ENROLLED

House Bill No. 2471

(By Delegates Modesitt and Faircloth)

Passed March 13, 1999

In Effect from Passage
ENROLLED
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.

The governing boards are hereby authorized to appoint bona fide residents of this state to act as campus police officers upon any premises owned or leased by the state of West Virginia and under the jurisdiction of the governing boards, subject to the conditions and restrictions hereinafter imposed.

Before performing duties as a campus police officer in any county, each person so appointed shall first qualify therefor in the same manner as is required of county police officers by the taking and filing of an oath of office as required by article one, chapter six of this code and by posting an official bond as required by article two, chapter six of this code. A campus police officer shall have authority to carry a gun and may carry any other dangerous weapon while on duty if the campus police officer fulfills the certification requirement for law-enforcement officers under section five, article twenty-nine, chapter thirty of this code.

It is the duty of any person so appointed and qualified as a campus police officer to preserve law and order only upon those premises under the jurisdiction of the governing boards and on any other street, road or thoroughfare, except controlled access and open country highways, immediately adjacent to or passing through such premises, to which the person may be assigned by the president or other administrative head of the state institution of higher education. For this purpose the campus police officer is a law-enforcement officer pursuant to the provisions of section one, article twenty-nine, chapter thirty of this code and, as to offenses committed within any area so assigned, has and may exercise all the powers and authority and is subject to all the requirements and responsibilities of a law-enforcement officer: Provided, That the assignment of campus police officers to the duties authorized by this section may not be
deemed to supersede in any way the authority or duty of other
peace officers to preserve law and order on such premises. In
addition, the campus police officers appointed under provisions
of this section have authority to assist local peace officers on
public highways in the control of traffic in and around premises
owned by the state of West Virginia whenever such traffic is
generated as a result of athletic or other activities conducted or
sponsored by a state institution of higher education and when
such assistance has been requested by the local peace officers.

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

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

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

The president or a designee of each institution of higher
education in this state shall on a regular and timely basis
provide information to the public concerning alleged crimes
occurring on the institution's property which have been
reported to a campus police officer or any other officer of the
institution. A crime shall be deemed reported whenever a
campus police officer or other officer of the institution deter-
mines that the report is credible, when the report is submitted
in writing and attested to by the victim on such forms as shall
be made available by the institution for such purpose, or when
the institution is notified by a law-enforcement agency of the
reporting of a crime alleged to have occurred on the institu-
tion's property.
Such reports shall be referred within twenty-four hours to the appropriate law-enforcement agencies, as defined in section one, article twenty-nine, chapter thirty of this code, for further investigation. The information required to be made available to the public regarding the crime report shall be so available within ten days of the report and shall include the nature of the criminal offense, the date of the offense, the general location of the offense (such as a designation of a specific building or area of the campus) and the time of day when the offense occurred: Provided, That this requirement shall not be construed to require the release of any information which may disclose the identity of the victim: Provided, however, That the institution shall withhold the information required to be made available to the public for a longer period upon certification of investigative need that the information be withheld from the public, such certification to be filed by an officer of one of the investigating law-enforcement agencies with the president of the institution or the designee to whom the duties required by this section have been delegated: Provided further, That the required information may in no event be withheld after an arrest has been made in connection with the crime report.

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

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

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION,
§30-29-1. Definitions.

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

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

“Chief executive” means the superintendent of the state police; the chief conservation officer of the division of natural resources; the sheriff of any West Virginia county; any administrative deputy appointed by the chief conservation officer of natural resources; or the chief of any West Virginia municipal law-enforcement agency;

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

“Exempt rank” means any noncommissioned or commissioned rank of sergeant or above;

“Governor’s committee on crime, delinquency and correction” or “governor’s committee” means the governor’s committee on crime, delinquency and correction established as a state planning agency pursuant to section one, article nine, chapter fifteen of this code;

“Law-enforcement officer” means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and includes those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of section five, article four, chapter eighteen-b of this code, although those institutions may not be considered law-enforcement agencies. The term also includes those persons employed as rangers by the Hatfield-McCoy regional recreation authority in accordance with the provisions of section six, article fourteen, chapter twenty of this code, although the authority may not be considered a law-enforcement agency:

Provided, That the subject rangers shall pay the tuition and
costs of training. As used in this article, the term “law-enforcement officer” does not apply to the chief executive of any West Virginia law-enforcement agency or any watchman or special conservation officer;

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

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

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

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

§30-29-5. Certification requirements.

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

(b) Except as provided in subsection (g) below, a person who is not certified, or certifiable in one of the manners specified in subsections (c) through (e) below, may be conditionally employed as a law-enforcement officer until certified: Provided, That, within ninety calendar days of the commencement of employment or the effective date of this article if the
person is already employed on the effective date, he or she makes a written application to attend an approved law-enforcement training academy. The academy shall notify the applicant in writing of the receipt of the application and of the tentative date of the applicant's enrollment. Any applicant who, as the result of extenuating circumstances acceptable to his or her law-enforcement official, is unable to attend the scheduled training program to which he or she was admitted may reapply and shall be admitted to the next regularly scheduled training program. An applicant who satisfactorily completes the program shall, within thirty days of completion, make written application to the governor's committee requesting certification as having met the minimum entry level law-enforcement qualification and training program requirements. Upon determining that an applicant has met the requirements for certification, the governor's committee shall forward to the applicant documentation of certification. An applicant who fails to complete the training program to which he or she is first admitted, or was admitted upon reapplication, may not be certified by the governor's committee.

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

(d) Any person who is employed as a law-enforcement officer on the effective date of this article and is not a graduate of the West Virginia basic police training course, the West
Virginia department of public safety cadet training program, or other approved law-enforcement training academy, is certifiable as having met the minimum entry level law-enforcement training program requirements and is exempt from the requirement of attending a law-enforcement training academy if the person has been employed as a law-enforcement officer for a period of not less than five consecutive years immediately preceding the date of application for certification. To receive certification, the person shall make written application within ninety calendar days following the effective date of this article to the governor’s committee requesting certification. The application shall include notarized statements as to the applicant’s years of employment as a law-enforcement officer. The governor’s committee shall review the application and, upon determining that the applicant has met the requirements for certification, shall forward to the applicant documentation of certification.

(e) Any person who begins employment on or after the effective date of this article as a law-enforcement officer is certifiable as having met the minimum entry level law-enforcement training program requirements and is exempt from attending a law-enforcement training academy if the person has satisfactorily completed a course of instruction in law enforcement equivalent to or exceeding the minimum applicable law-enforcement training curricula promulgated by the governor’s committee. To receive certification, the person shall make written application within ninety calendar days following the commencement of employment to the governor’s committee requesting certification. The application shall include a notarized statement of the applicant’s satisfactory completion of the course of instruction in law enforcement, a notarized transcript of the applicant’s relevant scholastic records, and a notarized copy of the curriculum of the completed course of instruction. The governor’s committee shall review the application and, if it finds the applicant has met the requirements for certification shall forward to the applicant documentation of certification.

(f) Any person who is employed as a law-enforcement officer on or after the effective date of this article and fails to be
certified shall be automatically terminated and no further emoluments shall be paid to such officer by his employer. Any person terminated shall be entitled to reapply, as a private citizen, to the subcommittee for training and certification, and upon being certified may again be employed as a law-enforcement officer in this state.

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

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

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

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.
ARTICLE 5. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.

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

1. (1) Carry firearms;

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

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

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

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

(b) All officers, agents, inspectors, and representatives of the said state board of pharmacy and of the said appropriate department, board, or agency, as specified in section 301, and members of the department of public safety may execute and serve administrative warrants issued incident to the enforcement of the provisions of this act. Any such officer, agent, inspector, and representative of the said state board of pharmacy and of the said appropriate department, board, or agency, as specified in said section 301, may:

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

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

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

(a) For the purposes of this section:

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

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

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

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

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

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

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

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

(b) If a person authorized to have access to a residence hall or a student facility enters such residence hall or student facility and by such presence or acts interferes with the peaceful or orderly operation of such residence hall or student facility, such person may be asked to leave such residence hall or student facility. If a person not authorized to have access to a residence hall or student facility enters such a residence hall or student facility, that person may be asked to leave such residence hall or student facility notwithstanding the fact that he or she has not interfered with the peaceful or orderly operation of such residence hall or student facility or otherwise committed a breach of the peace or violated any statute or ordinance. Such request to leave may be made by the president or other administrative head of the institution of higher education, an employee designated by the president to maintain order in the residence hall or student facility, a campus police officer appointed pursuant to the provisions of section five, article four, chapter eighteen-b of this code, or a municipal police officer, a sheriff or deputy sheriff, or a member of the department of public safety.

(c) It shall be unlawful for a person to remain in a residence hall or student facility after being asked to leave as provided for in subsection (b) of this section.
(d) Any person who violates the provisions of subsection 
(c) of this section shall be guilty of a misdemeanor and, upon 
conviction thereof, shall be fined fifteen dollars. For any second 
or subsequent conviction for a violation occurring within one 
year after a previous violation for similar conduct, such person 
shall be fined an amount not to exceed one hundred dollars.

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