage.]

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1 AN ACT to amend and reenact §61-7-4 and §61-7-4a of the Code of West Virginia, 1931, as
2 amended, all relating to reducing the cost of the fees for state licenses to carry concealed
3 deadly weapons and provisional state licenses to carry concealed deadly weapons;
4 eliminating the partial fee deposits in the Courthouse Facilities Improvement Fund for both
5 licenses; reducing the fee deposits for both licenses into the Concealed Weapons License
6 Administration Fund, and exempting honorably discharged veterans of the armed forces
7 of the United States from payment of certain fees for state licenses to carry concealed
8 deadly weapons.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

1 (a) Except as provided in §61-7-4(h) of this code, any person desiring to obtain a state
2 license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the
3 license, and pay to the sheriff, at the time of application, a fee of \$25. Concealed weapons license
4 may only be issued for pistols and revolvers. Each applicant shall file with the sheriff a complete
5 application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly
6 verified, which sets forth only the following licensing requirements:

7 (1) The applicant's full name, date of birth, Social Security number, a description of the
8 applicant's physical features, the applicant's place of birth, the applicant's country of citizenship
9 and, if the applicant is not a United States citizen, any alien or admission number issued by the
10 United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for
11 an exception to the prohibitions of 18 U.S.C. §922(g)(5)(B);

12 (2) That, on the date the application is made, the applicant is a bona fide United States
13 citizen or legal resident thereof and resident of this state and of the county in which the application
14 is made and has a valid driver's license or other state-issued photo identification showing the
15 residence;

(3) That the applicant is twenty-one years of age or older;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this subsection in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. §921(a)(33), or a misdemeanor offense of assault or battery either under §61-2-28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed, the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n), from receiving, possessing, or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n).

(c) Twenty-five dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds

67 deposited in this concealed weapon license administration fund are to be expended by the sheriff
68 to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on
69 hand at the end of each fiscal year may be expended for other law-enforcement purposes or
70 operating needs of the sheriff's office, as the sheriff considers appropriate.

71 (d) All persons applying for a license must complete a training course in handling and firing
72 a handgun, which includes the actual live firing of ammunition by the applicant. The successful
73 completion of any of the following courses fulfills this training requirement: *Provided*, That the
74 completed course includes the actual live firing of ammunition by the applicant:

75 (1) Any official National Rifle Association handgun safety or training course;

76 (2) Any handgun safety or training course or class available to the general public offered
77 by an official law-enforcement organization, community college, junior college, college or private
78 or public institution or organization or handgun training school utilizing instructors certified by the
79 institution;

80 (3) Any handgun training or safety course or class conducted by a handgun instructor
81 certified as such by the state or by the National Rifle Association;

82 (4) Any handgun training or safety course or class conducted by any branch of the United
83 States military, reserve or National Guard or proof of other handgun qualification received while
84 serving in any branch of the United States military, reserve or National Guard.

85 A photocopy of a certificate of completion of any of the courses or classes or an affidavit
86 from the instructor, school, club, organization or group that conducted or taught the course or
87 class attesting to the successful completion of the course or class by the applicant or a copy of
88 any document which shows successful completion of the course or class is evidence of
89 qualification under this section and shall include the instructor's name, signature and NRA or state
90 instructor identification number, if applicable.

91 (e) All concealed weapons license applications must be notarized by a notary public duly
92 licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application
93 constitutes false swearing and is punishable under §61-5-2 of this code.

94 (f) The sheriff shall issue a license unless he or she determines that the application is
95 incomplete, that it contains statements that are materially false or incorrect or that applicant
96 otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue,
97 or deny the license within 45 days after the application is filed if all required background checks
98 authorized by this section are completed.

99 (g) Before any approved license is issued or is effective, the applicant shall pay to the
100 sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West
101 Virginia State Police within 30 days of receipt. A license in effect as of the effective date of the
102 amendments to this section enacted during the 2019 regular session of the Legislature shall,
103 subject to revocation for cause, be valid until the licensee's birthday during the fifth year from the
104 date of issuance or five years from the date of issuance, whichever is later in time. Renewals of
105 such licenses and licenses newly issued after the effective date of the amendments to this section
106 enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause,
107 be valid for a period of five years from the licensees' most recent birthday.

108 (h) Each license shall contain the full name and address of the licensee and a space upon
109 which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign
110 and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a
111 duplicate license card, in size similar to other state identification cards and licenses, suitable for
112 carrying in a wallet, and the license card is considered a license for the purposes of this section.
113 All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties
114 in size, appearance and information and shall feature a photograph of the licensee.

115 (i) The Superintendent of the West Virginia State Police, in cooperation with the West
116 Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses

and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within 30 days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed weapon license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter, notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so

requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Notwithstanding subsection (a) of this section, with respect to application by an honorably discharged veteran of the armed forces of the United States or a former law-enforcement officer honorably retired from agencies governed by §7-14-1 *et seq.* of this code; §8-14-1 *et seq.* of this code; §15-2-1 *et seq.* of this code; and §20-7-1 *et seq.* of this code, an honorably retired officer or an honorably discharged veteran of the armed forces of the United States is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this section are applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals or any other information that would identify an applicant for or holder of a concealed weapon license, is confidential: *Provided*, That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(r) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training

169 not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then
170 such tax credit may be applied to the fees associated with the initial application.

171 (s) Except as restricted or prohibited by the provisions of this article or as otherwise
172 prohibited by law, the issuance of a concealed weapon license issued in accordance with the
173 provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver
174 on the lands or waters of this state.

§61-7-4a. Provisional license to carry deadly weapons; how obtained.

1 (a) Any person who is at least eighteen years of age and less than twenty-one years of
2 age who desires to obtain a state license to carry a concealed deadly weapon shall apply to the
3 sheriff of his or her county for a provisional license, and pay to the sheriff, at the time of application,
4 a fee of \$15. Provisional licenses may only be issued for pistols or revolvers. Each applicant shall
5 file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia
6 State Police, in writing, duly verified, which sets forth only the following licensing requirements:

7 (1) The applicant's full name, date of birth, Social Security number, a description of the
8 applicant's physical features, the applicant's place of birth, the applicant's country of citizenship
9 and, if the applicant is not a United States citizen, any alien or admission number issued by the
10 United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for
11 an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

12 (2) That, on the date the application is made, the applicant is a bona fide resident of this
13 state and of the county in which the application is made and has a valid driver's license or other
14 state-issued photo identification showing the residence;

15 (3) That the applicant is at least eighteen years of age and less than twenty-one years of
16 age;

17 (4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is
18 not an unlawful user thereof as evidenced by either of the following within the three years
19 immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside, or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this section within five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery under either section twenty-eight, article two of this chapter or subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction, or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed, the applicant must provide a court order reflecting that the applicant is no

45 longer under such disability and the applicant's right to possess or receive a firearm has been
46 restored;

47 (10) That the applicant is not prohibited under section seven of this article or federal law,
48 including 18 U. S. C. §922(g) or (n), from receiving, possessing or transporting a firearm;

49 (11) That the applicant has qualified under the minimum requirements set forth in
50 subsection (d) of this section for handling and firing the weapon;

51 (12) That the applicant authorizes the sheriff of the county, or his or her designee, to
52 conduct an investigation relative to the information contained in the application.

53 (b) For provisional license applications, the sheriff shall conduct an investigation including
54 a nationwide criminal background check consisting of inquiries of the National Instant Criminal
55 Background Check System, the West Virginia criminal history record responses and the National
56 Interstate Identification Index, and shall review the information received in order to verify that the
57 information required in subsection (a) of this section is true and correct. A provisional license may
58 not be issued unless the issuing sheriff has verified through the National Instant Criminal
59 Background Check System that the information available does not indicate that receipt of or
60 possession of a firearm by the applicant would be in violation of the provisions of section seven
61 of this article or federal law, including 18 U. S. C. §922(g) or (n).

62 (c) Fifteen dollars of the application fee and any fees for replacement of lost or stolen
63 provisional licenses received by the sheriff shall be deposited by the sheriff into a concealed
64 weapons license administration fund. The fund shall be administered by the sheriff and shall take
65 the form of an interest-bearing account with any interest earned to be compounded to the fund.
66 Any funds deposited in said fund are to be expended by the sheriff to pay the costs associated
67 with issuing concealed weapons provisional licenses. Any surplus in the fund on hand at the end
68 of each fiscal year may be expended for other law-enforcement purposes or operating needs of
69 the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a provisional license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course included the actual live firing of ammunition by the applicant:

- (1) Any official National Rifle Association handgun safety or training course;
- (2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college, or private or public institution, or organization or handgun training school utilizing instructors certified by the institution;
- (3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;
- (4) Any proof of current or former service in the United States armed forces, armed forces reserves or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant, or a copy of any document which shows successful completion of the course or class, is evidence of qualification under this section. Certificates, affidavits or other documents submitted to show completion of a course or class shall include instructor information and proof of instructor certification, including, if applicable, the instructor's NRA instructor certification number.

(e) All provisional license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under section two, article five of this chapter.

(f) The sheriff shall issue a provisional license unless the sheriff determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall

96 issue, reissue or deny the license within forty-five days after the application is filed once all
97 required background checks authorized by this section are completed.

98 (g) Before any approved license is issued or is effective, the applicant shall pay to the
99 sheriff a fee in the amount of \$15 which the sheriff shall forward to the Superintendent of the West
100 Virginia State Police within thirty days of receipt. The provisional license is valid until the licensee
101 turns twenty-one years of age, unless sooner revoked.

102 (h) Each provisional license shall contain the full name and address of the licensee and a
103 space upon which the signature of the licensee shall be signed with pen and ink. The issuing
104 sheriff shall sign and attach his or her seal to all provisional license cards. The sheriff shall provide
105 to each new licensee a duplicate license card, in size similar to other state identification cards
106 and licenses, suitable for carrying in a wallet, and the license card is considered a license for the
107 purposes of this section. Duplicate license cards issued shall be uniform across all fifty-five
108 counties in size, appearance and information and must feature a photograph of the licensee. The
109 provisional license shall be readily distinguishable from a license issued pursuant to section four
110 of this article and shall state: "NOT NICS EXEMPT. This license confers the same rights and
111 privileges to carry a concealed pistol or revolver on the lands or waters of this state as a license
112 issued pursuant to section four, article seven, chapter sixty-one of this code, except that this
113 license does not satisfy the requirements of 18 U. S. C. §922(t)(3). A NICS check must be
114 performed prior to purchase of a firearm from a federally licensed firearm dealer."

115 (i) The Superintendent of the West Virginia State Police, in coordination with the West
116 Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for
117 provisional licenses and license cards showing that the license has been granted and shall
118 perform any other act required to protect the state and to enforce this section.

119 (j) If an application is denied, the specific reasons for the denial shall be stated by the
120 sheriff denying the application. Any person denied a provisional license may file, in the circuit
121 court of the county in which the application was made, a petition seeking review of the denial. The

petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a provisional license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a provisional license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a provisional concealed weapon license moves from the address named in the application to another county within the state, the license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new county has determined that the person is no longer eligible for a provisional concealed weapon license under this article, and the sheriff shall issue a new provisional license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the provisional license is granted, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police, at any time so requested, a certified list of all provisional licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued provisional concealed weapon licenses.

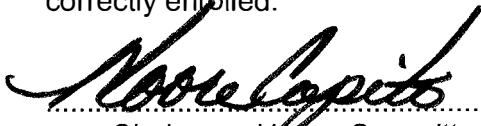
148 (n) The sheriff shall deny any application or revoke any existing provisional license upon
149 determination that any of the licensing application requirements established in this section have
150 been violated by the licensee.

151 (o) A person who is engaged in the receipt, review or in the issuance or revocation of a
152 concealed weapon provisional license does not incur any civil liability as the result of the lawful
153 performance of his or her duties under this article.

154 (p) Information collected under this section, including applications, supporting documents,
155 permits, renewals, or any other information that would identify an applicant for or holder of a
156 concealed weapon provisional license, is confidential: *Provided*, That this information may be
157 disclosed to a law enforcement agency or officer: (i) To determine the validity of a provisional
158 license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-
159 enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and,
160 upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

161 (q) Except as restricted or prohibited by the provisions of this article or as otherwise
162 prohibited by law, the issuance of a provisional concealed weapon license issued in accordance
163 with the provisions of this section authorizes the holder of the license to carry a concealed pistol
164 or revolver on the lands or waters of this state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

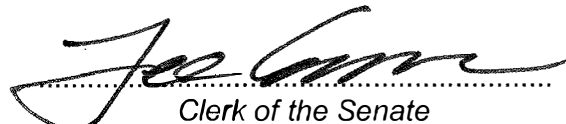

Chairman, House Committee


Chairman, Senate Committee

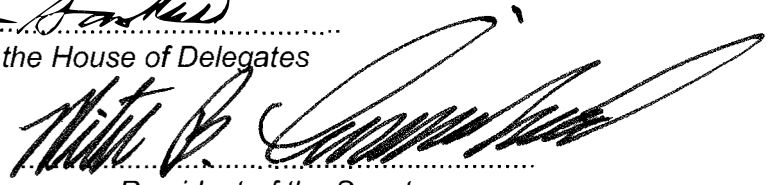
Originating in the House.

In effect ninety days from passage.



Clerk of the House of Delegates


Clerk of the Senate


Speaker of the House of Delegates


President of the Senate

The within is approved this the 24th
March
day of _____, 2020.


Governor

FILED
2020 MAR 24 A 10:22
OFFICE OF THE CLERK
SECRETARY OF STATE

PRESENTED TO THE GOVERNOR

MAR 13 2020

Time 2:00 pm