WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

ENROLLED

Committee Substitute for

SENATE BILL NO. 53

(By Senator Wooton)

PASSED March 10, 1993

In Effect 90 days from Passage
AN ACT to amend chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten, relating to law enforcement; cooperation between federal, state, municipal and county law-enforcement agencies; providing for mutual assistance in law enforcement among certain law-enforcement agencies; providing for the integration of law-enforcement agency to function on a multijurisdictional basis; term of agreements; withdrawal; and filing requirement.

Be it enacted by the Legislature of West Virginia:

That chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten, to read as follows:

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-1. Short title.

1 This article shall be known as the “West Virginia Law-Enforcement Mutual Assistance Act”.
§15-10-2. Legislative findings.

1 The Legislature hereby finds and declares that the commission of various crimes against the peace and dignity of the state of West Virginia quite often crosses county and municipal boundaries, affecting the citizenry of this state and making difficult the tasks of detecting and preventing crime by law-enforcement agencies due to restrictions imposed by municipal and county boundaries; that many county and municipal law-enforcement agencies do not, by themselves, have sufficient resources in personnel, equipment and particular areas of expertise to adequately prevent or detect those crimes or criminal activities which cross such county and municipal boundaries; that it is in the best interest of the citizens of this state for law-enforcement agencies to share resources and to provide mutual assistance to each other; and that, therefore, the Legislature finds and declares that the various law-enforcement agencies within the state should be permitted and empowered to share resources and provide mutual assistance for the prevention and detection of crime.

§15-10-3. Definitions.

1 In this article, unless a different meaning plainly is required:

(1) "Criminal justice enforcement personnel" means those persons within the state criminal justice system who are actually employed as members of the division of public safety, state conservation officers, chiefs of police and police of incorporated municipalities, and county sheriffs and their deputies, and whose primary duties are the investigation of crime and the apprehension of criminals.

(2) "Head of a law-enforcement agency" means the superintendent of the division of public safety, the chief conservation officer of the division of natural resources, a chief of police of an incorporated municipality or a county sheriff.

(a) The head of any law-enforcement agency as defined in section three of this article may temporarily provide assistance and cooperation to another agency of the state criminal justice system or to a federal law-enforcement agency in investigating crimes or possible criminal activity if requested to do so in writing by the head of another law-enforcement agency or federal law-enforcement agency. Such assistance may also be provided upon the request of the head of the law-enforcement agency or federal law-enforcement agency without first being reduced to writing in emergency situations involving the imminent risk of loss of life or serious bodily injury. The assistance may include, but is not limited to, entering into a multijurisdictional task force agreement to integrate federal, state, county and municipal law-enforcement agencies or any combination thereof, for the purpose of enhancing interagency coordination, intelligence gathering, facilitating multijurisdictional investigations, providing criminal justice enforcement personnel of the law-enforcement agency to work temporarily with personnel of another agency, including in an undercover capacity, and making available equipment, training, technical assistance and information systems for the more efficient investigation, apprehension and adjudication of persons who violate the criminal laws of this state or the United States, and to assist the victims of such crimes. When providing the assistance under the provisions of this article, a head of a law-enforcement agency shall comply with all applicable statutes, ordinances, rules, policies or guidelines officially adopted by the state or the governing body of the city or county by which he is employed, and any conditions or restrictions included therein.

(b) While temporarily assigned to work with another law-enforcement agency or agencies, criminal justice enforcement personnel shall have the same jurisdiction, powers, privileges and immunities, including those relating to the defense of civil actions, as such criminal justice enforcement personnel would enjoy if
actually employed by the agency to which they are assigned, in addition to any corresponding or varying jurisdiction, powers, privileges and immunities conferred by virtue of their continued employment with the assisting agency.

(c) While assigned to another agency or to a multi-jurisdictional task force, criminal justice enforcement personnel shall be subject to the lawful operational commands of the superior officers of the agency or task force to which they are assigned, but for personnel and administrative purposes, including compensation, they shall remain under the control of the assisting agency. These assigned personnel shall continue to be covered by all employee rights and benefits provided by the assisting agency, including workers' compensation, to the same extent as though such personnel were functioning within the normal scope of their duties.

(d) No request or agreement between the heads of law-enforcement agencies made or entered into pursuant to the provisions of this article shall remain in force and effect for a period of more than twelve months unless renewed in writing by the parties thereto nor shall any request or agreement made or entered into pursuant to the provisions of this article have force or effect until a copy of said request or agreement is filed with the office of the circuit clerk of the county or counties in which the law-enforcement agencies involved operate. Upon filing the requests or agreements may be sealed subject to disclosure pursuant to an order of a circuit court directing disclosure for good cause. Nothing in this article shall be construed to limit the authority of the head of a law-enforcement agency to withdraw from any agreement at any time.

(e) Nothing contained in this article shall be construed so as to grant, increase, decrease or in any manner affect the civil service protection or the applicability of civil service laws as to any criminal justice enforcement personnel or agency operating under the authority of this article, nor shall this article
in any way reduce or increase the jurisdiction or authority of any criminal justice enforcement personnel or agency, except as specifically provided herein.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

[Signature]

Chairman House Committee

[Signature]

Originated in the Senate.

In effect ninety days from passage.

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

The within ... approved ... this the 23rd day of ... Massachusetts, 1993.

[Signature]

Governor
PRESENTED TO:

GOVERNOR

Date: 3/17/93

Time: 3:45 pm