

HB 2471

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SENATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

House Bill No. 2471

(By Delegates Modesitt and Faircloth)



Passed March 13, 1999

In Effect from Passage

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STATE OF WEST VIRGINIA

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H. B. 2471

(BY DELEGATES MODESITT AND FAIRCLOTH)

[Passed March 13, 1999; in effect from passage.]

AN ACT to amend and reenact sections five and five-a, article four, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one and five, article twenty-nine, chapter thirty of said code; to amend and reenact section five hundred one, article five, chapter sixty-a of said code; and to amend and reenact section four, article three-b, chapter sixty-one of said code, all relating to renaming security officers of institutions of higher learning; providing that security officers are renamed "campus police officers"; empowering campus security officers to enforce the provisions of the uniform controlled substances act on campuses; campus police officers to carry firearms; providing that campus police officers are law-enforcement officers and setting forth definition.

Be it enacted by the Legislature of West Virginia:

That sections five and five-a, article four, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections one and five, article twenty-nine, chapter thirty of said code be amended and reenacted; that section five hundred one, article five, chapter sixty-a be amended and reenacted; and that section four, article three-b,

chapter sixty-one of said code be amended and reenacted, all to read as follows:

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-5. Campus police officers; appointment; qualifications; authority; compensation and removal.

1 The governing boards are hereby authorized to appoint
2 bona fide residents of this state to act as campus police officers
3 upon any premises owned or leased by the state of West
4 Virginia and under the jurisdiction of the governing boards,
5 subject to the conditions and restrictions hereinafter imposed.
6 Before performing duties as a campus police officer in any
7 county, each person so appointed shall first qualify therefor in
8 the same manner as is required of county police officers by the
9 taking and filing of an oath of office as required by article one,
10 chapter six of this code and by posting an official bond as
11 required by article two, chapter six of this code. A campus
12 police officer shall have authority to carry a gun and may carry
13 any other dangerous weapon while on duty if the campus police
14 officer fulfills the certification requirement for law-enforcement
15 officers under section five, article twenty-nine, chapter thirty of
16 this code.

17 It is the duty of any person so appointed and qualified as a
18 campus police officer to preserve law and order only upon those
19 premises under the jurisdiction of the governing boards and on
20 any other street, road or thoroughfare, except controlled access
21 and open country highways, immediately adjacent to or passing
22 through such premises, to which the person may be assigned by
23 the president or other administrative head of the state institution
24 of higher education. For this purpose the campus police officer
25 is a law-enforcement officer pursuant to the provisions of
26 section one, article twenty-nine, chapter thirty of this code and,
27 as to offenses committed within any area so assigned, has and
28 may exercise all the powers and authority and is subject to all
29 the requirements and responsibilities of a law-enforcement
30 officer: *Provided*, That the assignment of campus police
31 officers to the duties authorized by this section may not be

32 deemed to supersede in any way the authority or duty of other
33 peace officers to preserve law and order on such premises. In
34 addition, the campus police officers appointed under provisions
35 of this section have authority to assist local peace officers on
36 public highways in the control of traffic in and around premises
37 owned by the state of West Virginia whenever such traffic is
38 generated as a result of athletic or other activities conducted or
39 sponsored by a state institution of higher education and when
40 such assistance has been requested by the local peace officers.

41 The salary of all such campus police officers shall be paid
42 by the appropriate governing board. Each state institution may
43 furnish each campus police officer with a firearm and an
44 official uniform to be worn while on duty and shall furnish and
45 require each officer while on duty to wear a shield with an
46 appropriate inscription and to carry credentials certifying to the
47 person's identity and authority as a campus police officer.

48 The governing boards may at their pleasure revoke the
49 authority of any campus police officer. The president or other
50 administrative head of the state institution of higher education
51 shall report the termination of employment of a campus police
52 officer by filing a notice to that effect in the office of the clerk
53 of each county in which the campus police officer's oath of
54 office was filed.

**§18B-4-5a. Crimes committed on campus of institutions of higher
education.**

1 The president or a designee of each institution of higher
2 education in this state shall on a regular and timely basis
3 provide information to the public concerning alleged crimes
4 occurring on the institution's property which have been
5 reported to a campus police officer or any other officer of the
6 institution. A crime shall be deemed reported whenever a
7 campus police officer or other officer of the institution deter-
8 mines that the report is credible, when the report is submitted
9 in writing and attested to by the victim on such forms as shall
10 be made available by the institution for such purpose, or when
11 the institution is notified by a law-enforcement agency of the
12 reporting of a crime alleged to have occurred on the institu-
13 tion's property.

14 Such reports shall be referred within twenty-four hours to
15 the appropriate law-enforcement agencies, as defined in section
16 one, article twenty-nine, chapter thirty of this code, for further
17 investigation. The information required to be made available to
18 the public regarding the crime report shall be so available
19 within ten days of the report and shall include the nature of the
20 criminal offense, the date of the offense, the general location of
21 the offense (such as a designation of a specific building or area
22 of the campus) and the time of day when the offense occurred:
23 *Provided*, That this requirement shall not be construed to
24 require the release of any information which may disclose the
25 identity of the victim: *Provided, however*, That the institution
26 shall withhold the information required to be made available to
27 the public for a longer period upon certification of investigative
28 need that the information be withheld from the public, such
29 certification to be filed by an officer of one of the investigating
30 law-enforcement agencies with the president of the institution
31 or the designee to whom the duties required by this section have
32 been delegated: *Provided further*, That the required information
33 may in no event be withheld after an arrest has been made in
34 connection with the crime report.

35 For purposes of this section, "crime" is defined as those
36 offenses required to be reported under the federal Crime
37 Awareness and Campus Security Act of 1990, as amended, and
38 under section eight-a, article one of this chapter, and includes
39 murder, rape, robbery, aggravated assault, burglary, motor
40 vehicle theft and arrests for liquor, drug or weapons laws
41 violations.

42 The governing boards shall provide crime reporting forms
43 and promulgate such legislative rule pursuant to the provisions
44 of article three-a, chapter twenty-nine-a of this code as are
45 necessary for the implementation of this section. Such forms
46 and rules shall be provided by the central office to other
47 institutions of higher education in this state to assist them with
48 the implementation of this section.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

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

3 “Approved law-enforcement training academy” means any
4 training facility which is approved and authorized to conduct
5 law-enforcement training as provided in this article;

6 “Chief executive” means the superintendent of the state
7 police; the chief conservation officer of the division of natural
8 resources; the sheriff of any West Virginia county; any admin-
9 istrative deputy appointed by the chief conservation officer of
10 natural resources; or the chief of any West Virginia municipal
11 law-enforcement agency;

12 “County” means the fifty-five major political subdivisions
13 of the state;

14 “Exempt rank” means any noncommissioned or commis-
15 sioned rank of sergeant or above;

16 “Governor’s committee on crime, delinquency and correc-
17 tion” or “governor’s committee” means the governor’s commit-
18 tee on crime, delinquency and correction established as a state
19 planning agency pursuant to section one, article nine, chapter
20 fifteen of this code;

21 “Law-enforcement officer” means any duly authorized
22 member of a law-enforcement agency who is authorized to
23 maintain public peace and order, prevent and detect crime,
24 make arrests and enforce the laws of the state or any county or
25 municipality thereof, other than parking ordinances, and
26 includes those persons employed as campus police officers at
27 state institutions of higher education in accordance with the
28 provisions of section five, article four, chapter eighteen-b of
29 this code, although those institutions may not be considered
30 law-enforcement agencies. The term also includes those persons
31 employed as rangers by the Hatfield-McCoy regional recreation
32 authority in accordance with the provisions of section six,
33 article fourteen, chapter twenty of this code, although the
34 authority may not be considered a law-enforcement agency:
35 *Provided*, That the subject rangers shall pay the tuition and

36 costs of training. As used in this article, the term
37 “law-enforcement officer” does not apply to the chief executive
38 of any West Virginia law-enforcement agency or any watchman
39 or special conservation officer;

40 “Law-enforcement official” means the duly appointed chief
41 administrator of a designated law-enforcement agency or a duly
42 authorized designee;

43 “Municipality” means any incorporated town or city whose
44 boundaries lie within the geographic boundaries of the state;

45 “Subcommittee” or “law-enforcement training subcommit-
46 tee” means the subcommittee of the governor’s committee on
47 crime, delinquency and correction created by section two of this
48 article; and

49 “West Virginia law-enforcement agency” means any duly
50 authorized state, county or municipal organization employing
51 one or more persons whose responsibility is the enforcement of
52 laws of the state or any county or municipality thereof: *Pro-*
53 *vided*, That neither the Hatfield-McCoy regional recreation
54 authority nor any state institution of higher education may be
55 deemed a law-enforcement agency.

§30-29-5. Certification requirements.

1 (a) Except as provided in subsections (b) and (g) below, no
2 person may be employed as a law-enforcement officer by any
3 West Virginia law-enforcement agency or by any state institu-
4 tion of higher education on or after the effective date of this
5 article unless the person is certified, or is certifiable in one of
6 the manners specified in subsection (c) through (e) below, by
7 the governor’s committee as having met the minimum entry
8 level law-enforcement qualification and training program
9 requirements promulgated pursuant to this article.

10 (b) Except as provided in subsection (g) below, a person
11 who is not certified, or certifiable in one of the manners
12 specified in subsections (c) through (e) below, may be condi-
13 tionally employed as a law-enforcement officer until certified:
14 *Provided*, That, within ninety calendar days of the commence-
15 ment of employment or the effective date of this article if the

16 person is already employed on the effective date, he or she
17 makes a written application to attend an approved law-enforce-
18 ment training academy. The academy shall notify the applicant
19 in writing of the receipt of the application and of the tentative
20 date of the applicant's enrollment. Any applicant who, as the
21 result of extenuating circumstances acceptable to his or her law-
22 enforcement official, is unable to attend the scheduled training
23 program to which he or she was admitted may reapply and shall
24 be admitted to the next regularly scheduled training program.
25 An applicant who satisfactorily completes the program shall,
26 within thirty days of completion, make written application to
27 the governor's committee requesting certification as having met
28 the minimum entry level law-enforcement qualification and
29 training program requirements. Upon determining that an
30 applicant has met the requirements for certification, the
31 governor's committee shall forward to the applicant documen-
32 tation of certification. An applicant who fails to complete the
33 training program to which he or she is first admitted, or was
34 admitted upon reapplication, may not be certified by the
35 governor's committee.

36 (c) Any person who is employed as a law-enforcement
37 officer on the effective date of this article and is a graduate of
38 the West Virginia basic police training course, the West
39 Virginia department of public safety cadet training program, or
40 other approved law-enforcement training academy, is certifiable
41 as having met the minimum entry law-enforcement training
42 program requirements and is exempt from the requirement of
43 attending a law-enforcement training academy. To receive
44 certification, the person shall make written application within
45 ninety calendar days of the effective date of this article to the
46 governor's committee requesting certification. The governor's
47 committee shall review the applicant's relevant scholastic
48 records and, upon determining that the applicant has met the
49 requirements for certification, shall forward to the applicant
50 documentation of certification.

51 (d) Any person who is employed as a law-enforcement
52 officer on the effective date of this article and is not a graduate
53 of the West Virginia basic police training course, the West

54 Virginia department of public safety cadet training program, or
55 other approved law-enforcement training academy, is certifiable
56 as having met the minimum entry level law-enforcement
57 training program requirements and is exempt from the require-
58 ment of attending a law-enforcement training academy if the
59 person has been employed as a law-enforcement officer for a
60 period of not less than five consecutive years immediately
61 preceding the date of application for certification. To receive
62 certification, the person shall make written application within
63 ninety calendar days following the effective date of this article
64 to the governor's committee requesting certification. The
65 application shall include notarized statements as to the appli-
66 cant's years of employment as a law-enforcement officer. The
67 governor's committee shall review the application and, upon
68 determining that the applicant has met the requirements for
69 certification, shall forward to the applicant documentation of
70 certification.

71 (e) Any person who begins employment on or after the
72 effective date of this article as a law-enforcement officer is
73 certifiable as having met the minimum entry level law-
74 enforcement training program requirements and is exempt from
75 attending a law-enforcement training academy if the person has
76 satisfactorily completed a course of instruction in law enforce-
77 ment equivalent to or exceeding the minimum applicable law-
78 enforcement training curricula promulgated by the governor's
79 committee. To receive certification, the person shall make
80 written application within ninety calendar days following the
81 commencement of employment to the governor's committee
82 requesting certification. The application shall include a nota-
83 rized statement of the applicant's satisfactory completion of the
84 course of instruction in law enforcement, a notarized transcript
85 of the applicant's relevant scholastic records, and a notarized
86 copy of the curriculum of the completed course of instruction.
87 The governor's committee shall review the application and, if
88 it finds the applicant has met the requirements for certification
89 shall forward to the applicant documentation of certification.

90 (f) Any person who is employed as a law-enforcement
91 officer on or after the effective date of this article and fails to be

92 certified shall be automatically terminated and no further
93 emoluments shall be paid to such officer by his employer. Any
94 person terminated shall be entitled to reapply, as a private
95 citizen, to the subcommittee for training and certification, and
96 upon being certified may again be employed as a law-enforce-
97 ment officer in this state.

98 (g) Nothing in this article may be construed as prohibiting
99 any governing body, civil service commission or chief execu-
100 tive of any West Virginia law-enforcement agency from
101 requiring their law-enforcement officers to meet qualifications
102 and satisfactorily complete a course of law-enforcement
103 instruction which exceeds the minimum entry level law-
104 enforcement qualification and training curricula promulgated
105 by the governor's committee.

106 (h) The requirement of this section for qualification,
107 training and certification of law-enforcement officers shall not
108 be mandatory during the two years next succeeding the effec-
109 tive date of this article for the law-enforcement officers of a
110 law-enforcement agency which employs a civil service system
111 for its law-enforcement personnel, nor shall such provisions be
112 mandatory during the five years next succeeding the effective
113 date of this article for law-enforcement officers of a law-
114 enforcement agency which does not employ a civil service
115 system for its law-enforcement personnel: *Provided*, That such
116 requirements shall be mandatory for all such law-enforcement
117 officers until their law-enforcement officials apply for their
118 exemption by submitting a written plan to the governor's
119 committee which will reasonably assure compliance of all law-
120 enforcement officers of their agencies within the applicable two
121 or five-year period of exemption.

122 (i) Any person aggrieved by a decision of the governor's
123 committee made pursuant to this article may contest such
124 decision in accordance with the provisions of article five,
125 chapter twenty-nine-a of this code.

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 5. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.**§60A-5-501. Powers of enforcement personnel.**

1 (a) Any member of the department of public safety, any
2 sheriff, any deputy sheriff, any municipal police officer and any
3 campus police officer may in the enforcement of the provisions
4 of this act:

5 (1) Carry firearms;

6 (2) Execute and serve search warrants, arrest warrants,
7 subpoenas, and summonses issued under the authority of this
8 state;

9 (3) Make arrests without warrant for any offense under this
10 act committed in his presence, or if he has probable cause to
11 believe that the person to be arrested has committed or is
12 committing a violation of this act which may constitute a
13 felony;

14 (4) Make seizures of property pursuant to this act; or

15 (5) Perform such other law-enforcement duties as said state
16 board of pharmacy or said appropriate department, board or
17 agency, as specified in section 301, designates.

18 (b) All officers, agents, inspectors, and representatives of
19 the said state board of pharmacy and of the said appropriate
20 department, board, or agency, as specified in section 301, and
21 members of the department of public safety may execute and
22 serve administrative warrants issued incident to the enforce-
23 ment of the provisions of this act. Any such officer, agent,
24 inspector, and representative of the said state board of phar-
25 macy and of the said appropriate department, board, or agency,
26 as specified in said section 301, may:

27 (1) Execute and serve subpoenas and summonses issued
28 under the authority of this state;

29 (2) Make arrests without warrant for any offense under this
30 act committed in his presence, or if he has probable cause to
31 believe that the person to be arrested has committed or is
32 committing a violation of this act which may constitute a
33 felony; or

34 (3) Make seizures of property pursuant to this act.

35 (c) All prosecuting attorneys and the attorney general, or
36 any of their assistants, shall assist in the enforcement of all
37 provisions of this act and shall cooperate with all agencies
38 charged with the enforcement of the laws of the United States,
39 of this state, and of all other states relating to controlled
40 substances.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 3B. TRESPASS.

§61-3B-4. Trespass on student residence premises or student facility premises of an institution of higher education.

1 (a) For the purposes of this section:

2 (1) "Residence hall" means housing or a unit of housing
3 provided primarily for students as a temporary or permanent
4 dwelling place or abode and owned, operated or controlled by
5 an institution of higher education.

6 (2) "Student facility" means a facility owned, operated or
7 controlled by an institution of higher education at which
8 alcoholic liquor or nonintoxicating beer is purchased, sold or
9 served to students enrolled at such institution, but does not
10 include facilities at which athletic events are regularly sched-
11 uled and an admission fee is generally charged.

12 (3) "Institution of higher education" means any state
13 university, state college or state community college under the
14 control, supervision and management of the West Virginia
15 board of trustees or West Virginia board of directors, or any
16 other university, college or institution of higher education in the
17 state subject to rules for accreditation under the provisions of
18 section seven, article four, chapter eighteen-b of this code.

19 (4) "Person authorized to have access to a residence hall or
20 student facility" means:

21 (A) A student who resides or dwells in the residence hall;
22 or

23 (B) An invited guest of a student who resides or dwells in
24 the residence hall; or

25 (C) A parent, guardian or person who has legal custody of
26 a student who resides or dwells in the residence hall; or

27 (D) An employee of the institution of higher education who
28 is required by such employment by such institution to be in the
29 residence hall or student facility and who is acting within the
30 scope of his or her employment; or

31 (E) A delivery person, repair person or other such person
32 who is not an employee of the institution of higher education
33 but who nonetheless has a legitimate commercial reason to be
34 in the residence hall or student facility and who is acting
35 pursuant to such legitimate commercial reason.

36 (b) If a person authorized to have access to a residence hall
37 or a student facility enters such residence hall or student facility
38 and by such presence or acts interferes with the peaceful or
39 orderly operation of such residence hall or student facility, such
40 person may be asked to leave such residence hall or student
41 facility. If a person not authorized to have access to a residence
42 hall or student facility enters such a residence hall or student
43 facility, that person may be asked to leave such residence hall
44 or student facility notwithstanding the fact that he or she has not
45 interfered with the peaceful or orderly operation of such
46 residence hall or student facility or otherwise committed a
47 breach of the peace or violated any statute or ordinance. Such
48 request to leave may be made by the president or other adminis-
49 trative head of the institution of higher education, an employee
50 designated by the president to maintain order in the residence
51 hall or student facility, a campus police officer appointed
52 pursuant to the provisions of section five, article four, chapter
53 eighteen-b of this code, or a municipal police officer, a sheriff
54 or deputy sheriff, or a member of the department of public
55 safety.

56 (c) It shall be unlawful for a person to remain in a residence
57 hall or student facility after being asked to leave as provided for
58 in subsection (b) of this section.

59 (d) Any person who violates the provisions of subsection
60 (c) of this section shall be guilty of a misdemeanor and, upon
61 conviction thereof, shall be fined fifteen dollars. For any second
62 or subsequent conviction for a violation occurring within one
63 year after a previous violation for similar conduct, such person
64 shall be fined an amount not to exceed one hundred dollars.

65 (e) This section shall not be construed to be in derogation
66 of the common law, nor shall the provisions of this section
67 contravene or infringe upon existing statutes related to the same
68 subject.

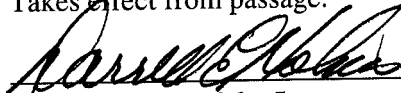
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee

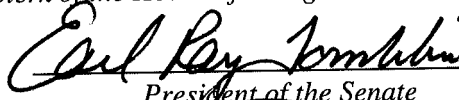

Chairman House Committee

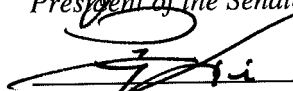
Originating in the House.

Takes effect from passage.

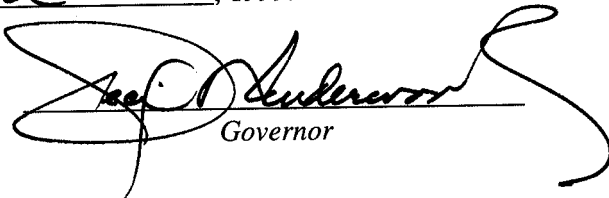

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 7th
day of April, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/99

Time 3:30 