WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED
Committee Substitute for
HOUSE BILL No. 1088

(By Mrs. Neal & Mr. Stacy)

PASSED April 9, 1977
In Effect July 1, 1977
AN ACT to amend and reenact article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia department of public safety reorganization act; continuing the department of public safety; providing for reorganization of the department; providing for companies, districts and detachments within the department; providing for training of members and other peace officers; providing for appointment of commissioned and noncommissioned officers, other members and temporary positions as advisors to the superintendent; providing for salaries, bond, compensation and leave for members in the national guard or reserves; creating a procedure for appeals, convening of appeals boards, and selection of board members by lot; providing for establishment of a cadet selection board; appointment and qualifications for membership; providing for equal employment opportunity; providing for employment of civilian employees; providing for appointment of chaplains; promotions and promotion evaluation board; uniforms, provision of authorized weapons and equipment, and group insurance; territorial jurisdiction of department; establishing mission and purpose of department of public safety; powers of superintendent and members; providing limitations upon members; prescribing oath for superintendent and members; disposition of prisoners; prohibiting interference with
members and giving false or misleading information to officers and providing a penalty therefor; prohibiting unauthorized use of uniform or insignia or impersonation of a member and providing a penalty therefor; prescribing members from performing duties for private persons and providing a penalty therefor; making it unlawful to bribe members, etc., and providing a penalty therefor; authorized transfers, prohibiting transfers for disciplinary purposes and notice and expenses in transfers; discipline of members, suspension, demotion, discharge and right to appeal; assignment of assistant attorney general and employment of legal counsel; duty of department to maintain statistics as to aliens, etc.; criminal identification bureau; rules and regulations generally; carrying weapons; and retirement and continuation of death, disability and retirement fund, retirement awards and benefits for disability incurred in performance of duty and otherwise, physical examination, recall to duty and termination, awards and benefits to dependents for death in performance of duty and otherwise, awards and benefits when member dies after retirement or after serving twenty years, termination of benefits to dependents, refunds to members upon discharge or resignation, refunds to dependents and use of the term “dependent child or children,” removing penalty for resignation without consent of superintendent; removing provisions permitting governor to discharge a company; removing requirement of governor’s consent for disciplined member to be reappointed; and removing requirement for common carriers to provide transportation to members at no cost.

Be it enacted by the Legislature of West Virginia:

That article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.


This article shall be known and may be cited as the “West Virginia Department of Public Safety Reorganization Act.”
§15-2-2. Superintendent; departmental headquarters.

The department of public safety, heretofore established, shall be continued. The governor shall nominate, and by and with the advice and consent of the Senate, appoint a superintendent to be the executive and administrative head of the department. The superintendent shall hold the rank of colonel and is entitled to all rights, benefits and privileges of regularly enlisted members. On the date of his appointment, the superintendent shall be at least thirty years of age. Before entering upon the discharge of the duties of his office, he shall execute a bond in the penalty of ten thousand dollars, payable to the state of West Virginia and conditioned upon the faithful performance of his duties. Such bond both as to form and security shall be approved as to form by the attorney general, and to sufficiency by the governor.

Before entering upon the duties of his office the superintendent shall subscribe to the oath hereinafter provided. The headquarters of the department, shall be located in Kanawha county.

§15-2-3. Companies, districts and detachments; how established.

The superintendent shall create, appoint and equip a department of public safety, which shall consist of the number of companies, districts and detachments as are required for the proper administration of the department. Each company, district or detachment shall be composed of the number of officers and members the superintendent determines are required for the efficient operation of the department.

The superintendent shall provide adequate facilities for the training of all members of the department and shall prescribe a basic training course for newly enlisted members. He shall also provide advanced or in-service training from time to time for all members of the department. The superintendent shall hold training classes for other peace officers in the state without cost to such officers, except actual expenses for food, lodging and school supplies.

§15-2-4. Appointment of commissioned officers, noncommissioned officers, other members; temporary and permanent positions.

The superintendent shall appoint, from the enlisted member-
ship of the department, a deputy superintendent who shall hold
the rank of lieutenant colonel and be next in authority to the
superintendent. The superintendent shall appoint, from the
enlisted membership of the department, the number of other
officers and members he deems necessary to operate and main-
tain the executive offices, training school, scientific laboratory,
keep records relating to crimes and criminals, coordinate
traffic safety activities, maintain a system of supplies and
accounting and perform other necessary services.

The ranks within the membership of the department shall be
colonel, lieutenant colonel, major, captain, lieutenant, master
sergeant, first sergeant, sergeant, corporal, trooper first class or
trooper. Each such member while in uniform shall wear the
insignia of rank as provided by law and departmental regula-
tions.

The superintendent may appoint from the membership of the
department eleven principal supervisors who shall receive the
compensation and hold the temporary rank of lieutenant
colonel, major or captain at the will and pleasure of the
superintendent. Such appointments shall be exempt from any
merit standards established by the promotion evaluation
board. Any person appointed to a temporary rank under the
provisions of this article shall retain his permanent rank and
shall remain eligible for promotion if his permanent rank is
below that of captain. Upon the termination of a temporary
appointment by the superintendent, the member shall be
entitled to the full rights and privileges of his permanent rank
and shall remain eligible for subsequent appointment to a
temporary rank.

§15-2-5. Salaries; bond; leave time for members called to duty in
national guard or reserves.

Members of the department shall receive annual salaries
pursuant to appropriation by the Legislature, payable at least
monthly as follows:

Any lieutenant colonel shall receive an annual salary of
nineteen thousand five hundred ninety-three dollars; any
major shall receive an annual salary of seventeen thousand
seven hundred thirty-five dollars; any captain shall receive an
annual salary of sixteen thousand three hundred thirteen dollars; any lieutenant shall receive an annual salary of fifteen thousand, three hundred eleven dollars; any master sergeant or first sergeant shall receive an annual salary of fourteen thousand three hundred sixty-seven dollars; any sergeant shall receive an annual salary of thirteen thousand six hundred sixty-six dollars; any corporal shall receive an annual salary of twelve thousand one hundred forty dollars; any trooper first class shall receive an annual salary of twelve thousand nine hundred thirty dollars; any newly enlisted trooper shall receive a salary of eight hundred seventy-nine dollars monthly during the period of his basic training, and upon the satisfactory completion of such training and assignment to active duty each such trooper shall receive, during the remainder of his first year's service, a salary of nine hundred fifty dollars monthly. During the second year of his service in the department each trooper shall receive an annual salary of eleven thousand six hundred sixty-five dollars; during the third year of his service each such trooper shall receive an annual salary of eleven thousand eight hundred thirty-seven dollars; and during the fourth year and fifth year of such trooper's service and for each year thereafter he shall receive an annual salary of eleven thousand nine hundred ninety-five dollars. Each member of the department whose salary is specified herein shall receive and be entitled to an increase in salary over that hereinbefore set forth, for grade in rank, based on length of service, including that heretofore and hereafter served with the department, as follows: At the end of five years of service with the department, such member shall receive a salary increase of three hundred dollars to be effective during his next three years of service and a like increase at three-year intervals thereafter, with such increases to be cumulative. In applying the foregoing salary schedule where salary increases are provided for length of service, members of the department in service at the time this article becomes effective shall be given credit for prior service and shall be paid such salaries as the same length of service will entitle them to receive under the provisions hereof.

Each member of the department, except the superintendent
and civilian employees, shall execute before entering upon the
discharge of his duties, a bond with security in the sum of five
thousand dollars payable to the state of West Virginia, condi-
tioned upon the faithful performance of his duties, and such
bond shall be approved as to form by the attorney general
and to sufficiency by the governor.

Any member of the department who is called to perform
active duty for training or inactive duty training in the national
guard or any reserve component of the armed forces of the
United States annually shall be granted upon request leave
time not to exceed thirty days for the purpose of performing
such active duty for training or inactive duty training, and the
time so granted shall not be deducted from any leave ac-
cumulated as a member of the department.

§15-2-6. Departmental appeals boards; appeal procedures.

Appeals of transfers, suspensions, demotions in rank and
discharges shall be heard by boards of appeals convened pur-
suant to the provisions of this section. The boards shall each
consist of seven members and five members shall constitute a
quorum. A new board shall be convened to hear and deter-
mine each new appeal filed by a member of the department.
There may be more than one board in existence at the same
time meeting on different appeals. A member of the retire-
ment board is eligible to serve on an appeals board.

The members of a board shall be chosen by lot by the
superintendent with one member to be chosen from among all
the members of each of the seven ranks of trooper through
lieutenant, inclusive. No department member may serve on
an appeals board if his rank is the same, or if he is a member
of the same detachment, as the person making the appeal. If
the person making the appeal is a member of one of the
ranks of lieutenant through trooper, inclusive, then a captain
shall be chosen by lot from among all members of that rank
to serve on the board. Within ten days after he has been
notified of his selection and assignment to serve on a board, a
member may for cause request to be relieved of such assign-
ment. The superintendent shall determine whether the reasons
alleged by the member are sufficient cause to relieve the
member of such assignment. If such request is granted by the superintendent, a new board member shall be selected by lot from the same rank to replace the member who has been relieved of such assignment.

A chairman shall be selected by the members of the board. Each member of a board shall be reimbursed for all reasonable and necessary expenses actually incurred in attending meetings of a board. All expenses of a board shall be paid from appropriations to the department.

Within fifteen days after a member of the department has received a notice of transfer or a statement of charges and an order of suspension, demotion in rank or discharge by the superintendent, he may appeal the transfer or order to an appeals board by filing a written notice of appeal with the superintendent. The superintendent shall promptly record and file each appeal, select a board, notify each new board member of his selection, and furnish to each board member a copy of the notice or order appealed from and the notice of appeal. A hearing by an appeals board shall be held within thirty days after the superintendent has received a member's notice of appeal. At least fifteen days prior to the hearing date, the board shall notify the superintendent and the member making the appeal of the date, time and place of the hearing.

Any member of the department who makes such appeal, as aforesaid, may be represented by an attorney or by any member of the department or retired member who is receiving benefits from the death, disability and retirement fund. The superintendent may be represented by counsel of his choice. In the appeal of a transfer, the member has the burden of proof that the transfer is not for the purpose of the operational needs of the department. In any other appeal the superintendent has the burden of proof as to the charges alleged. The procedure in any hearing before the board shall be informal and without adherence to the technical rules of evidence required in proceedings in courts of records. All evidence submitted to the board shall be submitted under oath. The chairman, or any member of the board, shall have authority to administer oaths to witnesses.
The board shall designate a reporter for any such hearing who shall record and transcribe all of the proceedings. Upon his demand, the member making the appeal shall have a public hearing on the charges, and in the absence of such demand, the board may determine whether or not the hearing should be public. Any hearing may be continued, recessed or adjourned by the board.

The superintendent shall provide reasonable space for the conduct of hearings. The charges of the reporter shall be paid by the superintendent from available appropriations. At the conclusion of the hearing, the board shall determine whether or not the superintendent's order shall be sustained. The board's decision shall be issued in writing, with copies thereof being sent by the board to the superintendent and to the appealing member by certified mail, return receipt requested. A hearing shall be conducted by at least five members of the board and the decision of the board shall be made by a majority vote of all the members of the board.

Either party aggrieved by a decision of a board of appeals may appeal the decision to the circuit court of Kanawha County within sixty days of receipt of a copy of the board's decision. The court shall hear the appeal upon the record and determine all questions submitted to it on appeal.

In the event any decision sustaining the superintendent's order or notice is reversed upon judicial review, which reversal is final, the superintendent shall return the member to his status prior to the superintendent's order or notice, with full payment of any compensation withheld and with full credit for service between the date the superintendent issued his order or notice and the date of the final judicial decision reversing the decision of the board.

§15-2-7. Cadet selection board; qualifications for and appointment to membership in department; civilian employees.

(a) The superintendent shall establish within the department of public safety a cadet selection board which shall be representative of commissioned and noncommissioned officers within the department.
(b) The superintendent shall appoint a member to the position of trooper from among the top three names on the current list of eligible applicants established by the cadet selection board.

(c) Preference in making appointments shall be given whenever possible to honorably discharged members of the armed forces of the United States and to residents of West Virginia. Each applicant for appointment shall be a person not less than twenty-one nor more than thirty years of age, of sound constitution and good moral character; shall be required to pass such mental examination and meet other requirements as may be provided for in regulations promulgated by the cadet selection board; and shall be required to pass such physical examination as may be provided for in regulations promulgated by the retirement board: Provided, That member may, at the discretion of the superintendent, be reenlisted if the period of his former service subtracted from his age does not exceed thirty years.

(d) No person may be barred from becoming a member of the department because of his religious or political convictions.

(e) The superintendent shall adhere to the principles of equal employment opportunity set forth in article eleven, chapter five of this code, and shall take positive steps to encourage applications for department membership from females and minority groups within the state.

(f) Except for the superintendent, no person may be appointed or enlisted to membership in the department at a grade or rank above the grade of trooper.

(g) The superintendent shall appoint such civilian employees as may be necessary, and all such employees may be included in the classified service of the civil service system except those in positions exempt under the provisions of article six, chapter twenty-nine of this code.


The superintendent may also appoint for each company not more than two chaplains, residing within the state of West Virginia, who shall serve without pay, and who may not be re-

4 required to perform any duties of members of the department,
5 nor shall any bond be required. The superintendent is
6 authorized to furnish each such chaplain one official uniform,
7 with proper chaplain insignia, to be worn at any ceremoni(al
8 occasion conducted officially by the department where the
9 presence of a member of the clergy is customary. Such chap-
10 lains may be reimbursed by the superintendent for all rea-
11 sonable and necessary expenses actually incurred in attending
12 such ceremonies.

§15-2-9. Promotions; promotion evaluation board to be established.
1 The superintendent shall establish within the department of
2 public safety a promotion evaluation board, which shall be
3 representative of commissioned and noncommissioned officers
4 within the department. The promotion evaluation board shall
5 prescribe merit standards for promotion and maintain lists of
6 eligible candidates.
7 The superintendent shall promote a member to the per-
8 manent rank of trooper first class, corporal, sergeant, first
9 sergeant, master sergeant, or lieutenant from among the top
10 three names on the current list of eligible candidates established
11 by the promotion evaluation board for each rank.

§15-2-10. Uniforms; authorized equipment, weapons and supplies;
local headquarters; quarters for members; life insur-
ance; medical and hospital fees for injuries and illnesses
of members incurred in line of duty.
1 (a) The standard uniform to be used by the department
2 of public safety after the effective date of this article shall
3 be as follows: Forestry green blouse with West Virginia
4 state police emblem on sleeve; black shoulder strap, one-
5 inch black stripe around sleeve, four inches from end of
6 sleeve; forestry green breeches with one-inch black stripe
7 down the side; trousers (slacks) with one-inch black stripe
8 down the side for officers and clerks regularly enlisted
9 in the department; forestry green shirts with West Virginia
10 state police emblem on sleeve; black shoulder straps; forestry
11 green mackinaw with West Virginia state police emblem on
12 sleeve; black shoulder straps; one-inch black stripe around
13 sleeve four inches from end of sleeve; campaign hat of olive
drab color; black Sam Browne belt with holster; black leggings and shoes; the officers' uniform will have one and one-quarter inch black stripe around the sleeve of blouse and mackinaw four inches from end of sleeve circumposed with one-half inch gold braid, also black collars on blouse, with two silver shoulder bars for captains, one silver shoulder bar for first lieutenant. For noncommissioned officers the uniform blouse and shirt will have thereon black chevrons of the appropriate rank.

(b) The superintendent shall establish the weapons and enforcement equipment which shall be authorized for use by members of the department, and shall provide for periodic inspection of such weapons and equipment. He shall provide for the discipline of members using other than authorized weapons and enforcement equipment.

(c) The superintendent shall provide the members of the department with suitable arms and weapons, and, when he deems it necessary, with suitably equipped automobiles, motorcycles, watercraft, airplanes and other means of conveyance, to be used by the department of public safety, the governor, and other officers and executives in the discretion of the governor, in times of flood, disaster, and other emergencies, for traffic study and control, criminal and safety work, and in other matters of official business. He shall also provide the standard uniforms for all members of the department, for officers, noncommissioned officers and troopers herein provided for. All uniforms and all arms, weapons and other property furnished the members of the department by the state of West Virginia shall be and remain the property of the state.

(d) The superintendent is authorized to purchase and maintain on behalf of members group life insurance not to exceed the amount of five thousand dollars on behalf of each member.

(e) The superintendent is authorized to contract and furnish at department expense medical and hospital services for treatment of illness or injury of a member which shall be determined by the superintendent to have been incurred by such member while engaged in the performance of duty and from causes beyond control of such members.
(f) The superintendent shall establish and maintain local headquarters at such places in West Virginia as are in his judgment suitable and proper to render the department of public safety most efficient for the purpose of preserving the peace, protecting property, preventing crime, apprehending criminals and carrying into effect all other provisions of this article. The superintendent shall provide, by lease or otherwise, for housing and quarters for the accommodation of the members of the department of public safety, and shall provide all equipment and supplies necessary for them to perform their duties.


The jurisdiction of the department shall extend anywhere in the state of West Virginia.

§15-2-12. Mission of the department; powers of superintendent, officers and members; patrol of turnpike.

(a) The West Virginia department of public safety shall have the mission of statewide enforcement of criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state and maintaining the safety of the state's public streets, roads and highways.

(b) The superintendent and each of the officers and members of the department are hereby empowered:

(1) To make arrests anywhere within the state of any persons charged with the violation of any law of this state, or of the United States, and when a witness to the perpetration of any offense or crime, or to the violation of any law of this state, or of the United States, may arrest without warrant; to arrest and detain any persons suspected of the commission of any felony or misdemeanor whenever complaint is made and warrant is issued thereon for such arrest, and any person so arrested shall be forthwith brought before the proper tribunal for examination and trial in the county where the offense for which any such arrest has been made was committed;

(2) To serve criminal process issued by any court or
(3) To cooperate with local authorities in detecting crime and in apprehending any person or persons engaged in or suspected of the commission of any crime, misdemeanor or offense against the law of this state, or of the United States, or of any ordinance of any municipality in this state; and to take affidavits in connection with any application to the department of highways, department of motor vehicles and department of public safety of West Virginia for any license, permit or certificate that may be lawfully issued by these departments of state government.

(c) Members of the department of public safety are hereby created forest patrolmen and game and fish wardens throughout the state to do and perform any duties and exercise any powers of such officers, and may apprehend and bring before any court or magistrate having jurisdiction of such matters, anyone violating any of the provisions of chapters twenty, sixty and sixty-one of this code, and the department of public safety shall at any time be subject to the call of the West Virginia alcohol beverage control commissioner to aid in apprehending any person violating any of the provisions of said chapter sixty of this code. They shall serve and execute warrants for the arrest of any person and warrants for the search of any premises issued by any properly constituted authority, and shall exercise all of the powers conferred by law upon a sheriff. They shall not serve any civil process or exercise any of the powers of such officer in civil matters.

(d) Any member of the department of public safety knowing or having reason to believe that anyone has violated the law may make complaint in writing before any court or officer having jurisdiction and procure a warrant for such offender, execute the same and bring such person before the proper tribunal having jurisdiction. He shall make return on all such warrants to such tribunals and his official title shall be “member of the department of public safety.” Members of the department of public safety may execute any summons or process issued by any tribunal having jurisdiction
requiring the attendance of any person as a witness before
such tribunal and make return thereon as provided by
law, and any return by a member of the department of public
safety showing the manner of executing such warrant or
process shall have the same force and effect as if made by
a sheriff.

(e) Each member of the department of public safety, when
called by the sheriff or any county, or when the governor by
proclamation so directs, shall have full power and authority
within such county, or within the territory defined by the gover-
nor, to direct and command absolutely the assistance of any
sheriff, deputy sheriff, chief of police, policeman, game and fish
warden, and peace officer of the state, or of any county or
municipality therein, or of any able-bodied citizen of the United
States, to assist and aid in accomplishing the purposes ex-
pressed in this article. When so called, any officer or person
shall, during the time his assistance is required, be for all
purposes, a member of the department of public safety and
subject to all the provisions of this article.

(f) The superintendent may also assign members of the de-
partment to perform police duties on any turnpike, or toll road,
or any section thereof, operated by the West Virginia turnpike
commission: Provided, That such turnpike commission shall
reimburse the department of public safety for salaries paid to
such members, and shall either pay directly or reimburse the
department for all other expenses of such group of members in
accordance with actual or estimated costs determined by the
superintendent.

§15-2-13. Limitations upon members.
1 No member of the department of public safety may in any
2 way interfere with the rights or property of any person except
3 for the prevention of crime.
4 No member of the department of public safety may in any
5 way become active or take part in any political contest or at
6 any time participate in any political party caucus, committee,
7 primary, assembly or convention, or in any general or special
8 election, except to cast his ballot.
9 No member of the department of public safety may be de-
tailed or ordered to duty at or near any voting precinct where
any election or convention is held on the day of such election or
convention; nor shall any member thereof remain in, about or
near such voting precinct or place of convention, except to cast
his vote. After voting he shall forthwith retire from such voting
precinct. No member of the department may act as an election
official. If any member of the department of public safety is
found guilty of violating any of the provisions of this section he
shall be dismissed from the department by the superintendent
as hereinafter provided.

No officer or member of the department of public safety
may, in any labor trouble or dispute between employer and em-
ployee, aid or assist either party thereto, but shall in such cases
see that the statutes and laws of this state are enforced in a
legal way and manner.


The superintendent and each of the other members of the de-
partment of public safety, before entering upon the discharge of
his duties, shall take and subscribe to an oath which shall be in
form and effect as follows, to wit: State of West Virginia,

County of _______________________, to wit:

I, _____________________, do solemnly swear that I will sup-
port the Constitution of the United States, the Constitution
of the State of West Virginia, and I will honestly and faithfully
perform the duties imposed upon me under the provisions
of law as a member of the department of public safety to the
best of my skill and judgment.

______________________________________

Taken, subscribed and sworn to before me, this the ________
day of ____________________.

______________________________________

All such oaths, except that of the superintendent, shall be
filed and preserved in the office of the department of public
safety.


It shall be the duty of all officers of the state, or of
any county or municipality thereof, or jailers having the
charge and custody of any jail or place of detention, to
receive any prisoners arrested by any officer or mem-
ber of the department of public safety and to detain them
in custody until ordered released by a tribunal of competent
jurisdiction, and any such officer, jailer or person having
custody of any jail or place of detention who shall fail or
refuse so to receive and detain such prisoner shall be guilty
of a misdemeanor, and, upon conviction thereof, shall be
fined not less than twenty-five dollars nor more than two
hundred dollars, or imprisoned in the county jail for not more
than sixty days, or both fined and imprisoned.

§15-2-16. Interference with officers or members; false information;
penalty.
1 Any person who shall at any time intercept, molest or
2 interfere with any officer or member of the department of
3 public safety while on duty, or any state, county or municipal
4 officer or person then under the charge and direction of
5 some officer or member of the department of public safety
6 while on duty, or who knowingly gives false or misleading in-
7 formation to a member of the department, shall be guilty of a
8 misdemeanor, and, upon conviction thereof, shall be fined
9 not less than twenty-five dollars nor more than two
10 hundred dollars, or imprisoned in the county jail for not more
11 than sixty days, or both fined and imprisoned.

§15-2-17. Unauthorized use of uniform, badge or other insignia;
impersonation of member; penalty.
1 Every person who is not a member of the department is
2 hereby forbidden to wear, use, order to be used or worn, copy
3 or imitate in any respect or manner the uniform prescribed for
4 members of the department of public safety, and any person
5 who shall violate the provisions of this article, for which no
6 other penalty is expressly provided, and any person who shall
7 falsely represent himself to be an officer or member of the
8 department of the public safety, or to be under the order of
9 direction of any officer or member of said department, or
10 who shall, unless an officer or member thereof, wear the uni-
11 form prescribed for members of said department, or the
12 badge or other insignia adopted or used by said department,
13 shall be guilty of a misdemeanor, and, upon conviction thereof,
§15-2-18. Officers or members performing duties for private persons; general penalty.

If any officer or member of the department of public safety hires himself to any person, firm or corporation to guard his private property, or demands or receives from any person, firm or corporation any money or other thing of value as a consideration for the performance of, or the failure to perform, his duties under the regulations of the superintendent and the provisions of this article, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary for not less than one nor more than five years, and any such officer or member of the department of public safety who violates any other provisions of this article, for which no other penalty is expressly provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than two hundred dollars, or imprisoned in the county jail for not more than four months, or both fined and imprisoned.

§15-2-19. Bribing, etc., officers or members; penalty.

If any person, firm or corporation shall give or offer to give any money or other thing of value to any officer or member of the department of public safety as a consideration for the performance of, or the failure to perform, any duty of such officer or member of the department of public safety under the rules and regulations of the superintendent and the provisions of this article, he or it shall be guilty of a felony, and if a person, upon conviction thereof, shall be confined in the penitentiary for a term of not less than one year nor more than five years, and if a firm or corporation, shall be fined not less than three thousand dollars nor more than ten thousand dollars.

§15-2-20. Transfer authorized; use for disciplinary purposes prohibited; notice required under certain circumstances; relocation expense; regulation of member's residence.

The superintendent may transfer members to meet the
operational needs of the department. A transfer may not be made as a disciplinary measure.

Whenever any member of the department is to be transferred from one station to another station, for a period of time in excess of sixty days, the superintendent shall give written notice of such proposed transfer to such member at least fifteen days in advance of such transfer. The superintendent shall not, however, be required to give such notice in the event the transfer is at the request of the member who is to be transferred. In the event that a member appeals a transfer in accordance with section six of this article, the transfer shall not take effect pending the appeal before the board. If the board upholds the transfer, such transfer shall be effective upon the issuance of the board's decision and shall remain in effect pending any appeal of such decision by the member.

Whenever any member of the department is transferred from one station to another station, for a period of time in excess of sixty days, all reasonable and necessary transportation expenses actually incurred in moving the household furniture and effects of such member and of his immediate family from his former station to his new station shall be paid by the department: Provided, That if any such member owns and resides in a mobile home, the department shall pay all reasonable and necessary transportation expenses actually incurred in moving such mobile home from such member's former station to his new station, but the department may not pay transportation expenses for moving such mobile home in excess of the amount which would have been paid for moving an equivalent amount of household furniture and effects had such member not owned such mobile home.

A member transferred shall also be given a relocation expense of three hundred dollars if the transfer necessitated relocation of the member's family.

The superintendent shall not restrict a member from residing in a county other than that in which the member is stationed, except that the superintendent may promulgate by appropriate written regulation to be applied uniformly throughout the department a restriction as to either: (1) The number of miles
The member may appeal the superintendent's order of transfer to the board of appeals created for such purpose or to the circuit court of Kanawha county in accordance with the provisions of section six of this article and all of the original papers in such cases shall be delivered to the appeals board or the circuit court, as the case may be. The right of a member to appeal a transfer shall not apply until the member has completed the eighteen-month probationary period with the department.

§15-2-21. Suspension, demotion or discharge of members; right of appeal.

The superintendent may suspend, demote in rank or discharge from the service any member of the department of public safety for any of the following causes: Refusing to obey the lawful orders of his superior officer, neglect of duty, drunkenness, immorality, inefficiency, abuse of his authority, interference with the lawful right of any person, participation in political activities, primaries, conventions or elections, conviction for a crime or any action proscribed under this article. The superintendent shall cause an investigation to be made when notice of any one or more of such causes is brought to his attention and shall determine whether or not the member should be suspended, demoted in rank or discharged. If the superintendent orders the member suspended, demoted in rank or discharged, a written statement of the charges and a written order of suspension, demotion in rank or discharge shall be delivered personally to the member by his commanding officer, or next in command in the absence of his commanding officer. The superintendent shall explicitly set forth in any such written statement of charges the details giving rise to the cause or causes upon which he ordered such suspension, demotion in rank or discharge. The member may appeal the superintendent's order to the board of appeals created for such purpose or to the circuit court of Kanawha county in accordance with the provisions of section six of this article and all of
the original papers in such cases shall be delivered to the ap-
peals board or the circuit court, as the case may be.

The right to appeal a suspension or discharge shall not apply
to members until they have completed their probationary
period with the department, which shall be for a period of
eighteen months.

§15-2-22. Assignment of assistant attorney general; employment of
legal counsel.

(a) The attorney general may, upon request of the superin-
tendent, assign an assistant attorney general to the depart-
ment.

(b) Notwithstanding the provisions of section one, article
three, chapter five of this code, the superintendent may
authorize any member of the department to employ an attorney
of such member's choice to act in proceedings wherein criminal
charges are brought against such member because of action in
line of duty. For such attorney's services an amount deter-
mained by the judge in whose court the action is pending, not
to exceed one thousand dollars, may be expended in any one
case.

§15-2-23. Duties of superintendent as to statistics, aliens and labor
conditions.

The superintendent of the department of public safety is
authorized from time to time to collect statistics and distribute
information throughout the state, and in this to cooperate with
the state superintendent of public schools and other educational
agencies of the state, to secure the naturalization and Ameri-
canization of all foreign-born inhabitants; to employ all agen-
cies in his power to secure a harmonious feeling and under-
standing between the employers of labor and their employees;
and to secure this end he may call upon the educational and
other state institutions for public speakers, and is authorized to
hold public meetings at any point in the state where, in his
judgment, such meetings will be of advantage to carry out
the spirit of this law.
§15-2-24. Criminal identification bureau; establishment; supervision; purpose; fingerprints, photographs, records and other information; reports by courts and prosecuting attorneys; offenses and penalties.

(a) The superintendent of the department shall establish, equip and maintain at the departmental headquarters a criminal identification bureau, for the purpose of receiving and filing fingerprints, photographs, records and other information pertaining to the investigation of crime and the apprehension of criminals, as hereinafter provided. The superintendent shall appoint or designate a supervisor to be in charge of the criminal identification bureau and such supervisor shall be responsible to the superintendent for the affairs of the bureau. Members of the department assigned to the criminal identification bureau shall carry out their duties and assignments in accordance with internal management rules and regulations pertaining thereto promulgated by the superintendent.

(b) The criminal identification bureau shall cooperate with identification bureaus of other states and of the United States to develop and carry on a complete interstate, national and international system of criminal identification.

(c) The criminal identification bureau may furnish fingerprints, photographs, records or other information to authorized law-enforcement and governmental agencies of the United States and its territories, of foreign countries duly authorized to receive the same, of other states within the United States and of the state of West Virginia upon proper request stating that the fingerprints, photographs, records or other information requested are necessary in the interest of and will be used solely in the administration of official duties and the criminal laws.

(d) The criminal identification bureau may furnish, with the approval of the superintendent, fingerprints, photographs, records or other information to any private or public agency, person, firm, association, corporation or other organization, other than a law-enforcement or governmental agency as to which the provisions of subsection (c) of this section shall
govern and control, but all requests under the provisions of this subsection (d) for such fingerprints, photographs, records or other information must be accompanied by a written authorization signed and acknowledged by the person whose fingerprints, photographs, records or other information is to be released.

(e) The criminal identification bureau may furnish fingerprints, photographs, records and other information of persons arrested or sought to be arrested in this state to the identification bureau of the United States government and to other states for the purpose of aiding law enforcement.

(f) Persons in charge of any penal or correctional institution, including any city or county jail, in this state shall take, or cause to be taken, the fingerprints and description of all persons lawfully committed thereto or confined therein and furnish the same in duplicate to the criminal identification bureau, department of public safety. Such fingerprints shall be taken on forms approved by the superintendent of the department of public safety. All such officials as herein named may, when possible to do so, furnish photographs to the criminal identification bureau of such persons so fingerprinted.

(g) Members of the department of public safety, and all other state law-enforcement officials, sheriffs, deputy sheriffs, and each and every peace officer in this state, shall take or cause to be taken the fingerprints and description of all persons arrested or detained by them, charged with any crime or offense in this state, in which the penalty provided therefor is confinement in any penal or correctional institution, or of any person who they have reason to believe is a fugitive from justice or an habitual criminal, and furnish the same in duplicate to the criminal identification bureau of the department of public safety on forms approved by the superintendent of said department. All such officials as herein named may, when possible to do so, furnish to the criminal identification bureau, photographs of such persons so fingerprinted. For the purpose of obtaining data for the preparation and submission to the governor and the Legislature by the department of public safety of an annual statistical report on crime conditions in the state, the clerk of any court of record, the magistrate of any magistrate court and the mayor or clerk of any municipal court before which a
person appears on any criminal charge shall report to the criminal identification bureau the sentence of the court or other disposition of the charge and the prosecuting attorney of every county shall report to the criminal identification bureau such additional information as the bureau may require for such purpose, and all such reports shall be on forms prepared and distributed by the department of public safety, shall be submitted monthly and shall cover the period of the preceding month.

(h) All persons arrested or detained pursuant to the requirements of this article shall give fingerprints and information required by paragraphs (f) and (g) of this section. Any person who has been fingerprinted or photographed in accordance with the provisions of this section, who is acquitted of the charges upon which he or she was arrested, and who has no previous criminal record, may, upon the presentation of satisfactory proof to the department, have such fingerprints or photographs, or both, returned to them.

(i) All state, county and municipal law-enforcement agencies shall submit to the bureau uniform crime reports setting forth their activities in connection with law enforcement. It shall be the duty of the bureau to adopt and promulgate rules and regulations prescribing the form, general content, time and manner of submission of such uniform crime reports. Willful or repeated failure by any state, county or municipal law-enforcement official to submit the uniform crime reports required by this article shall constitute neglect of duty in public office. The bureau shall correlate the reports submitted to it and shall compile and submit to the governor and the Legislature semiannual reports based on such reports. A copy of such reports shall be furnished to all prosecuting attorneys and law-enforcement agencies.

(j) Neglect or refusal of any person mentioned in this section to make the report required herein, or to do or perform any act on his or her part to be done or performed in connection with the operation of this section, shall constitute a misdemeanor, and such person shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail.
for a period of not more than sixty days, or both. Such neglect shall constitute misfeasance in office and subject such persons to removal from office. Any person who willfully removes, destroys, or mutilates any of the fingerprints, photographs, records or other information of the department of public safety, shall be guilty of a misdemeanor, and such persons shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or both.


Subject to the written approval of the governor and the provisions of this article, the superintendent may make and promulgate proper rules and regulations for the government, discipline and control of the department of public safety, and shall also cause to be established proper rules and regulations for the examinations of all applicants for appointment thereto. The members of the department of public safety shall be permitted to carry arms and weapons, and no license shall be required for such privilege.


There shall be continued the death, disability and retirement fund heretofore created for the benefit of members of the department of public safety and any dependent of a retired or deceased member thereof.

There shall be deducted from the monthly payroll of each member of the department of public safety and paid into such fund six percent of the amount of his salary, and an additional twelve percent of the monthly salary of each member of said department shall be paid by the state of West Virginia monthly into such fund out of the biennial appropriation for said department. All moneys payable into such fund shall be deposited in the state treasury, and the treasurer and auditor shall keep a separate account thereof on their respective books.

The moneys in this fund, and the right of a member to a retirement allowance, to the return of contributions, or to any benefit under the provisions of this article, are hereby
exempt from any state or municipal tax; shall not be subject
to the execution, garnishment, attachment or any other process
whatsoever; and shall be unassignable except as is provided
in this article.

The death, disability and retirement fund shall be adminis-
tered by a retirement board which shall consist of the attorney
general, state treasurer, the superintendent and two members in
active service of the department: Provided, That members of
said retirement board shall not be entitled to receive any com-
ensation in addition to the salary of their respective offices
for any service rendered as a member of said retirement board:
Provided, however, That the superintendent may pay out of
funds appropriated for operation of said department the rea-
sonable expenses of members of said board necessarily incurred
in connection with dispatch of any business properly before
such board. The two members of said department shall be
elected to membership on the retirement board by vote of the
members of the department of public safety; such election to be
held on the first Tuesday in June next following the passage of
this article and on the first Tuesday in June each two years
thereafter. The attorney general, state treasurer and the
superintendent of the department of public safety shall pro-
mulgate any and all necessary rules and regulations for holding
in a fair and impartial manner the election on the first Tuesday
in June next following the passage of this article and thereafter
the retirement board consisting of the attorney general,
state treasurer, superintendent and the two duly elected
members of said department shall have authority to promulgate
and, from time to time, revise rules and regulations for holding
all subsequent elections in a fair and impartial manner. All
elections shall be held under the direction of the superintendent
of said department in accordance with said rules and regula-
tions. The members of the department chosen to serve on said
retirement board shall hold office for a period of two years
commencing on the first day of July next following the date of
such election. When any member elected to the retirement
board shall die, resign from the board, resign or be discharged
from service in the department, make application for retire-
ment, be retired, or become disabled, the office of such member
of the retirement board shall be declared vacant by the superin-
tendent of said department, and said superintendent, to fill such vacancy, shall appoint the member in active service of said de-
partment who as an unsuccessful candidate at the preceding
election of members to said retirement board received the greatest number of votes. No member of the retirement board shall participate in any hearing at which his own petition for retire-
ment or the petition of any member of said department who is related to him by blood or marriage shall be presented for con-
sideration.

At its first meeting following each election of members to the retirement board said board shall elect one of its members to serve as chairman and a second member to serve as secretary thereof. The retirement board shall have the power to make rules and regulations, not inconsistent with the provisions here-
of, governing procedure and order and manner of business by and before such board. The retirement board shall have the power to make awards and to revise and terminate awards previously made for such times under such terms and conditions as are hereinafter provided. The votes of a majority of the five members of the board shall be necessary to decision of any matter by the board. Decisions made by the board shall be supreme and final and there shall be no appeal therefrom.

It shall be the duty of the retirement board on or before the first day of July of each year to cause all future awards from such fund to be valued and, to the extent that moneys shall be available, reserves based on sound actuarial principles for payment thereof to be carried on the funds account as a liability against the reserve fund. The board shall have the authority to employ an actuary for such purpose. The board shall cause a system of accounting to be installed and maintained to reflect currently and truly all transactions or develop-
ments pertaining to age of members and eligible dependents surviving deceased members, periods of service and aggregate earnings of all members eligible to participate in said fund and any other matter relating to maintenance of said fund or ad-
ministration thereof, and each year to cause to be made and submitted to each member of said department a statement of the condition of said fund. Costs and expenses incurred in making actuarial studies, audits and installations and main-
tenance of such accounting system shall be paid by the super-
intendent from funds appropriated for operation of the de-
partment of public safety.

All moneys paid into and accumulated in said death, dis-
ability and retirement fund, except such amounts as shall
be designated or set aside by the retirement board for pay-
ments of death, disability and retirement benefits and awards,
shall be invested by the state board of investments as provided
by law.

§15-2-27. Retirement; awards and benefits.

(a) The retirement board shall retire any member of the
department of public safety when the member has both attained
the age of fifty-five years and completed twenty-five years of
service as a member of the department, including military ser-
vice credit granted under the provisions of section twenty-eight
of this article.

(b) The retirement board shall retire any member of the
department of public safety who has lodged with the secretary
of the retirement board his voluntary petition in writing for
retirement, and;

(1) Has or shall have completed twenty-five years of ser-
vice as a member of the department (including military service
credit granted under the provisions of section twenty-eight of
this article); or

(2) Has or shall have attained the age of fifty years and has
or shall have completed twenty years of service as a member of
the department (excluding military service credit granted under
section twenty-eight of this article); or

(3) Being under the age of fifty years has or shall have
completed twenty years of service as a member of the depart-
ment (excluding military service credit granted under section
twenty-eight of this article).

(c) When the retirement board retires any member under
any of the following provisions of this section, the board shall,
by order in writing, make an award directing that the member
shall be entitled to receive annually and that there shall be paid
to the member from the death, disability and retirement fund in
equal monthly installments during the natural lifetime of the
member while in status of retirement one or the other of two
amounts, whichever is the greater.

(1) An amount equal to four and one-half percent of the
aggregate of salary paid to the member during the whole
period of service as a member of the department of public
safety; or

(2) The sum of three thousand dollars.

When a member has or shall have served twenty years or
longer but less than twenty-five years as a member of the
department and shall be retired under any of the provisions
of this section before he shall have attained the age of
fifty years, payment of monthly installments of the amount
of retirement award to such member shall commence on the
date he attains the age of fifty years.

§15-2-28. Credit toward retirement for member's prior military
service; credit toward retirement when member has
joined armed forces in time of armed conflict.

(a) For purposes of this section, the term "active mili-
tary duty" means full-time active duty with the armed forces
of the United States, namely, the United States air force,
army, coast guard, marines or navy; and service with the
national guard or reserve military forces of any of such
armed forces when the member has been called to active
full-time duty and has received no compensation during the
period of such duty from any person other than the armed
forces.

(b) Any member of the department who has previously
served on active military duty shall be entitled to and
receive credit on the minimum period of service required by
law for retirement pay from the service of the department
of public safety under the provisions of this article for a period
equal to the active military duty not to exceed five years,
subject to the following:

(1) That he has been honorably discharged from the
armed forces;
(2) That he substantiates by appropriate documentation or evidence his period of active military duty;

(3) That he is receiving no benefits from any other retirement system for his active military duty; and

(4) That, except with respect to disability retirement pay awarded under section thirty of this article, he has actually served with the department for twenty years exclusive of his active military duty.

The amount of retirement pay to which any such member is entitled shall be calculated and determined as if he had been receiving for the period of his active military duty a monthly salary from the department equal to the average monthly salary which he actually received from the department for his total service with the department exclusive of the active military duty. The superintendent is authorized to transfer and pay into the death, disability and retirement fund from moneys appropriated for the department a sum equal to eighteen percent of the aggregate of the salaries on which the retirement pay of all such members has been calculated and determined for their periods of active military duty. In addition, any person who while a member of the department was commissioned, enlisted or inducted into the armed forces of the United States or, being a member of the reserve officers' corps, was called to active duty in said armed forces between the first day of September, one thousand nine hundred forty, and the close of hostilities in World War II, or between the twenty-seventh day of June, one thousand nine hundred fifty, and the close of the armed conflict in Korea on the twenty-seventh day of July, one thousand nine hundred fifty-three, between the first day of August, one thousand nine hundred sixty-four and the close of the armed conflict in Vietnam, or during any other period of armed conflict by the United States whether sanctioned by a declaration of war by the Congress or by executive or other order of the President, shall be entitled to and receive credit on the minimum period of service required by law for retirement pay from the service of the department of public safety for a period equal to the full time he has or shall, pursuant to such commission, enlistment,
induction or call, have served with said armed forces subject to
the following:

(1) That he has been honorably discharged from the
armed forces;

(2) That within ninety days after honorable discharge
from the armed forces he has presented himself to the
superintendent and offered to resume service as an active
member of the department; and

(3) That he has made no voluntary act, whether by reenlist-
ment, waiver of discharge, acceptance of commission or other-
wise, to extend or participate in extension of the period of ser-
vice with the armed forces beyond the period of service for
which he was originally commissioned, enlisted, inducted or
called.

That amount of retirement pay to which any such member
shall be entitled shall be calculated and determined as if the
member has continued in the active service of the department
at the rank or grade to him appertaining at the time of such
commission, induction, enlistment or call, during a period co-
extensive with the time the member served with the armed
forces pursuant to the commission, induction, enlistment or
call. The superintendent of the department is authorized to
transfer and pay each month into the death, disability and re-
tirement fund from moneys appropriated for the department a
sum equal to eighteen percent of the aggregate of salary which
all such members would have been entitled to receive had they
continued in the active service of the department during a
period coextensive with the time such members served with the
armed forces pursuant to the commission, induction, enlistment
or call: Provided, That the total amount of military service
credit allowable under this section shall not exceed five years.

§15-2-29. Awards and benefits for disability incurred in perform-
ance of duty.

Any member of said department who has been or shall
become physically or mentally permanently disabled by injury,
illness or disease resulting from any occupational risk or
hazard inherent in or peculiar to the services required of
members of said department and incurred pursuant to or
while such member was or shall be engaged in the performance of his duties as a member of said department shall, if, in the opinion of the retirement board, he is by reason of such cause unable to perform adequately the duties required of him as a member of said department, be retired from active service by the retirement board and thereafter such member shall be entitled to receive annually and there shall be paid to such member from the death, disability and retirement fund in equal monthly installments during the natural lifetime of such member or until such disability shall sooner terminate, an amount equal to five percent of the total salary which would have been earned during twenty-five years of service in said department based on the average earnings of such member while employed as a member of said department. If such disability shall be permanent and total to the extent that such member is or shall be incapacitated ever to engage in any gainful employment, such member shall be entitled to receive annually and there shall be paid to such member from the death, disability and retirement fund in equal monthly installments during the natural lifetime of such member or until such disability shall sooner terminate, an amount equal to eight percent of the total salary which would have been earned by such member during twenty-five years of service in said department based on the average earnings of such member while employed as a member of said department.

The superintendent is authorized to expend moneys from funds appropriated for the department in payment of medical, surgical, laboratory, X-ray, hospital, ambulance and dental expenses and fees, and reasonable costs and expenses incurred in purchase of artificial limbs and other approved appliances which may be reasonably necessary for any member of said department who has or shall become temporarily, permanently or totally disabled by injury, illness or disease resulting from any occupational risk or hazard inherent in or peculiar to the service required of members of said department and incurred pursuant to or while such member was or shall be engaged in the performance of duties as a member of said department. Whenever the superintendent shall determine that any disabled member is ineligible to
receive any of the aforesaid benefits at public expense the
superintendent shall, at the request of such disabled member,
refer such matter to the retirement board for hearing and
final decision.

§15-2-30. Awards and benefits for disability—Due to other causes.

If any member while in active service of said department
has or shall, in the opinion of the retirement board, become
permanently disabled to the extent that such member cannot
adequately perform the duties required of a member of the
department from any cause other than those set forth in the
next preceding section and not due to vicious habits, intem-
perance or willful misconduct on his part, such member shall
be retired by the retirement board and, if such member at the
time of such retirement under this section, shall have served less
than twenty years as a member of said department, such
member shall be entitled to receive annually and there shall be
paid to such member while in status of retirement, from the
death, disability and retirement fund in equal monthly install-
ments during a period equal to one half the time such member
has served as a member of said department, a sum equal to
four and one-half percent of the total salary which would have
been earned during twenty-five years of service in said depart-
ment based on the average earnings of such member while
employed as a member of said department, but if such member,
at the time of such retirement under the terms of this section,
shall have served twenty years or longer as a member of said
department, such member shall be entitled to receive annually
and there shall be paid to such member from the death, dis-
ability and retirement fund in equal monthly installments,
commencing on the date such member shall be retired and
continuing during the natural lifetime of such member while in
status of retirement, one or the other of the two amounts, based
upon either the aggregate of salary paid to such member dur-
ing the whole period of service of such member or the period
of twenty years or longer during which such member at the
time of such retirement has, or shall have served as a member
of said department, whichever shall be the greater, to be deter-
mined in the manner provided by subdivisions (1) and (2) of
subsection (c), section twenty-seven of this article.
§15-2-31. Awards and benefits for disability—Physical examinations; recall to active duty; termination.

The superintendent may require any member who has been or who shall be retired with compensation on account of disability to submit to a physical and/or mental examination by a physician or physicians selected or approved by the retirement board and cause all costs incident to such examination including hospital, laboratory, X-ray, medical and physicians' fees to be paid out of funds appropriated to defray the current expense of said department, and a report of the findings of such physician or physicians shall be submitted in writing to the retirement board for its consideration. If from such report or from such report and hearing thereon the retirement board shall be of opinion and find that such disabled member shall have recovered from such disability to the extent that he is able to perform adequately the duties of a member of said department, the superintendent shall order such member to reassume active duty as a member of said department and thereupon all payments from the death, disability and retirement fund shall be terminated.

§15-2-32. Retired member not to exercise police authority; retention of group insurance.

A member who has been or shall be retired shall not while in retirement status exercise any of the powers conferred upon active members by section twelve of this article; but shall be entitled to receive free of cost to such member and retain as his separate property one complete standard uniform prescribed by section nine of this article: Provided, That such uniform may be worn by a member in retirement status only on such occasions as shall be prescribed by the superintendent. The superintendent is authorized to maintain at public expense for the benefit of all members in retirement status that group life insurance mentioned in section ten of this article. The superintendent when he shall be of opinion that the public safety shall require, may recall to active duty during such period as the superintendent shall determine any member who shall be retired under the provisions of section twenty-seven of this article, provided the consent of such member to reassume duties of active member-
ship shall first be had and obtained. When any member in
retirement shall resume status of active membership such
member, during the period such member shall remain in
active status, shall not be entitled to receive retirement pay
or benefits but in lieu thereof shall be entitled to receive that
rate of salary and allowance pertinent to the rank or grade
held by such member when retired. When such member
shall be released from active duty he shall reissue the
status of retirement and shall thereupon be entitled to receive
appropriate benefits as provided by this article: Provided, That
the amount of such benefits shall in no event be less than
the amount determined by the order of the retirement board
previously made in his behalf.

§15-2-33. Awards and benefits to dependents of member—When
member dies in performance of duty, etc.

The surviving spouse or the dependent child or children
or dependent parent or parents of any member who has lost
or shall lose his life by reason of injury, illness or disease
resulting from an occupational risk or hazard inherent in or
peculiar to the service required of members while such mem-
ber was or shall be engaged in the performance of his
duties as a member of said department or if said member
shall die from any cause after having been retired pursuant
to the provisions of this article, shall be entitled to receive
and shall be paid from the death, disability and retirement
fund benefits as follows: To the surviving spouse annually,
in equal monthly installments during his or her lifetime or
until his or her remarriage one or the other of two amounts,
whichever shall be the greater, namely:

(1) An amount equal to five percent of the total salary
which would have been earned by said deceased member
during twenty-five years of service in said department based
on the average earnings of such member while employed as
a member of said department.

(2) The sum of three thousand dollars.

In addition thereto such surviving spouse shall be entitled
to receive and there shall be paid to such person one hundred
dollars monthly for each dependent child or children. If such
surviving spouse shall die or remarry or if there be no surviving spouse there shall be paid monthly to such dependent child or children from the death, disability and retirement fund the sum of one hundred dollars each. If there be no surviving spouse and no dependent child or children, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a surviving spouse, without children, would have received: Provided, That when there shall be but one dependent parent surviving, such parent shall be entitled to receive during his or her lifetime one half the amount which both parents, if living, would have been entitled to receive.

§15-2-34. Awards and benefits to dependents of member—When member dies from nonservice-connected causes.

In any case where a member while in active service of said department, before having completed twenty years of service as a member of said department, has died or shall die from any cause other than those specified in this article and not due to vicious habits, intemperance or willful misconduct on his part, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the surviving spouse of such member during his or her natural lifetime or until such time said surviving spouse remarries, a sum equal to two and one-quarter percent of the total salary which would have been earned by said member during twenty-five years of service in said department based on his or her average earnings while employed as a member of said department. If there be no surviving spouse there shall be paid from said fund to each dependent child or children of said deceased member the sum of one hundred dollars monthly. If there be no surviving spouse and no dependent child or children there shall be paid annually in equal monthly installments from said fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a surviving spouse would have been entitled to receive: Provided, That when there shall be but one dependent parent surviving then such dependent parent shall be entitled to receive during his
or her lifetime one half the amount which both parents, if
living, would have been entitled to receive.

§15-2-34. Same—When member dies after retirement or after serv-
ing twenty years.

When any member of said department has heretofore com-
pleted or hereafter shall complete twenty years of service or
longer as a member of said department and has died or shall
die from any cause or causes other than those specified in
this article before having been retired by the retirement
board, and when a member in retirement status has died or
shall die after having been retired by the retirement board
under the provisions of this article, there shall be paid an-
ually in equal monthly installments from said fund to the
surviving spouse of said member, commencing on the date of
the death of said member and continuing during the lifetime or
until remarriage of said surviving spouse an amount equal to
one half the retirement benefits said deceased member was
receiving while in status of retirement, or would have been
entitled to receive to the same effect as if such member had
been retired under the provisions of this article immediately
prior to the time of his death; and in addition thereto said
surviving spouse shall be entitled to receive and there shall be
paid to such surviving spouse from said fund the sum of one
hundred dollars monthly for each dependent child or children.
If such surviving spouse die or remarry, or if there be no
surviving spouse there shall be paid monthly from said fund
to each dependent child or children of said deceased member
the sum of one hundred dollars. If there be no surviving
spouse or no surviving spouse eligible to receive benefits and
no dependent child or children there shall be paid annually in
equal monthly installments from said fund to the dependent
parents of said deceased member during their joint lifetimes a
sum equal to the amount which a surviving spouse without
children would have been entitled to receive: Provided, That
when there shall be but one dependent parent surviving, such
parent shall be entitled to receive during his or her lifetime one
half the amount which both parents, if living, would have
been entitled to receive.
§15-2-36. Awards and benefits to dependents of member—Termination.

1 When any surviving spouse of a member shall die or remarry while receiving or being entitled to receive any benefits under this article, such surviving spouse shall not from the date of such remarriage, nor shall the estate from the date of the death of such surviving spouse, be entitled to receive any benefits hereunder whatsoever: Provided, That in any case where under the terms of this article benefits are provided for a child or children surviving the death or remarriage of such surviving spouse, payment of such benefits to such child or children shall be calculated for payment from the date such surviving spouse shall die or remarry.

§15-2-37. Refunds to certain members upon discharge or resignation.

1 Any member who shall be discharged by order of the superintendent after such member has or shall have served two full years or more as a member of said department shall, at the request of such member, be entitled to receive from said fund a sum equal to the aggregate of the principal amount of moneys deducted from the salary of such member and paid into said death, disability and retirement funds as provided and required by this article: Provided, That the superintendent shall forthwith refund to any member who has or shall have served more than two but less than twenty years as a member of said department and has resigned or shall resign or who has been or shall be discharged from the service for cause, a sum equal to the aggregate of the principal amount of all moneys deducted from the salary of such member and paid into said fund as aforesaid: Provided further, That if any such refund shall be made to any member shall not be entitled to any benefits provided by this article, and should any such member thereafter be again enlisted as a member of said department no credit or any period of service required of a member as a condition of retirement shall be allowed to such member on account of such former service, unless following such reenlistment such member shall redeposit in said fund the amount of the refund, together with interest thereon at the rate of four percent per annum from
25 the date of withdrawal to the date of redeposit, in which case he shall receive the same credit on account of his former service as if no refund had been made. When any member has or shall have served as a member of said department during twenty years or longer and shall, in the opinion of the superintendent, become unfit for any reason for further active service such member shall, in lieu of being discharged, be retired by the retirement board under the provision or provisions of this article most favorable to such member.

§ 15-2-38. Refund to dependents upon death of member not eligible for benefits.

1 If any member while in active status shall die after having served two full years or longer as a member of said department and the retirement board shall be of opinion after hearing thereon that the dependent or dependents of said member are ineligible under the provisions of this article to receive any of the benefits provided herein, the superintendent shall refund to the spouse, if surviving, but if not surviving, to the children of such member, and if there be no surviving spouse or children, to the dependent parents, a sum equal to the aggregate of the principal amount of all moneys deducted from the salary of such member and paid into such fund as aforesaid, and if there be no surviving spouse or children or dependent parent or parents, then the same shall remain in the fund. Whenever any such refund shall be made the surviving spouse or other dependents of such deceased member shall not be entitled to any other rights or benefits on account of said fund under the provisions of this article.


1 In any case where under the terms of this article benefits are provided for “dependent child or children” such phrase shall mean any child or children born to or adopted by a member of the department under the age of eighteen or where such child or children after reaching eighteen years of age continues as a full-time student in an accredited high school, college, university, business or trade school, until such child reaches the age of twenty-three years or where such child or children is an invalid as long as such child or children
remains an invalid, such benefits provided for shall be paid. Benefits provided under the terms of this article for "dependent child or children" shall be paid for so long as they meet the foregoing qualifications and no longer.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

[Signature]

Chairman House Committee

Originated in the House.

Takes effect July 1, 1977.

[signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

W. F. Buthusky  
President of the Senate

[Signature]

Speaker House of Delegates

The within is approved this the 26 day of April, 1977.

[Signature]

Governor
APPROVED AND SIGNED BY THE GOVERNOR

Date: April 26, 1977
Time: 3:50 p.m.

RECEIVED

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