WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1991

ENROLLED

SENATE BILL NO. 383

(By Senator Hucht)

PASSED March 9, 1991
In Effect July 1, 1991
ENROLLED

Senate Bill No. 383
(BY SENATOR LUCHT)

[Passed March 9, 1991; to take effect July 1, 1991.]

AN ACT to amend and reenact section twelve, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article five, chapter sixteen of said code by adding thereto a new section, designated section twelve-b; and to amend article two, chapter eighteen of said code by adding thereto a new section, designated section five-c; all relating to missing children, and requiring that certain records be kept and information exchanged between the board of education, the state registrar of vital statistics and the division of public safety.

Be it enacted by the Legislature of West Virginia:

That section twelve, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article five, chapter sixteen of said code be amended by adding thereto a new section, designated section twelve-b; and that article two, chapter eighteen of said code be amended by adding thereto a new section, designated section five-c, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. DIVISION OF PUBLIC SAFETY.

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

1 (a) The West Virginia division 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 division 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 magistrate anywhere within this state (they shall not serve civil process); and

(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 division of highways, division of motor vehicles and division of public safety of West Virginia for any license, permit or certificate that may be lawfully issued by these divisions of state government.

(c) Members of the division 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 division 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 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 division 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 division of public safety”. Members of the division 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 division 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 division of public safety, when called by the sheriff of 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 governor, 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 expressed 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 division of public safety and subject to all the provisions of this article.

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

(g) The division of public safety may develop proposals for a comprehensive county or multi-county plan on the implementation of an enhanced emergency service telephone system and for causing a public meeting on such proposals, all as set forth in section six-a, article six, chapter twenty-four of this code.

(h) The superintendent may also assign members of the division to administer tests for the issuance of commercial drivers' licenses, operator and junior operator licenses as provided for in section seven, article two, chapter seventeen-b of this code: Provided, That the division of motor vehicles shall reimburse the division of public safety for salaries and employee benefits paid to such members, and shall either pay directly or reimburse the division for all other expenses of such group of members in accordance with actual costs determined by the superintendent.

(i) The superintendent shall be reimbursed by the division of motor vehicles for salaries and employee benefits paid to members of the division of public safety, and shall either be paid directly or reimbursed by the division of motor vehicles for all other expenses of such group of members in accordance with actual costs determined by the superintendent, for services performed by such members relating to the duties and obligations of the division of motor vehicles set forth
in chapters seventeen, seventeen-a, seventeen-b, seventeen-c and seventeen-d of this code.

(j) By the first day of July, one thousand nine hundred ninety-three, the superintendent shall establish a network to implement reports of the disappearance of children by local law-enforcement agencies to local school division superintendents and the state registrar of vital statistics. The network shall be designed to establish cooperative arrangements between local law-enforcement agencies and local school divisions concerning reports of missing children and notices to law-enforcement agencies of requests for copies of the cumulative records and birth certificates of missing children. The network shall also establish a mechanism for reporting the identities of all missing children to the state registrar of vital statistics.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5. VITAL STATISTICS.

§16-5-12b. Notation on birth records of missing children.

Upon receiving a report of the disappearance of any child born in this state, the state registrar shall indicate in a clear and conspicuous manner in the child's birth record that the child has been reported as missing, including the title and location of the law-enforcement agency providing the report. Upon receiving a request for any birth records containing a report of the disappearance of any child, the state registrar shall immediately notify the local law-enforcement agency which provided the missing child report. The state registrar shall transmit any relevant information concerning the applicant’s identity, address and other pertinent data immediately to the relevant local law-enforcement agency. The state registrar shall retain the original written request until notified of the missing child’s recovery or the child attains the age of eighteen. Upon notification that any missing child has been recovered, the state registrar shall remove the report of the disappearance from the child’s birth record. The provisions of this section shall
CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5c. Birth certificate required upon admission to public school; required notice to local law-enforcement agency of missing children.

(a) No pupil shall be admitted for the first time to any public school in this state unless the person enrolling the pupil furnishes a certified copy of the pupil’s birth record confirming the pupil’s identity and age. If a certified copy of the pupil’s birth record cannot be obtained, the person so enrolling the pupil shall submit an affidavit explaining the inability to produce a certified copy of the birth record: Provided, That if any person submitting such affidavit is in U.S. military service and is in transit due to military orders, a three week extension shall be granted to such person for providing the birth records.

(b) Upon the failure of any person enrolling a pupil to furnish a certified copy of the pupil’s birth record in conformance with subsection (a) above, the principal of the school in which the pupil is being enrolled or his designee shall immediately notify the local law-enforcement agency. The notice to the local law-enforcement agency shall include copies of the submitted proof of the pupil’s identity and age and the affidavit explaining the inability to produce a certified copy of the birth record.

(c) Within fourteen days after enrolling a transferred pupil, the principal of the school in which the pupil has been enrolled or his designee shall request that the principal or his designee of the school in which the pupil was previously enrolled transfer a certified copy of the pupil’s birth record.

(d) Principals and their designees shall be immune from any civil or criminal liability in connection with any notice to a local law-enforcement agency of a pupil lacking a birth certificate or failure to give such notice as required by this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1991.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the day of 1991.

Governor