

SB 704

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



ENROLLED

SENATE BILL NO. 704

(By Senator HUNTER, ET AL)



PASSED MARCH 10, 1999

In Effect NINETY Days From Passage

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OFFICE OF THE
SECRETARY OF STATE

ENROLLED

Senate Bill No. 704

(BY SENATORS HUNTER, OLIVERIO, WOOTON, BALL, DITTMAR,
MCCABE, MINARD, MITCHELL, REDD, ROSS,
SNYDER, DEEM AND MCKENZIE)

[Passed March 10, 1999; in effect ninety days from passage.]

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, relating to requiring the state police and other state law-enforcement agencies to immediately investigate and search for missing persons who have a significant mental impairment.

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 to read as follows:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

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

1 (a) The West Virginia state police shall have the mission
2 of statewide enforcement of criminal and traffic laws with
3 emphasis on providing basic enforcement and citizen
4 protection from criminal depredation throughout the state
5 and maintaining the safety of the state's public streets,
6 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 any
10 persons charged with the violation of any law of this state,
11 or of the United States, and when a witness to the perpe-
12 tration of any offense or crime, or to the violation of any
13 law of this state, or of the United States, to make arrests
14 without warrant; to arrest and detain any persons sus-
15 pected of the commission of any felony or misdemeanor
16 whenever a complaint is made and a warrant is issued
17 thereon for the arrest, and the person arrested shall be
18 immediately brought before the proper tribunal for
19 examination and trial in the county where the offense for
20 which the arrest has been made was committed;

21 (2) To serve criminal process issued by any court or
22 magistrate anywhere within this state: *Provided*, That
23 they may not serve civil process; and

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

34 (c) Members of the West Virginia state police are hereby
35 designated as forest patrolmen and game and fish wardens
36 throughout the state to do and perform any duties and
37 exercise any powers of forest patrolmen and game and fish
38 wardens, and may apprehend and bring before any court
39 or magistrate having jurisdiction of these matters, anyone

40 violating any of the provisions of chapters twenty, sixty
41 and sixty-one of this code. The West Virginia state police
42 is at any time subject to the call of the West Virginia
43 alcohol beverage control commissioner to aid in appre-
44 hending any person violating any of the provisions of
45 chapter sixty of this code. They shall serve and execute
46 warrants for the arrest of any person and warrants for the
47 search of any premises issued by any properly constituted
48 authority, and shall exercise all of the powers conferred by
49 law upon a sheriff. They may not serve any civil process
50 or exercise any of the powers of such officer in civil
51 matters.

52 (d) Any member of the West Virginia state police know-
53 ing or having reason to believe that any person has vio-
54 lated the law may make complaint in writing before any
55 court or officer having jurisdiction and procure a warrant
56 for the offender, execute the warrant and bring the person
57 before the proper tribunal having jurisdiction. The
58 member shall make return on all warrants to the tribunals
59 and his or her official title shall be "member of the West
60 Virginia state police". Members of the West Virginia state
61 police may execute any summons or process issued by any
62 tribunal having jurisdiction requiring the attendance of
63 any person as a witness before the tribunal and make
64 return thereon as provided by law. Any return by a
65 member of the West Virginia state police showing the
66 manner of executing the warrant or process has the same
67 force and effect as if made by a sheriff.

68 (e) Each member of the West Virginia state police, when
69 called by the sheriff of any county, or when directed by the
70 governor by proclamation, has full power and authority
71 within the county, or within the territory defined by the
72 governor, to direct and command absolutely the assistance
73 of any sheriff, deputy sheriff, chief of police, policeman,
74 game and fish warden and peace officer of the state, or of
75 any county or municipality therein, or of any able-bodied
76 citizen of the United States, to assist and aid in accom-
77 plishing the purposes expressed in this article. When
78 called, any officer or person is, during the time his or her
79 assistance is required, for all purposes a member of the

80 West Virginia state police and subject to all the provisions
81 of this article.

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

92 (g) The West Virginia state police may develop proposals
93 for a comprehensive county or multicounty plan on the
94 implementation of an enhanced emergency service tele-
95 phone system and may cause a public meeting on the
96 proposals, all as set forth in section six-a, article six,
97 chapter twenty-four of this code.

98 (h) The superintendent may also assign members of the
99 division to administer tests for the issuance of commercial
100 drivers' licenses, operator and junior operator licenses as
101 provided for in section seven, article two, chapter seven-
102 teen-b of this code: *Provided*, That the division of motor
103 vehicles shall reimburse the West Virginia state police for
104 salaries and employee benefits paid to the members, and
105 shall either pay directly or reimburse the division for all
106 other expenses of the group of members in accordance
107 with actual costs determined by the superintendent.

108 (i) The superintendent shall be reimbursed by the
109 division of motor vehicles for salaries and employee
110 benefits paid to members of the West Virginia state police
111 and shall either be paid directly or reimbursed by the
112 division of motor vehicles for all other expenses of the
113 group of members in accordance with actual costs deter-
114 mined by the superintendent, for services performed by the
115 members relating to the duties and obligations of the
116 division of motor vehicles set forth in chapters seventeen,
117 seventeen-a, seventeen-b, seventeen-c and seventeen-d of
118 this code.

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

132 (k) The superintendent may at his or her discretion and
133 upon the written request of the West Virginia alcohol
134 beverage control commissioner assist the commissioner in
135 the coordination and enforcement of article sixteen,
136 chapter eleven of this code and chapter sixty of this code.

137 (l) Notwithstanding the provisions of article one-a,
138 chapter twenty of this code, the superintendent of the West
139 Virginia state police may sell any surplus real property to
140 which the West Virginia state police or its predecessors
141 retain title, and deposit the net proceeds into a special
142 revenue account to be utilized for the purchase of addi-
143 tional real property and for repairs to or construction of
144 detachment offices or other facilities required by the West
145 Virginia state police. There is hereby created a special
146 revolving fund in the state treasury which shall be desig-
147 nated as the "surplus real property proceeds fund". The
148 fund shall consist of all money received from the sale of
149 surplus real property owned by the West Virginia state
150 police. Moneys deposited in the fund shall only be avail-
151 able for expenditure upon appropriation by the Legisla-
152 ture: *Provided*, That amounts collected which are found
153 from time to time to exceed the funds needed for the
154 purposes set forth in this subsection may be transferred to
155 other accounts or funds and redesignated for other pur-
156 poses by appropriation of the Legislature.

157 (m) Notwithstanding any other provision of this code,
158 the agency for surplus property is hereby empowered to

159 transfer funds generated from the sale of vehicles, other
160 equipment and commodities belonging to the West Vir-
161 ginia state police to a special revenue account within the
162 West Virginia state police entitled the West Virginia state
163 police surplus transfer account. Moneys deposited in the
164 fund shall only be available for expenditure upon appro-
165 priation by the Legislature: *Provided*, That amounts
166 collected which are found from time to time to exceed the
167 funds needed for the purposes set forth in this subsection
168 may be transferred to other accounts or funds and
169 redesignated for other purposes by appropriation of the
170 Legislature. Any funds transferred to this account may be
171 utilized by the superintendent to defray the cost of normal
172 operating needs of the division.

173 (n) If the state police or any other law-enforcement
174 agency in this state receives a report that a person who has
175 Alzheimer's disease and related dementia missing, the
176 state police or any other law-enforcement agency shall
177 immediately open an investigation for the purpose of
178 determining the whereabouts of that missing person. Any
179 policy of the state police or any other law-enforcement
180 agency relating to a waiting period prior to initiation of an
181 investigation of a missing person shall not apply in the
182 case of a person who has Alzheimer's disease or other
183 related dementia of the type referred to in this subsection.

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

Wm. Schomaker
.....
Chairman Senate Committee

Jeff. Smith
.....
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

David Blane
.....
Clerk of the Senate

Gregg M. Boy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

John
.....
Speaker House of Delegates

The within *appeal* this the *30th*
March
Day of, 1999

Jeff. Dunderwood
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/99

Time 10:52 am