WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2001

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2540

(By Delegates C. White, Yeager, Marshall, Perry, Caputo, Smirl and Azinger)

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Passed April 13, 2001

In Effect Ninety Days from Passage
AN ACT to amend and reenact section five, article twenty-nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requiring an employer to provide certain notices and consequences to a newly hired law-enforcement officer; providing for consequences to an employer if an employer fails to provide certain notices and consequences to a newly hired law-enforcement officer; and providing for circumstances where a law-enforcement officer may appeal their termination to the governor’s committee.

Be it enacted by the Legislature of West Virginia:

That section five, article twenty-nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§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 subsections (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 person’s employer shall provide notice, in writing, of the ninety-day deadline to file a written application to the academy within thirty calendar days of that person’s commencement of employment. The employer shall provide full disclosure as to the consequences of failing to file a timely written application. 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-enforce-
ment officer in this state: Provided, That if a person is termi-
nated under this subsection because an application was not
timely filed to the academy, and the person’s employer failed
to provide notice or disclosure to that person as set forth in
subsection (b) of this section, the employer shall pay the full
cost of attending the academy if the person’s application to the
subcommittee as a private citizen is subsequently approved.

(g) Nothing in this article may be construed as prohibiting
any governing body, civil service commission or chief execu-
tive 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 effec-
tive 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.

(j) Any person terminated from employment for not filing an application to the law-enforcement training academy within ninety days after commencing employment as a law-enforcement officer may appeal the termination to the governor’s committee for reconsideration on an individual basis.
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. In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 2nd day of May, 2001.

Governor
PRESENTED TO THE
GOVERNOR
Date: 4/23/01
Time: 6:45 PM