WEST VIRGINIA CODE CHAPTER 30 ARTICLE 29

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§30-29-1. Definitions.

For the purposes of this article, unless a different meaning clearly appears in the context:

(1) "Approved law-enforcement training academy" means any training facility which is approved and authorized to conduct law-enforcement training as provided in this article;

(2) "Chief executive" means the Superintendent of the State Police; the chief Natural Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia County; any administrative deputy appointed by the chief Natural Resources police officer of the Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement agency;

(3) "County" means the 55 major political subdivisions of the state;

(4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or above;

(5) "Governor's Committee on Crime, Delinquency, and Correction" or "Governor's committee" means the Governor's Committee on Crime, Delinquency, and Correction established as a state planning agency pursuant to §15-9-1 of this code;

(6) "Law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests, and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and includes those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of §18B-4-5 of this code, persons employed as hospital police officers in accordance with the provisions of §16-5B-19 of this code, and persons employed by the Public Service Commission as motor carrier inspectors and weight-enforcement officers charged with enforcing commercial motor vehicle safety and weight restriction laws, although those institutions and agencies may not be considered law-enforcement agencies. The term also includes those persons employed as county litter control officers charged with enforcing litter laws who have been trained and certified as law-enforcement officers and whose certification is currently active. The term also includes those persons employed as rangers by resort area districts in accordance with the provisions of §7-25-23 of this code, although no resort area district may be considered a law-enforcement agency: *Provided*, That the subject rangers shall pay the tuition and costs of training. As used in this article, the term "law-enforcement officer" does not apply to the chief executive of any West Virginia law-enforcement agency, or to any watchman or special natural resources police officer, or to any litter control officer who is authorized and trained under the provisions of §7-1-3ff(d) of this code but is not trained and currently certified as a law-enforcement officer;

(7) "Law-enforcement official" means the duly appointed chief administrator of a designated law-enforcement agency or a duly authorized designee;

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(8) "Municipality" means any incorporated town or city whose boundaries lie within the geographic boundaries of the state;

(9) "Pre-certified law-enforcement officer" means a person employed or offered employment by a West Virginia law-enforcement agency prior to his or her initial certification by the subcommittee. This term does not include a person employed or offered employment by a West Virginia law-enforcement agency whose certification status is inactive, suspended, or has been revoked;

(10) "Subcommittee" or "law-enforcement professional standards subcommittee" means the subcommittee of the Governor's Committee on Crime, Delinquency, and Correction created by §30-29-2 of this code; and

(11) "West Virginia law-enforcement agency" means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service Commission, nor any state institution of higher education, nor any hospital, nor any resort area district is a law-enforcement agency.

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§30-29-2. Law-enforcement professional standards subcommittee.

(a) The Law-Enforcement Professional Standards Subcommittee is continued as a subcommittee of the Governor's Committee on Crime, Delinquency and Correction. The subcommittee has the following responsibilities:

(1) Review and administer programs for qualification, training and certification of law-enforcement officers in the state; and

(2) Consider applications by law-enforcement officers whose certification is deemed inactive as a result of his or her separation from employment with a law-enforcement agency.

(b) The subcommittee shall be comprised of eleven members, including one representative of each of the following:

(1) West Virginia State Police;

(2) Law-enforcement section of the Department of Natural Resources;

(3) West Virginia Sheriffs' Association;

(4) West Virginia Association of Chiefs of Police;

(5) West Virginia Deputy Sheriffs' Association;

(6) West Virginia State Lodge Fraternal Order of Police;

(7) West Virginia Municipal League;

(8) West Virginia Association of County Officials;

(9) Human Rights Commission;

(10) West Virginia Troopers Association; and

(11) The public at large.

(c) The subcommittee shall elect a chairperson and a vice chairperson. Special meetings may be held upon the call of the chairperson, vice chairperson or a majority of the members of the subcommittee. A majority of the members of the subcommittee who are present in person, by proxy or designation, or by electronic means constitutes a quorum. Any member appointed to the subcommittee who is a written designated representative has the full rights of a member, including the right to vote, serve on subcommittees or perform any other function.

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§30-29-3. Duties of the subcommittee.

(a) The subcommittee shall, by or pursuant to rules proposed for legislative approval in accordance with §29A-3-1 *et seq*. of this code:

(1) Provide funding for the establishment and support of law-enforcement training academies in the state;

(2) Establish standards governing the establishment and operation of the law-enforcement training academies, including regional locations throughout the state, in order to provide access to each law-enforcement agency in the state in accordance with available funds;

(3) Establish minimum law-enforcement instructor qualifications;

(4) Certify qualified law-enforcement instructors;

(5) Maintain a list of approved law-enforcement instructors;

(6) Promulgate standards governing the training, firearms qualification, and initial and ongoing professional certification of law-enforcement officers and the entry-level, law-enforcement training curricula. These standards shall require satisfactory completion of a minimum of 800 classroom hours as promulgated by legislative rule and shall provide that the required classroom hours shall be accumulated on the basis of a full-time curricula;

(7) Establish standards governing in-service, law-enforcement officer training curricula and in-service supervisory level training curricula: *Provided*, That the rules shall include a provision for substitute hours of in-service training or supervisory level in-service training credits to the extent and in a manner determined appropriate by the subcommittee for law-enforcement officers or certified law-enforcement instructors who engage in on-site participation in a school safety program authorized by law or by a law-enforcement agency;

(8) Certify organized criminal enterprise investigation techniques with a qualified anti-racial profiling training course or module;

(9) Establish standards governing mandatory training to effectively investigate organized criminal enterprises as defined in §61-13-1 *et seq*. of this code while preventing racial profiling, as defined in §30-29-10 of this code, for entry-level training curricula and for law-enforcement officers who have not received such training as certified by the subcommittee as required in this section;

(10) Establish procedures for implementation of a course in investigation of organized criminal enterprises which includes an anti-racial training module to be available on the Internet or otherwise to all law-enforcement officers. The procedures shall include the frequency with which a law-enforcement officer shall receive training in investigation of organized criminal enterprises and anti-racial profiling and a time frame for which all law-enforcement officers must receive such training: *Provided*, That all law-enforcement officers

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in this state shall receive such training no later than July 1, 2012. In order to implement and carry out the intent of this section, the subcommittee may promulgate emergency rules pursuant to §29A-3-15 of this code;

(11) Certify or decertify or reactivate law-enforcement officers, as provided in §30-29-5 and §30-29-11 of this code;

(12) Establish standards and procedures for the reporting of complaints and certain disciplinary matters concerning law-enforcement officers and for reviewing the certification of law-enforcement officers. These standards and procedures shall provide for preservation of records and access to records by law-enforcement agencies and conditions as to how the information in those records is to be used regarding an officer's law-enforcement employment by another law-enforcement agency:

(A) The subcommittee shall establish and manage a database that is available to all law-enforcement agencies in the state concerning the status of any person's certification;

(B) Personnel or personal information not resulting in a criminal conviction is exempt from disclosure pursuant to the provisions of chapter 29B of this code;

(13) Seek supplemental funding for law-enforcement training academies from sources other than the fees collected pursuant to §30-29-4 of this code;

(14) Any responsibilities and duties as the Legislature may, from time to time, see fit to direct to the subcommittee;

(15) Establish standards and procedures for initial and ongoing training for law-enforcement officers responsible for investigating sexual assault cases involving adult victims. This training shall include instruction on:

(A) The neurobiology of trauma;

(B) Trauma-informed interviewing; and

(C) Investigative techniques;

(16) Submit, on or before September 30 of each year, to the Governor, the Speaker of the House of Delegates, the President of the Senate, and, upon request, to any individual member of the Legislature, a report on its activities during the previous year, and an accounting of funds paid into and disbursed from the special revenue account established pursuant to §30-29-4 of this code;

(17) Develop and promulgate rules for state, county, and municipal law-enforcement officers, law-enforcement agencies, and communications and emergency operations centers that dispatch law-enforcement officers with regard to the identification, investigation, reporting, and prosecution of suspected child abuse and neglect: *Provided*, That such rules and

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procedures must be consistent with the priority criteria prescribed by generally applicable department procedures;

(18) Make recommendations to the Governor's Committee on Crime, Delinquency, and Correction for legislation related to the subcommittee's duties and responsibilities, or for research or studies by the Division of Administrative Services on topics related to the subcommittee’s duties and responsibilities; and

(19) Promulgate standards governing the training, firearms qualification, and initial and ongoing professional certification of a tactical medical professional, as defined in §30-43-1 of this code, on or before January 1, 2024. This training program shall include awarding a certificate upon successful completion of the program that qualifies the tactical medical professional to carry a firearm while on duty.

(b) In addition to the duties authorized and established by this section, the subcommittee may:

(1) Establish training to effectively investigate human trafficking offenses as defined in §61-2-1 *et seq*. of this code for entry-level training curricula and for law-enforcement officers who have not received such training as certified by the committee as required by this section; and

(2) Establish procedures for the implementation of a course in investigation of human trafficking offenses. The course may include methods of identifying and investigating human trafficking and methods for assisting trafficking victims. In order to implement and carry out the intent of this subdivision, the committee may promulgate emergency rules pursuant to §29A-3-15 of this code.

(c) Notwithstanding any provision of this code to the contrary, the subcommittee may deny an application for the establishment of a new law-enforcement training academy if it is determined by the subcommittee that no actual need exists for the establishment of additional law-enforcement training academies to meet the needs of existing law-enforcement agencies in the state.

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§30-29-4. Special revenue account—collections; disbursements; administrative expenses.

(a) A $12 fee shall be added to the usual court costs of all criminal court proceedings involving violation of any criminal law of the state or any county or municipality of the state, excluding violations of municipal parking ordinances, unless the fee is later modified pursuant to a legislative rule.

(b) A $12 fee shall be added to the amount of any cash or property bond posted for violation of any criminal law of the state or any county or municipality of the state, excluding bonds posted solely for violation of municipal parking ordinances, unless the fee is later modified pursuant to a legislative rule. Upon forfeiture of the bond, the $12 fee shall be deposited as provided in §30-29-4(c) of this code.

(c) All fees collected pursuant to §30-29-4(a) and §30-29-4(b) of this code shall be deposited in a separate account by the collecting agency. Within 10 calendar days following the beginning of each calendar month, the collecting agency shall forward the amount deposited to the State Treasurer. The Treasurer shall deposit all fees received into a special revenue account. The subcommittee shall disburse funds in the account for the funding of law-enforcement entry level training programs, professional development programs, the certification of law-enforcement officers, and to pay expenses of the Governor's Committee on Crime, Delinquency, and Correction, or the subcommittee in administering the provisions of this article. The expenses may not in any fiscal year exceed 15 percent of the funds deposited to the special revenue account during that fiscal year.

(d) The fees established by this section may be modified by legislative rule as provided in §30-29-3 of this code.

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§30-29-5. Certification requirements and power to decertify or reinstate.

(a) Except as provided in subsections (b) and (e) of this section, a person may not be employed as a law-enforcement officer by any West Virginia law-enforcement agency or by any state institution of higher education or by a hospital or by the Public Service Commission of West Virginia on or after the effective date of this article unless the person is certified, or is certifiable in the manner specified in subsection (c) of this section, by the subcommittee as having met the minimum entry level law-enforcement qualification and training program requirements promulgated pursuant to this article: *Provided*, That the provisions of this section do not apply to persons hired by the Public Service Commission as commercial vehicle enforcement officers and weight enforcement officers before July 1, 2007.

(b) Except as provided in subsection (e) of this section, a person who is not certified, or certifiable in the manner specified in subsection (c) of this section, may be conditionally employed as a law-enforcement officer until certified: *Provided*, That within 90 calendar days of the commencement of employment or the effective date of this article, if the person is already employed on the effective date, he or she makes a written application to attend an approved law-enforcement training academy and that the person satisfactorily completes the approved law-enforcement training academy within 18 consecutive months of the commencement of his or her employment: *Provided, however*, That the subcommittee may grant an extension, one-time only, not to exceed six months, based upon a written request from the person justifying the need for such an extension: *Provided further*, That the subcommittee, in its sole discretion, may grant an additional extension upon demonstration of a hardship warranting it. The person's employer shall provide notice, in writing, of the 90-day deadline to file a written application to the academy within 30 calendar days of that person's commencement of employment. The employer shall provide full disclosure as to the consequences of failing to file a timely written application. The academy shall notify the applicant in writing of the receipt of the application and of the tentative date of the applicant's enrollment. Any applicant who, as the result of extenuating circumstances acceptable to his or her employing law-enforcement official, is unable to attend the scheduled training program to which he or she was admitted may reapply and shall be admitted to the next regularly scheduled training program. One year after the effective date of this section, certification as a law-enforcement officer within this state of persons who are not certifiable as provided in subsection (c) of this section shall, in addition to graduation from an established academy in the state, be based on: Current employment as a sworn law-enforcement officer by any West Virginia law-enforcement agency or any state institution of higher education or the Public Service Commission; and the person's successful completion of an approved entry level law-enforcement examination established by legislative rule of the subcommittee, which shall include, at a minimum, written testing requirements, medical standards, physical standards, and good moral character standards conducted in accordance with such rule. The production of a record of successful passage of the approved entry level law-enforcement examination shall indicate the applicant as qualified under the law-enforcement training and certification standards within this state. An applicant who

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satisfactorily completes the program and successfully passes the approved entry level law-enforcement examination shall, within 30 days of completion, make written application to the subcommittee requesting certification as having met the minimum entry level law-enforcement qualification and training program requirements. Upon determining that an applicant has met the requirements for certification as set forth in this section, the subcommittee shall forward to the applicant documentation of certification. An applicant who fails to complete the training program to which he or she is first admitted, or was admitted upon reapplication, or who fails to pass the approved entry level law-enforcement examination, may not be certified by the subcommittee: And *provided further*, That an applicant who has completed the minimum training and examination required by the subcommittee may be certified as a law-enforcement officer, notwithstanding the applicant's failure to complete additional training hours required in the training program to which he or she originally applied. If more than 24 months but less than 60 months have passed since the applicant for certification has successfully completed the approved entry level law-enforcement examination, the person may be certified but must complete the additional training set forth in legislative rules promulgated by the subcommittee addressing the recertification requirements of certified officers. If more than 60 months have passed since the applicant for certification has successfully completed the approved entry level law-enforcement examination, the person must then attend a subcommittee-approved training program and successfully complete a separate subcommittee entry level law-enforcement examination.

(c) Any person who begins employment on or after the effective date of this article as a law-enforcement officer is certifiable as having met the minimum entry level law-enforcement training program requirements and is exempt from attending a law-enforcement training academy if the person has satisfactorily completed a course of instruction in law enforcement equivalent to or exceeding the minimum applicable law-enforcement training curricula promulgated by the subcommittee. To receive certification, the person shall make written application within 90 calendar days following the commencement of employment to the subcommittee requesting certification. The application shall include a notarized statement of the applicant's satisfactory completion of the course of instruction in law enforcement, a notarized transcript of the applicant's relevant scholastic records, and a notarized copy of the curriculum of the completed course of instruction. The subcommittee shall review the application and, if it finds the applicant has met the requirements for certification, shall forward to the applicant documentation of certification. The subcommittee may set the standards for required records to be provided by or on behalf of the applicant officer to verify his or her training, status, or certification as a law-enforcement officer. The subcommittee may allow an applicant officer to participate in the approved equivalent certification program to gain certification as a law-enforcement officer in this state.

(d) Except as provided in subdivisions (1) through (3), inclusive, of this subsection, any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be certified shall be automatically terminated and no further emoluments

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shall be paid to such officer by his or her employer. Any person terminated shall be entitled to reapply, as a private citizen, to the subcommittee for training and certification, and upon being certified may again be employed as a law-enforcement officer in this state: *Provided*, That if a person is terminated under this subsection because an application was not timely filed to the academy, and the person's employer failed to provide notice or disclosure to that person as set forth in subsection (b) of this section, the employer shall pay the full cost of attending the academy if the person's application to the subcommittee as a private citizen is subsequently approved.

(1) Any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be certified as a result of hardship and/or circumstance beyond his or her control may apply to the director of a training academy for reentry to the next available academy.

(2) Any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be certified as a result of voluntary separation from an academy program shall be automatically terminated and no further emoluments may be paid to such officer by his or her employer. Any person terminated as a result of voluntary separation from an academy program may not be conditionally employed as a law-enforcement officer for a period of two years from the date of voluntary separation.

(3) Any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be certified as a result of dismissal from an academy program shall be automatically terminated and no further emoluments may be paid to such officer by his or her employer. Any person terminated as a result of dismissal from an academy program may not be conditionally employed as a law-enforcement officer for a period of five years from the date of dismissal and receiving approval from the subcommittee.

(e) Nothing in this article may be construed as prohibiting any governing body, Civil Service Commission, or chief executive of any West Virginia law-enforcement agency from requiring their law-enforcement officers to meet qualifications and satisfactorily complete a course of law-enforcement instruction which exceeds the minimum entry level law-enforcement qualification and training curricula promulgated by the subcommittee.

(f) The subcommittee, or its designee, may decertify or reactivate a law-enforcement officer pursuant to the procedure contained in this article and legislative rules promulgated by the subcommittee.

(g) Any person aggrieved by a decision of the subcommittee made pursuant to this article may contest the decision in accordance with the provisions of §29A-5-1 *et seq*. of this code.

(h) The subcommittee may issue subpoenas for the attendance of witnesses and the production of necessary evidence or documents in any proceeding, review, or investigation relating to certification or hearing before the subcommittee.

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§30-29-5a. Criminal justice training regarding individuals with autism spectrum disorders; Alzheimer's and dementia.

(a) The Law-Enforcement Professional Standards Subcommittee shall establish within the basic training curriculum, a course for law-enforcement training programs for the training of law-enforcement officers and correction officers in appropriate interactions with individuals with autism spectrum disorders, Alzheimer's, and related dementias and shall develop guidelines for law enforcement response to individuals on the autism spectrum, individuals with Alzheimer's, or individuals with related dementias who are victims or witnesses to a crime, or suspected or convicted of a crime.

(b) The course of instruction and the guidelines relating to autism spectrum disorders shall be developed and delivered by the West Virginia Autism Training Center, located at Marshall University. This course of instruction may stress positive responses to these individuals; provide for the de-escalation of potentially dangerous situations; provide an understanding of the different way these individuals process sensory stimuli and language, social communication, and language difficulties likely to affect interaction; and appropriate methods of interrogation. Training instructors shall always include adults with autism spectrum disorders and/or a parent or primary caretaker of an individual diagnosed with autism spectrum disorder.

(c) The training course of instruction relating to Alzheimer's and dementia shall be two hours long and based on evidence-informed research into the identification of persons with Alzheimer's and other dementias, risks such as wandering or elder abuse, and the best practices for law-enforcement officers interacting with such persons. The training course of instruction may be delivered by any qualified entity, organization, or person approved by the Law-Enforcement Professional Standards Subcommittee.

(d) As used in this section:

(1) "Agency" means the ability to make independent decisions and act in one's own best interests;

(2) "Alzheimer's" means a medical condition diagnosis of the most common type of dementia which is a gradually progressive type of brain disorder that causes problems with memory, thinking, and behavior;

(3) "Autism spectrum disorder" means a developmental disability characterized by persistent and significant deficits in social communication, social interaction, communication, and behavior, and may include the diagnosis of pervasive developmental disorder, not otherwise specified, autistic disorder, and Asperger's Syndrome as defined in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;

(4) "Law-enforcement officer" means any officer of any West Virginia law-enforcement agency, or any state institution of higher education as defined in §30-29-1(6) of this code;

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(5) “Related dementias" means a major neurocognitive disorder resulting in the loss of cognitive functioning, thinking, remembering, and reasoning to such an extent that it interferes with a person's daily life and activities, including, but not limited to, inability to control emotions and changes of personality; and

(6) "Training instructors" means professional experts, autistic adults, and/or the family member or primary caregiver of an autistic individual who deliver instruction and information.

(e) The autism spectrum disorder course of basic training for law-enforcement officers and correction officers may include at least three hours of instruction in the procedures and techniques described in this subsection:

(1) The nature and manifestation of autism spectrum disorders;

(2) Appropriate techniques for interviewing or interrogating an individual on the autism spectrum, including techniques to ensure the legality of statements made, and techniques to protect the rights of the individual;

(3) Techniques for locating an individual on the autism spectrum who runs away and is in danger, and returning the individual while causing as little stress as possible to the individual;

(4) Techniques for recognizing an autistic individual's agency while identifying potential abusive or coercive situations;

(5) Techniques for de-escalating a potentially dangerous situation to maximize the safety of both the law-enforcement officer or correction officer and the autistic individual;

(6) Techniques for differentiating between an individual on the autism spectrum from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an autistic individual;

(7) Procedures to identify and address challenges related to the safety and wellbeing of autistic individuals in a correctional facility; and

(8) The impact of interaction with law-enforcement officers or correction officers on autistic individuals.

(f) The Alzheimer's and related dementias course of basic training for law-enforcement officers and correction officers may include at least two hours of instruction in the procedures and techniques described in this subsection:

(1) Dementia, psychiatric, and behavioral symptoms;

(2) Communication issues, including how to communicate respectfully and effectively with

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the individual who has dementia in order to determine the most appropriate response and effective communication techniques to enhance collaboration with caregivers;

(3) Techniques for understanding and approaching behavioral symptoms and identifying alternatives to physical restraints;

(4) Identifying and reporting incidents of abuse, neglect, and exploitation to Adult Protective Services (APS) at West Virginia Department of Health and Human Services;

(5) Techniques for de-escalating a potentially dangerous situation to maximize the safety of both the law-enforcement officer or correction officer and the individual with Alzheimer's or related dementias;

(6) Protocols for contacting caregivers when a person with dementia is found wandering or during emergency or crisis situations;

(7) Local caregiving resources that are available for people living with dementia; and

(8) The impact of interaction with law-enforcement officers or correction officers on Alzheimer's and dementia individuals.

(g) All law-enforcement recruits may receive the course of basic training for law-enforcement officers, established in this section, as part of their required certification process. The course of basic training for law-enforcement officers may be taught as part of the "crisis intervention and conflict resolution" and "people with special needs" components of the training.

(h) All correction officer recruits may receive the course of basic training for correction officers, established in this section, as part of their required certification process.

(i) All current law-enforcement officers shall receive the course of basic training for law-enforcement officers, established in this section, as part of their mandated in-service training requirement every three years.

(j) The Commissioner of the Division of Corrections and Rehabilitation periodically may include within the in-service training curriculum a course of instruction on individuals with autism spectrum disorder, Alzheimer's, and related dementias, consistent with this section.

(k) The Law-Enforcement Professional Standards Subcommittee periodically may include within its in-service training curriculum, a course of instruction on individuals with autism spectrum disorder, Alzheimer's, and related dementias, consistent with this section.

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§30-29-6. Review of certification.

Certification of each West Virginia law-enforcement officer shall be reviewed annually following the first certification and until such time as the officer may achieve exempt rank. Certification may be revoked, suspended or not renewed if any law-enforcement officer fails to attend annually an in-service approved law-enforcement training program, or if a law-enforcement officer achieving exempt rank fails to attend biennially an approved in-service supervisory level training program. When a law-enforcement officer is a member of the United States Air Force, Army, Coast Guard, Marines, Space Force, or Navy, or a member of the national guard or reserve military forces of any such armed forces, and has been called to active duty, resulting in separation from a law-enforcement agency for more than 12 months but less than 24 months, he or she shall attend and complete the mandated in-service training for the period and rank and qualify with his or her firearm within 90 days from his or her reappointment as a law-enforcement officer by a law-enforcement agency.

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§30-29-7. Compliance.

The subcommittee and the executive of each West Virginia law-enforcement agency shall ensure employee compliance with this article.

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§30-29-8. Compensation for employees attending law-enforcement training academy; limitations; agreements to reimburse employers for wages and expenses of employees trained but not continuing employment.

(a) A West Virginia law-enforcement agency shall, and a governing board may, pay compensation to employees, including wages, salaries, benefits, tuition, and expenses, for the employees' attendance at a law-enforcement training academy. The compensation paid to the employees for such attendance may not include overtime compensation under the provisions of §21-5C-3 of this code and shall be at the regular rate to which each employee would be entitled for a workweek of 40 hours in regular employment with the employer.

(b) In consideration for such compensation, the governing board, hospital, county commission, or municipal government may require each employee to enter into a written agreement in advance of such attendance that obligates the employee to repay the employer if he or she voluntarily discontinues employment within one year immediately following completion of the training curriculum. The amount of repayment shall be a pro rata portion of the total compensation which is equal to the portion of the year which the employee chose not to remain employed.

(c) As used in this section, "governing board" has the meaning ascribed in §18B-1-2 of this code.

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§30-29-9. Special railroad police permitted to attend law-enforcement training academies.

Special railroad police officers shall be permitted to attend law-enforcement training academies for law-enforcement officers: Provided, That the railroad companies shall pay a tuition fee in an amount sufficient to pay the entire cost of training each employee who attends an academy, which fee shall in no event be less than $45 per day: Provided, however, That special railroad police officers shall be permitted to attend an academy only as space may be available.

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§30-29-10. Prohibition of racial profiling.

(a) The Legislature finds that the use by a law-enforcement officer of race, ethnicity, or national origin in deciding which persons should be subject to traffic stops, stops and frisks, questioning, searches, and seizures is a problematic law-enforcement tactic. The reality or public perception of racial profiling alienates people from police, hinders community policing efforts, and causes law-enforcement officers and law-enforcement agencies to lose credibility and trust among the people law-enforcement is sworn to protect and serve. Therefore, the West Virginia Legislature declares that racial profiling is contrary to public policy and should not be used as a law-enforcement investigative tactic.

(b) For purposes of this section:

(1) The term "law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality thereof.

(2) The term "municipality" means any incorporated town or city whose boundaries lie within the geographic boundaries of the state.

(3) The term "racial profiling" means the practice of a law-enforcement officer relying, to any degree, on race, ethnicity, or national origin in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law-enforcement activity following the initial routine investigatory activity. Racial profiling does not include reliance on race, ethnicity, or national origin in combination with other identifying factors when the law-enforcement officer is seeking to apprehend a specific suspect whose race, ethnicity, or national origin is part of the description of the suspect.

(4) The term "state and local law-enforcement agencies" means any duly authorized state, county or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof.

(c) No law-enforcement officer shall engage in racial profiling.

(d) All state and local law-enforcement agencies shall establish and maintain policies and procedures designed to eliminate racial profiling. Policies and procedures shall include the following:

(1) A prohibition on racial profiling;

(2) Independent procedures for receiving, investigating, and responding to complaints alleging racial profiling by law-enforcement officers;

(3) Procedures to discipline law-enforcement officers who engage in racial profiling;

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(4) Procedures to insure the inclusion of training in the investigation of organized criminal enterprises and anti-racial profiling training in new officer training and to law-enforcement officers who have not received such training as certified by the Governor's committee; and

(5) Any other policies and procedures deemed necessary by state and local law-enforcement agencies to eliminate racial profiling.

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§30-29-11. Certified law-enforcement officers who are separated from their employment.

(a) The certification of a law-enforcement officer who is separated from his or her employment with a West Virginia law-enforcement agency, shall immediately become inactive and remain inactive until the subcommittee authorizes reactivation of the officer's certification pursuant to the procedure set forth in this section.

(b) Whenever a law-enforcement officer is separated from his or her employment with a West Virginia law-enforcement agency, the chief law-enforcement officer of that law-enforcement agency shall notify the subcommittee of the separation within ten days of the date of separation. The notification of the separation from employment shall include reason or reasons the officer is no longer employed.

(c) A person whose law-enforcement certification has become inactive pursuant to subsection (a), may apply to the subcommittee to have his or her certification reactivated.

(d) At the time of his or her application, an applicant for the reactivation of his or her certification, whether for employment purposes or otherwise, shall provide the subcommittee with an authorization for the release of his or her personnel file from the law-enforcement agency with which they were most recently employed.

(e) Upon receipt of an application for reactivation, the subcommittee shall review the notification of separation received from the law-enforcement agency with which the applicant was most recently employed, and unless the notification indicates that the separation from employment was based on circumstances that would result in the applicant being ineligible for certification pursuant to section five of this article, the subcommittee shall grant the applicant a temporary reactivation of his or her certification until a final determination is made pursuant to subsection (i).

(f) The subcommittee may request that the law-enforcement agency from which the applicant was most recently separated, provide a copy of the applicants personnel file or other information relevant to the applicant's separation of employment. (g) Upon receipt of a request by the subcommittee, the chief law-enforcement official of the law-enforcement agency with which the applicant was most recently employed, or his or her designee, shall, within eight calendar days, provide the subcommittee with a copy of the applicant's personnel file or other information relevant to the applicant's separation of employment.

(h) An applicant shall be entitled to a copy of all documents or other materials submitted to the subcommittee related to the application.

(i) Within thirty days of the receipt of the applicant's personnel file or any other information provided by the law-enforcement agency, the subcommittee shall review the information and issue a final decision.

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(j) For the purpose of making a determination on an application for reactivation, the subcommittee is authorized to examine witnesses and to subpoena persons, books, records or documents from law-enforcement agencies in this state.

(k) An application for reactivation shall be approved unless the subcommittee affirmatively demonstrates, in writing, that the applicant has engaged in conduct that may result in his or her decertification. Where information available to the subcommittee indicates that the applicant has engaged in conduct that is in violation of this article or other laws or rules, the application for reactivation may not be granted.

(l) An applicant whose certification is not reactivated pursuant to a final decision of the subcommittee, may appeal the final decision of the subcommittee to the Governor's committee.

(m) Nothing in this section shall be construed to require the rehiring of a person by a law enforcement agency from which he or she was separated, even though the subcommittee authorizes his or her certification to be reactivated.

(n) A law-enforcement official, or appointing officer, or his or her designee, is immune from civil liability for providing to the subcommittee any information required or requested by this section.

(o) The provisions of this section apply only to those certified law-enforcement officers who are separated from employment with a West Virginia law enforcement agency after the effective date of this section during the 2011 Regular Session of the Legislature.

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§30-29-12. Law-enforcement officers to receive identification and certification to carry weapons off duty.

(a) Every person employed by a West Virginia state, county or municipal agency as a qualified law-enforcement officer within the meaning of 18 U. S. C. §926B, shall receive an appropriate photo identification and certification of training required to carry a concealed firearm under the federal Law-Enforcement Officers Safety Act, 18 U. S. C. §926B. No currently employed officer may be charged a fee for the photo identification and certification. This subsection does not prohibit a law-enforcement agency from controlling the use of any department-owned weapon.

(b) When a qualified law-enforcement officer, within the meaning of 18 U. S. C. §926B, retires from, or otherwise honorably ceases employment with, a West Virginia state, county or municipal agency, the agency shall provide, at no charge, an appropriate photo identification to show the former employee's status as an honorably separated or retired qualified retired law-enforcement officer within the meaning of 18 U. S. C. §926C. Every West Virginia state, county or municipal law enforcement agency which conducts firearms qualification for current employees shall offer its honorably retired or separated former employees an opportunity to participate in such firearms qualification on an annual basis. The former employees shall provide, at their own expense, an appropriate firearm and ammunition and may be charged a fee not to exceed $25 for such training. Upon completion of the training and payment of any fee, the law-enforcement agency shall issue a new photo identification and certification which identifies the former employee as a "qualified retired law-enforcement officer" who has satisfied the annual training requirements of 18 U. S. C. §926C.

(c) A law-enforcement agency may, in its sole discretion, allow a person who honorably retired or separated from another federal, state, county or municipal law-enforcement agency as a qualified law-enforcement officer within the meaning of 18 U. S. C. §926B, the opportunity to participate in firearms qualification the agency provides its own former employees under subsection (b) of this section. Participants shall provide, at their own expense, an appropriate firearm and ammunition and may be charged a fee not to exceed $50 for such training. Upon completion of the training and payment of any fee, the law-enforcement agency shall issue a certificate which states that the retiree satisfied the training requirements of 18 U. S. C. §926C.

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§30-29-13. Chief executive requirements.

Notwithstanding any provision of this code to the contrary, on or after July 1, 2018, any person appointed to serve as the chief executive of a municipal law-enforcement agency shall be a certified, or certifiable as, a law-enforcement officer as provided in §30-29-5 of this code: Provided, That chief executives of municipal law-enforcement agencies employed prior to July 1, 2018, who are not certified law-enforcement officers are exempt from this requirement for purposes of the position he or she holds as of that date.

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§30-29-14. Minimum standards for hiring of pre-certified law-enforcement officers; disqualification for entry into basic law-enforcement academy or from certification; direct supervision of uncertified officers; maintenance and transfer of records; applicability; limitation on disclosure of records.

(a) Notwithstanding other provisions of law to the contrary, a West Virginia law-enforcement agency may not employ or offer to employ a pre-certified law-enforcement officer until it makes written findings documenting that the person meets the minimum standards contained in this subsection, or adopts a previous employing West Virginia law-enforcement agency's written findings, which shall be made available upon request to the subcommittee: *Provided*, That the hiring West Virginia law-enforcement agency may set higher minimum standards, or the subcommittee may promulgate legislative rules which establish higher minimum standards or interpret the minimum standards contained this section, as the agency or the subcommittee considers necessary for the employment of law-enforcement officers: *Provided*, however, That nothing in this section shall be construed to limit, abrogate, or modify any existing rule promulgated by the subcommittee. The minimum standards apply only to the hiring of a pre-certified law-enforcement officer and consist of the following:

(1) The person is 18 years of age or older;

(2) The person is a high school graduate or equivalent;

(3) The person has submitted to a psychological assessment and has been recommended for hire as a result;

(4) The person has submitted to and passed a polygraph examination;

(5) The person has not been dishonorably discharged from any branch of the armed forces of the United States or the National Guard;

(6) The person has not been convicted in any civilian or military court of a crime punishable by imprisonment for a term exceeding one year, a crime involving moral turpitude, or a crime of domestic violence, or who has been administratively pardoned for any such crime;

(7) The person has not admitted to committing any criminal acts as set forth in subdivision (6) of this subsection which did not result in a conviction;

(8) The person is not prohibited by state or federal law from shipping, transporting, receiving, or possessing firearms or ammunition;

(9) The person is not addicted to narcotics or other controlled substances; and

(10) The person has consented to a thorough investigation by the hiring West Virginia law-enforcement agency into the person's background and moral character, including, but not limited to, a nationwide criminal background check consisting of inquiries of the National

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Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification index, the report of which shall be made a part of the written findings required by this section.

(b) Upon review of the written findings of the hiring West Virginia law-enforcement agency and the background investigation, the subcommittee may deny the certification of a law-enforcement officer or, if applicable, deny admission to a basic entry-level training program to a person failing to meet the minimum standards set forth in this section in the discretion of the subcommittee.

(c) A pre-certified law-enforcement officer who is employed by a West Virginia law-enforcement agency must be directly supervised by a certified law-enforcement officer at all times when the pre-certified law-enforcement officer is engaged in law-enforcement duties. For purposes of this section, "directly supervised" means that the certified law-enforcement officer is physically present with, maintains a close visual and verbal contact with, and provides adequate direction to, the pre-certified law-enforcement officer while he or she is engaged in law-enforcement duties.

(d) The initial hiring West Virginia law-enforcement agency shall maintain the written findings and background investigation required herein, for the duration of the person's term of employment, at a minimum. Each time the person transfers to a different West Virginia law-enforcement agency, copies of the written findings and background investigation shall be transmitted by the West Virginia law-enforcement agency which is the person's most recent employer to the West Virginia law-enforcement agency which is the person's new employer: *Provided*, That the provisions of this subsection do not apply to the West Virginia State Police.

(e) The provisions of this section apply to any person hired by a West Virginia law-enforcement agency as a pre-certified law-enforcement officer after the effective date of this section.

(f) Written findings and information obtained in the course of any investigation authorized by this section are not public records and are not subject to disclosure under §29B-1-1 *et seq*. of this code.

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§30-29-15. Purchase of service handgun by law-enforcement officers separating honorably.

(a) Every chief executive, law-enforcement officer, or law-enforcement official in the state who separates from his or her employing agency or ends his or her elected term of office shall be given the opportunity to purchase his or her issued service handgun at cost: *Provided*, That the employing agency may sell the service handgun to the chief executive, law-enforcement officer, or law-enforcement official, only upon determining that the chief executive, law-enforcement officer, or law-enforcement official is separating honorably and is not the subject of any pending disciplinary complaints, investigations, or actions by the employing agency or the subcommittee.

(b) Notwithstanding the provisions of subsection (a) of this section, the employing agency may not sell a service handgun to any chief executive, law-enforcement officer, or law-enforcement official whom the employing agency:

(1) Knows is prohibited from possessing a firearm by state or federal law;

(2) Reasonably believes to be mentally incapacitated; or

(3) Reasonably believes would constitute a danger to any person or the community.

(c) Nothing in this section shall be construed to supersede, limit, or amend any specific provision of this code authorizing the award of a firearm to a law-enforcement officer of this state.

(d) For purposes of this section, “handgun” means a pistol or revolver as those terms are defined in §61-7-2 of this code.

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