

HB 4194

2010 APR -1 PM 4: 26

SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4194**

(By Delegate Morgan)



Passed March 13, 2010

In Effect July 1, 2010

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4194

(BY DELEGATE MORGAN)

[Passed March 13, 2010; in effect July 1, 2010.]

AN ACT to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended, and that said code be amended by adding thereto three new sections designated §15-9A-1, §15-9A-2 and §15-9A-3, all relating to codifying the Division of Justice and Community Services being incorporated in and administered as a part of the Department of Military Affairs and Public Safety.

Be it enacted by the Legislature of West Virginia:

That §5F-2-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto three new sections, designated §15-9A-1, §15-9A-2 and §15-9A-3, all to read as follows:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

2010 APR -1 PM 4:26

OFFICE OF THE SECRETARY OF STATE

**§5F-2-1. Transfer and incorporation of agencies and boards;
funds.**

1 (a) The following agencies and boards, including all of
2 the allied, advisory, affiliated or related entities and funds
3 associated with any agency or board, are incorporated in and
4 administered as a part of the Department of Administration:

5 (1) Building Commission provided in article six, chapter
6 five of this code;

7 (2) Public Employees Insurance Agency provided in
8 article sixteen, chapter five of this code;

9 (3) Governor's Mansion Advisory Committee provided
10 in article five, chapter five-a of this code;

11 (4) Commission on Uniform State Laws provided in
12 article one-a, chapter twenty-nine of this code;

13 (5) West Virginia Public Employees Grievance Board
14 provided in article three, chapter six-c of this code;

15 (6) Board of Risk and Insurance Management provided
16 in article twelve, chapter twenty-nine of this code;

17 (7) Boundary Commission provided in article
18 twenty-three, chapter twenty-nine of this code;

19 (8) Public Defender Services provided in article
20 twenty-one, chapter twenty-nine of this code;

21 (9) Division of Personnel provided in article six, chapter
22 twenty-nine of this code;

23 (10) The West Virginia Ethics Commission provided in
24 article two, chapter six-b of this code;

25 (11) Consolidated Public Retirement Board provided in
26 article ten-d, chapter five of this code; and

27 (12) Real Estate Division provided in article ten, chapter
28 five-a of this code.

29 (b) The following agencies and boards, including all of
30 the allied, advisory, affiliated or related entities and funds
31 associated with any agency or board, are incorporated in and
32 administered as a part of the Department of Commerce:

33 (1) Division of Labor provided in article one, chapter
34 twenty-one of this code, which includes:

35 (A) Occupational Safety and Health Review Commission
36 provided in article three-a, chapter twenty-one of this code;
37 and

38 (B) Board of Manufactured Housing Construction and
39 Safety provided in article nine, chapter twenty-one of this
40 code;

41 (2) Office of Miners' Health, Safety and Training
42 provided in article one, chapter twenty-two-a of this code.
43 The following boards are transferred to the Office of Miners'
44 Health, Safety and Training for purposes of administrative
45 support and liaison with the office of the Governor:

46 (A) Board of Coal Mine Health and Safety and Coal
47 Mine Safety and Technical Review Committee provided in
48 article six, chapter twenty-two-a of this code;

49 (B) Board of Miner Training, Education and Certification
50 provided in article seven, chapter twenty-two-a of this code;
51 and

52 (C) Mine Inspectors' Examining Board provided in
53 article nine, chapter twenty-two-a of this code;

54 (3) The West Virginia Development Office, which
55 includes the Division of Tourism and the Tourism
56 Commission provided in article two, chapter five-b of this
57 code;

58 (4) Division of Natural Resources and Natural Resources
59 Commission provided in article one, chapter twenty of this
60 code;

61 (5) Division of Forestry provided in article one-a, chapter
62 nineteen of this code;

63 (6) Geological and Economic Survey provided in article
64 two, chapter twenty-nine of this code; and

65 (7) Workforce West Virginia provided in chapter
66 twenty-one-a of this code, which includes:

67 (A) Division of Unemployment Compensation;

68 (B) Division of Employment Services;

69 (C) Division of Workforce Development; and

70 (D) Division of Research, Information and Analysis; and

71 (8) Division of Energy provided in article two-f, chapter
72 five-b of this code.

73 (c) The Economic Development Authority provided in
74 article fifteen, chapter thirty-one of this code is continued as
75 an independent agency within the executive branch.

76 (d) The Water Development Authority and Board
77 provided in article one, chapter twenty-two-c of this code is
78 continued as an independent agency within the executive
79 branch.

80 (e) The following agencies and boards, including all of
81 the allied, advisory and affiliated entities, are transferred to
82 the Department of Environmental Protection for purposes of
83 administrative support and liaison with the office of the
84 Governor:

85 (1) Air Quality Board provided in article two, chapter
86 twenty-two-b of this code;

87 (2) Solid Waste Management Board provided in article
88 three, chapter twenty-two-c of this code;

89 (3) Environmental Quality Board, or its successor board,
90 provided in article three, chapter twenty-two-b of this code;

91 (4) Surface Mine Board provided in article four, chapter
92 twenty-two-b of this code;

93 (5) Oil and Gas Inspectors' Examining Board provided in
94 article seven, chapter twenty-two-c of this code;

95 (6) Shallow Gas Well Review Board provided in article
96 eight, chapter twenty-two-c of this code; and

97 (7) Oil and Gas Conservation Commission provided in
98 article nine, chapter twenty-two-c of this code.

99 (f) The following agencies and boards, including all of
100 the allied, advisory, affiliated or related entities and funds
101 associated with any agency or board, are incorporated in and
102 administered as a part of the Department of Education and
103 the Arts:

104 (1) Library Commission provided in article one, chapter
105 ten of this code;

106 (2) Educational Broadcasting Authority provided in
107 article five, chapter ten of this code;

108 (3) Division of Culture and History provided in article
109 one, chapter twenty-nine of this code;

110 (4) Division of Rehabilitation Services provided in
111 section two, article ten-a, chapter eighteen of this code.

112 (g) The following agencies and boards, including all of
113 the allied, advisory, affiliated or related entities and funds
114 associated with any agency or board, are incorporated in and
115 administered as a part of the Department of Health and
116 Human Resources:

117 (1) Human Rights Commission provided in article eleven,
118 chapter five of this code;

119 (2) Division of Human Services provided in article two,
120 chapter nine of this code;

121 (3) Bureau for Public Health provided in article one,
122 chapter sixteen of this code;

123 (4) Office of Emergency Medical Services and Advisory
124 Council provided in article four-c, chapter sixteen of this
125 code;

126 (5) Health Care Authority provided in article
127 twenty-nine-b, chapter sixteen of this code;

128 (6) Commission on Mental Retardation provided in
129 article fifteen, chapter twenty-nine of this code;

130 (7) Women’s Commission provided in article twenty,
131 chapter twenty-nine of this code; and

132 (8) The Child Support Enforcement Division provided in
133 chapter forty-eight of this code.

134 (h) The following agencies and boards, including all of
135 the allied, advisory, affiliated or related entities and funds
136 associated with any agency or board, are incorporated in and
137 administered as a part of the Department of Military Affairs
138 and Public Safety:

139 (1) Adjutant General's Department provided in article
140 one-a, chapter fifteen of this code;

141 (2) Armory Board provided in article six, chapter fifteen
142 of this code;

143 (3) Military Awards Board provided in article one-g,
144 chapter fifteen of this code;

145 (4) West Virginia State Police provided in article two,
146 chapter fifteen of this code;

147 (5) Division of Homeland Security and Emergency
148 Management and Disaster Recovery Board provided in
149 article five, chapter fifteen of this code and Emergency
150 Response Commission provided in article five-a of said
151 chapter;

152 (6) Sheriffs’ Bureau provided in article eight, chapter
153 fifteen of this code;

154 (7) Division of Justice and Community Services provided
155 in article nine a, chapter fifteen of this code;

156 (8) Division of Corrections provided in chapter
157 twenty-five of this code;

158 (9) Fire Commission provided in article three, chapter
159 twenty-nine of this code;

160 (10) Regional Jail and Correctional Facility Authority
161 provided in article twenty, chapter thirty-one of this code;

162 (11) Board of Probation and Parole provided in article
163 twelve, chapter sixty-two of this code; and

164 (12) Division of Veterans' Affairs and Veterans' Council
165 provided in article one, chapter nine-a of this code.

166 (i) The following agencies and boards, including all of
167 the allied, advisory, affiliated or related entities and funds
168 associated with any agency or board, are incorporated in and
169 administered as a part of the Department of Revenue:

170 (1) Tax Division provided in article one, chapter eleven
171 of this code;

172 (2) Racing Commission provided in article twenty-three,
173 chapter nineteen of this code;

174 (3) Lottery Commission and position of Lottery Director
175 provided in article twenty-two, chapter twenty-nine of this
176 code;

177 (4) Agency of Insurance Commissioner provided in
178 article two, chapter thirty-three of this code;

179 (5) Office of Alcohol Beverage Control Commissioner
180 provided in article sixteen, chapter eleven of this code and
181 article two, chapter sixty of this code;

182 (6) Board of Banking and Financial Institutions provided
183 in article three, chapter thirty-one-a of this code;

184 (7) Lending and Credit Rate Board provided in chapter
185 forty-seven-a of this code;

186 (8) Division of Banking provided in article two, chapter
187 thirty-one-a of this code;

188 (9) The State Budget Office provided in article two of
189 this chapter;

190 (10) The Municipal Bond Commission provided in article
191 three, chapter thirteen of this code;

192 (11) The Office of Tax Appeals provided in article ten-a,
193 chapter eleven of this code; and

194 (12) The State Athletic Commission provided in article
195 five-a, chapter twenty-nine of this code.

196 (j) The following agencies and boards, including all of
197 the allied, advisory, affiliated or related entities and funds
198 associated with any agency or board, are incorporated in and
199 administered as a part of the Department of Transportation:

200 (1) Division of Highways provided in article two-a,
201 chapter seventeen of this code;

202 (2) Parkways, Economic Development and Tourism
203 Authority provided in article sixteen-a, chapter seventeen of
204 this code;

205 (3) Division of Motor Vehicles provided in article two,
206 chapter seventeen-a of this code;

207 (4) Driver's Licensing Advisory Board provided in article
208 two, chapter seventeen-b of this code;

209 (5) Aeronautics Commission provided in article two-a,
210 chapter twenty-nine of this code;

211 (6) State Rail Authority provided in article eighteen,
212 chapter twenty-nine of this code; and

213 (7) Port Authority provided in article sixteen-b, chapter
214 seventeen of this code.

215 (k) Except for powers, authority and duties that have been
216 delegated to the secretaries of the departments by the
217 provisions of section two of this article, the position of
218 administrator and the powers, authority and duties of each
219 administrator and agency are not affected by the enactment
220 of this chapter.

221 (l) Except for powers, authority and duties that have been
222 delegated to the secretaries of the departments by the
223 provisions of section two of this article, the existence,
224 powers, authority and duties of boards and the membership,
225 terms and qualifications of members of the boards are not
226 affected by the enactment of this chapter. All boards that are
227 appellate bodies or are independent decision makers shall not
228 have their appellate or independent decision-making status
229 affected by the enactment of this chapter.

230 (m) Any department previously transferred to and
231 incorporated in a department by prior enactment of this
232 section means a division of the appropriate department.
233 Wherever reference is made to any department transferred to
234 and incorporated in a department created in section two,
235 article one of this chapter, the reference means a division of
236 the appropriate department and any reference to a division of

237 a department so transferred and incorporated means a section
238 of the appropriate division of the department.

239 (n) When an agency, board or commission is transferred
240 under a bureau or agency other than a department headed by
241 a secretary pursuant to this section, that transfer is solely for
242 purposes of administrative support and liaison with the Office
243 of the Governor, a department secretary or a bureau. Nothing
244 in this section extends the powers of department secretaries
245 under section two of this article to any person other than a
246 department secretary and nothing limits or abridges the
247 statutory powers and duties of statutory commissioners or
248 officers pursuant to this code.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9A. Division of Justice and Community Services.

§15-9A-1. Legislative findings.

1 The West Virginia Division of Justice and Community
2 Services is required to perform certain administrative and
3 executive functions related to the improvement of the
4 criminal justice and juvenile justice systems, and various
5 component agencies of state and local government with
6 research and performance data, planning, funding and
7 managing programs supported by federal and state granted
8 funds, and through its staff activities on behalf of the
9 Governor's Committee on Crime, Delinquency and
10 Correction, to provide regulatory oversight of law
11 enforcement training and certification, community
12 corrections programs established under the provisions of
13 article eleven-c, chapter sixty-two of this code, and the
14 monitoring of facilities for compliance with juvenile
15 detention facilities standards established by state and federal
16 law. These administrative and executive staffing functions

17 are necessary to provide for planning and coordination of
18 services among the components of the criminal and juvenile
19 justice systems; program development and implementation;
20 and administration of grant funded programs emphasizing
21 safety, prevention, coordination and the general enhancement
22 of the criminal justice system as a whole, as well as such
23 other federal grant funded activities as the Governor may
24 from time to time designate for administration by the
25 Division.

§15-9A-2. Division established; appointment of director.

1 (a) The Division of Justice and Community Services is
2 created. The purpose of the division is to provide executive
3 and administrative support to the Governor's Committee on
4 Crime Delinquency and Correction in the coordination of
5 planning for the criminal justice system, to administer federal
6 and state grant programs assigned to it by the actions of the
7 Governor or Legislature, and to perform such other duties as
8 the legislature may from time to time assign to the Division.

9 (b) The director of the division shall be named by the
10 Governor to serve at his will and pleasure.

11 (c) The director of the division shall take and subscribe
12 to an oath of office in conformity with article IV, section five
13 of the Constitution of the State of West Virginia.

§15-9A-3 Duties and powers of the director.

1 (a) The director is responsible for the control and
2 supervision of the division.

3 (b) The director shall be charged with executive and
4 administrative responsibility to: (i) carry out the specific
5 duties imposed on the Governor's Committee on Crime,

6 Delinquency and Correction under the provisions of article
7 nine, chapter fifteen; article twenty-nine, chapter thirty; and
8 article eleven-c, chapter sixty-two of this code; (ii) maintain
9 appropriate liaison with federal, state and local agencies and
10 units of government, or combinations thereof, in order that all
11 programs, projects and activities for strengthening and
12 improving law enforcement and the administration of
13 criminal justice may function effectively at all levels of
14 government; and (iii) seek sources of federal grant assistance
15 programs that may benefit the state when authorized by the
16 Governor and manage the dispersal of those funds through
17 grant contracts to sub-grantees in a manner consistent with
18 state and federal law, and with sound and accountable
19 management practices for the efficient and effective use of
20 public funds.

21 : (c) The director may:

22 (1) Employ necessary personnel, assign them the duties
23 necessary for the efficient management and operation of the
24 division;

25 (2) Work to bridge gaps between federal, state and local
26 units of government, as well as private/non-profit organizations
27 and the general public;

28 (3) Provide staff assistance in the coordination of all
29 facets of the criminal and juvenile justice systems on behalf
30 of the Governor's Committee on Crime Delinquency and
31 Correction, including but not limited to law enforcement,
32 jails, corrections, community corrections and victim services;

33 (4) Acquire criminal justice resources and coordinate the
34 allocation of these resources to state, local and not-for-profit
35 agencies;

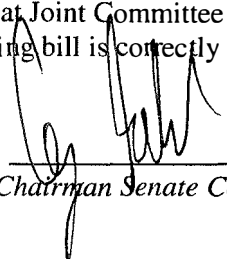
36 (5) Maintain a web based data base for all community
37 correction programs;

38 (6) Through the Criminal Justice Statistical Analysis
39 Center, collect, compile, and analyze crime and justice data
40 in the state, generating statistical and analytical products for
41 criminal justice professionals professional and policy makers
42 to establish a basis for sound policy and practical
43 considerations for the criminal justice system and make such
44 recommendations for system improvement as may be
45 warranted by such research;

46 (7) Receive and disburse federal and state grants.

47 Nothing in this chapter shall be construed as authorizing
48 the division to undertake direct operational responsibilities in
49 law enforcement or the administration of criminal justice.

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



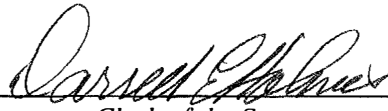
Chairman Senate Committee



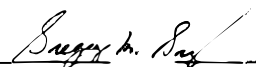
Chairman House Committee

Originating in the House.

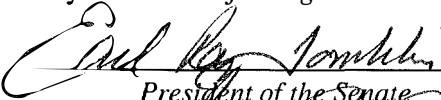
In effect July 1, 2010.



Clerk of the Senate



Clerk of the House of Delegates



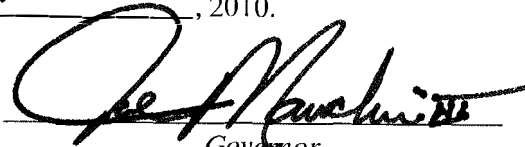
President of the Senate



Speaker of the House of Delegates

FILED
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OFFICE OF THE CLERK OF THE SENATE
STATE OF MARYLAND

The within is approved this the 1st
day of April, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2010

Time 10:05h