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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

—●—
ENROLLED

SENATE BILL NO. 383

(By Senator Lucht)

—●—
PASSED March 9, 1991

In Effect July 1, 1991 Passage

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

2 have the mission of statewide enforcement of criminal
3 and traffic laws with emphasis on providing basic
4 enforcement and citizen protection from criminal
5 depredation throughout the state and maintaining the
6 safety of the state's public streets, roads and highways.

7 (b) The superintendent and each of the officers and
8 members of the division are hereby empowered:

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

22 (2) To serve criminal process issued by any court or
23 magistrate anywhere within this state (they shall not
24 serve civil process); and

25 (3) To cooperate with local authorities in detecting
26 crime and in apprehending any person or persons
27 engaged in or suspected of the commission of any
28 crime, misdemeanor or offense against the law of this
29 state, or of the United States, or of any ordinance of
30 any municipality in this state; and to take affidavits in
31 connection with any application to the division of
32 highways, division of motor vehicles and division of
33 public safety of West Virginia for any license, permit
34 or certificate that may be lawfully issued by these
35 divisions of state government.

36 (c) Members of the division of public safety are
37 hereby created forest patrolmen and game and fish
38 wardens throughout the state to do and perform any
39 duties and exercise any powers of such officers, and
40 may apprehend and bring before any court or magis-
41 trate having jurisdiction of such matters, anyone

42 violating any of the provisions of chapters twenty,
43 sixty and sixty-one of this code, and the division of
44 public safety shall at any time be subject to the call of
45 the West Virginia alcohol beverage control commis-
46 sioner to aid in apprehending any person violating any
47 of the provisions of chapter sixty of this code. They
48 shall serve and execute warrants for the arrest of any
49 person and warrants for the search of any premises
50 issued by any properly constituted authority, and shall
51 exercise all of the powers conferred by law upon a
52 sheriff. They shall not serve any civil process or
53 exercise any of the powers of such officer in civil
54 matters.

55 (d) Any member of the division of public safety
56 knowing or having reason to believe that anyone has
57 violated the law may make complaint in writing
58 before any court or officer having jurisdiction and
59 procure a warrant for such offender, execute the same
60 and bring such person before the proper tribunal
61 having jurisdiction. He shall make return on all such
62 warrants to such tribunals and his official title shall be
63 "member of the division of public safety". Members of
64 the division of public safety may execute any sum-
65 mons or process issued by any tribunal having juris-
66 diction requiring the attendance of any person as a
67 witness before such tribunal and make return thereon
68 as provided by law, and any return by a member of
69 the division of public safety showing the manner of
70 executing such warrant or process shall have the same
71 force and effect as if made by a sheriff.

72 (e) Each member of the division of public safety,
73 when called by the sheriff of any county, or when the
74 governor by proclamation so directs, shall have full
75 power and authority within such county, or within the
76 territory defined by the governor, to direct and
77 command absolutely the assistance of any sheriff,
78 deputy sheriff, chief of police, policeman, game and
79 fish warden, and peace officer of the state, or of any
80 county or municipality therein, or of any able-bodied
81 citizen of the United States, to assist and aid in
82 accomplishing the purposes expressed in this article.

83 When so called, any officer or person shall, during the
84 time his assistance is required, be for all purposes, a
85 member of the division of public safety and subject to
86 all the provisions of this article.

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

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

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

114 (i) The superintendent shall be reimbursed by the
115 division of motor vehicles for salaries and employee
116 benefits paid to members of the division of public
117 safety, and shall either be paid directly or reimbursed
118 by the division of motor vehicles for all other expenses
119 of such group of members in accordance with actual
120 costs determined by the superintendent, for services
121 performed by such members relating to the duties and
122 obligations of the division of motor vehicles set forth

123 in chapters seventeen, seventeen-a, seventeen-b,
124 seventeen-c and seventeen-d of this code.

125 (j) By the first day of July, one thousand nine
126 hundred ninety-three, the superintendent shall estab-
127 lish a network to implement reports of the disappear-
128 ance of children by local law-enforcement agencies to
129 local school division superintendents and the state
130 registrar of vital statistics. The network shall be
131 designed to establish cooperative arrangements
132 between local law-enforcement agencies and local
133 school divisions concerning reports of missing children
134 and notices to law-enforcement agencies of requests
135 for copies of the cumulative records and birth certif-
136 icates of missing children. The network shall also
137 establish a mechanism for reporting the identities of
138 all missing children to the state registrar of vital
139 statistics.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5. VITAL STATISTICS.

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

1 Upon receiving a report of the disappearance of any
2 child born in this state, the state registrar shall
3 indicate in a clear and conspicuous manner in the
4 child's birth record that the child has been reported as
5 missing, including the title and location of the law-
6 enforcement agency providing the report. Upon
7 receiving a request for any birth records containing a
8 report of the disappearance of any child, the state
9 registrar shall immediately notify the local law-
10 enforcement agency which provided the missing child
11 report. The state registrar shall transmit any relevant
12 information concerning the applicant's identity,
13 address and other pertinent data immediately to the
14 relevant local law-enforcement agency. The state
15 registrar shall retain the original written request until
16 notified of the missing child's recovery or the child
17 attains the age of eighteen. Upon notification that any
18 missing child has been recovered, the state registrar
19 shall remove the report of the disappearance from the
20 child's birth record. The provisions of this section shall

21 be implemented by the first day of July, one thousand
22 nine hundred ninety-three.

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.

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

13 (b) Upon the failure of any person enrolling a pupil
14 to furnish a certified copy of the pupil's birth record
15 in conformance with subsection (a) above, the princi-
16 pal of the school in which the pupil is being enrolled
17 or his designee shall immediately notify the local law-
18 enforcement agency. The notice to the local law-
19 enforcement agency shall include copies of the submit-
20 ted proof of the pupil's identity and age and the
21 affidavit explaining the inability to produce a certified
22 copy of the birth record.

23 (c) Within fourteen days after enrolling a trans-
24 ferred pupil, the principal of the school in which the
25 pupil has been enrolled or his designee shall request
26 that the principal or his designee of the school in
27 which the pupil was previously enrolled transfer a
28 certified copy of the pupil's birth record.

29 (d) Principals and their designees shall be immune
30 from any civil or criminal liability in connection with
31 any notice to a local law-enforcement agency of a
32 pupil lacking a birth certificate or failure to give such
33 notice as required by this section.

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

Somer Heck
.....
Chairman Senate Committee

Ernest C. Meade
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1991.

Parrell Edlberg
.....
Clerk of the Senate

Donald G. Kopp
.....
Clerk of the House of Delegates

Keith Burdette
.....
President of the Senate

Ed Barber
.....
Speaker House of Delegates

The within ~~is approved~~ this the 31 day of April 1991.

Walter Loper
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/91

Time 10:35 am