West Virginia Legislature

2017 Regular Session

Enrolled

Senate Bill 684

By Senators Trump, Weld, Azinger, Clements, Cline, Ferns, Karnes, Maynard, Rucker, Smith, Swope, Beach, Jefferies, Miller, Ojeda, Romano, and Woelfel

[Passed March 31, 2017; in effect from passage]
Enrolled

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BY SENATORS TRUMP, WELD, AZINGER, CLEMENTS,
CLINE, FERNS, KARNES, MAYNARD, RUCKER, SMITH,
SWOPE, BEACH, JEFFRIES, MILLER, OJEDA, ROMANO,
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AN ACT to amend and reenact §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as amended, all relating generally to the West Virginia State Police; and correcting agency referrals and code citations relating to the West Virginia State Police.

Be it enacted by the Legislature of West Virginia:

That §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-10. Uniforms; authorized equipment, weapons and supplies; local headquarters; quarters for members; life insurance; medical and hospital fees for injuries and illnesses of members incurred in line of duty.

(a) The standard uniform to be used by the West Virginia State Police after the effective date of this article shall be as follows: Forestry green blouse with West Virginia State Police emblem on sleeve; black shoulder strap one-inch black stripe around sleeve, four inches from end of sleeve; forestry green breeches with one-inch black stripe down the side; trousers (slacks) with one-inch black stripe down the side for officers and clerks regularly enlisted in the State Police; forestry green shirts with West Virginia State Police emblem on sleeve; black shoulder straps; forestry green mackinaw with West Virginia State Police emblem on sleeve; black shoulder straps; one-inch black stripe around sleeve four inches from end of sleeve; campaign hat of olive drab color; black Sam Browne belt with holster; black leggings and shoes; the officer's uniform will have one and one-quarter inch black stripe around the sleeve of blouse and mackinaw four inches from end of sleeve circumposed with one-half inch gold braid, also black collars on blouse, with two silver shoulder bars for captains, one silver shoulder bar for first lieutenant, one gold shoulder bar for second lieutenant. For noncommissioned officers the uniform blouse and shirt will have thereon black chevrons of the appropriate rank.

(b) The superintendent shall establish the weapons and enforcement equipment which are authorized for use by members of the State Police and shall provide for periodic inspection of
the weapons and equipment. He or she shall provide for the discipline of members using other
than authorized weapons and enforcement equipment.

(c) The superintendent shall provide the members of the State Police with suitable arms
and weapons and, when he or she considers it necessary, with suitably equipped automobiles,
motorcycles, watercraft, airplanes and other means of conveyance to be used by the West
Virginia State Police, the Governor and other officers and executives in the discretion of the
Governor, in times of flood, disaster and other emergencies, for traffic study and control, criminal
and safety work and in other matters of official business. He or she shall also provide the standard
uniforms for all members of the State Police, for officers, noncommissioned officers and troopers
provided for in this section. All uniforms and all arms, weapons and other property furnished the
members of the State Police by the State of West Virginia are and remain the property of the
state.

(d) The superintendent may purchase and maintain on behalf of members group life
insurance not to exceed the amount of $5,000 on behalf of each member.

(e) The superintendent may contract and furnish at State Police expense medical and
hospital services for treatment of illness or injury of a member which shall be determined by the
superintendent to have been incurred by the member while engaged in the performance of duty
and from causes beyond control of the members. Notwithstanding any other provision of this
code, the superintendent has the right of subrogation in any civil action or settlement brought by
or on behalf of a member in relation to any act by another which results in the illness, injury or
death of a member. To this end, the superintendent may initiate an action on behalf of the State
Police in order to recover the costs incurred in providing medical and hospital services for the
treatment of a member resulting from injury or illness originating in the performance of official
duties. This subsection shall not affect the power of a court to apply ordinary equitable defenses
to the right of subrogation.
The superintendent may also consult with the West Virginia Insurance Commissioner in an effort to defray the cost of medical and hospital services. In no case will the compensation rendered to health care providers for medical and hospital services exceed the then current rate schedule in use by the West Virginia Insurance Commissioner.

Third-party reimbursements received by the superintendent after the expiration of the fiscal year in which the injury, illness or death occurred will be deposited to a nonexpiring special revenue account. Funds deposited to this account may be used solely for defraying the costs of medical or hospital services rendered to any sworn members as a direct result of an illness, injury or death resulting from the performance of official duties.

(f) The superintendent shall establish and maintain local headquarters at those places in West Virginia that are in his or her judgment suitable and proper to render the West Virginia State Police most efficient for the purpose of preserving the peace, protecting property, preventing crime, apprehending criminals and carrying into effect all other provisions of this article. The superintendent shall provide, by acquisition, lease or otherwise, for local headquarters, for housing and quarters for the accommodation of the members of the West Virginia State Police, and for any other facilities necessary or useful for the effective operation of the West Virginia State Police and shall provide all equipment and supplies necessary for the members of the West Virginia State Police to perform their duties.

§15-2-24. Criminal Identification Bureau; establishment; supervision; purpose; fingerprints, photographs, records and other information; reports by courts and prosecuting attorneys; offenses and penalties.

(a) The superintendent of the department shall establish, equip and maintain at the departmental headquarters a Criminal Identification Bureau, for the purpose of receiving and filing fingerprints, photographs, records and other information pertaining to the investigation of crime and the apprehension of criminals, as hereinafter provided. The superintendent shall appoint or designate a supervisor to be in charge of the Criminal Identification Bureau and such supervisor
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shall be responsible to the superintendent for the affairs of the bureau. Members of the
department assigned to the Criminal Identification Bureau shall carry out their duties and
assignments in accordance with internal management rules and regulations pertaining thereto
promulgated by the superintendent.

(b) The Criminal Identification Bureau shall cooperate with identification bureaus of other
states and of the United States to develop and carry on a complete interstate, national and
international system of criminal identification.

(c) The Criminal Identification Bureau may furnish fingerprints, photographs, records or
other information to authorized law-enforcement and governmental agencies of the United States
and its territories, of foreign countries duly authorized to receive the same, of other states within
the United States and of the State of West Virginia upon proper request stating that the
fingerprints, photographs, records or other information requested are necessary in the interest of
and will be used solely in the administration of official duties and the criminal laws.

(d) The Criminal Identification Bureau may furnish, with the approval of the superintendent,
fingerprints, photographs, records or other information to any private or public agency, person,
firm, association, corporation or other organization, other than a law-enforcement or governmental
agency as to which the provisions of subsection (c) of this section shall govern and control, but
all requests under the provisions of this subsection for such fingerprints, photographs, records or
other information must be accompanied by a written authorization signed and acknowledged by
the person whose fingerprints, photographs, records or other information is to be released.

(e) The Criminal Identification Bureau may furnish fingerprints, photographs, records and
other information of persons arrested or sought to be arrested in this state to the identification
bureau of the United States government and to other states for the purpose of aiding law
enforcement.

(f) Persons in charge of any penal or correctional institution, including any city or county
jail in this state, shall take, or cause to be taken, the fingerprints and description of all persons
lawfully committed thereto or confined therein and furnish the same in duplicate to the Criminal Identification Bureau, Department of Public Safety. Such fingerprints shall be taken on forms approved by the superintendent of the Department of Public Safety. All such officials as herein named may, when possible to do so, furnish photographs to the Criminal Identification Bureau of such persons so fingerprinted.

(g) Members of the Department of Public Safety, and all other state law-enforcement officials, sheriffs, deputy sheriffs and each and every peace officer in this state, shall take or cause to be taken the fingerprints and description of all persons arrested or detained by them, charged with any crime or offense in this state, in which the penalty provided therefor is confinement in any penal or correctional institution, or of any person who they have reason to believe is a fugitive from justice or a habitual criminal, and furnish the same in duplicate to the Criminal Identification Bureau of the Department of Public Safety on forms approved by the superintendent of said department. All such officials as herein named may, when possible to do so, furnish to the Criminal Identification Bureau photographs of such persons so fingerprinted. For the purpose of obtaining data for the preparation and submission to the Governor and the Legislature by the Department of Public Safety of an annual statistical report on crime conditions in the state, the clerk of any court of record, the magistrate of any magistrate court and the mayor or clerk of any municipal court before which a person appears on any criminal charge shall report to the Criminal Identification Bureau the sentence of the court or other disposition of the charge and the prosecuting attorney of every county shall report to the Criminal Identification Bureau such additional information as the bureau may require for such purpose, and all such reports shall be on forms prepared and distributed by the Department of Public Safety, shall be submitted monthly and shall cover the period of the preceding month.

(h) All persons arrested or detained pursuant to the requirements of this article shall give fingerprints and information required by subsections (f) and (g) of this section. Any person who has been fingerprinted or photographed in accordance with the provisions of this section who is
acquitted of the charges upon which he or she was arrested and who has no previous criminal record may, upon the presentation of satisfactory proof to the department, have such fingerprints or photographs, or both, returned to them.

(i) All state, county and municipal law-enforcement agencies shall submit to the bureau uniform crime reports setting forth their activities in connection with law enforcement. It shall be the duty of the bureau to adopt and promulgate rules and regulations prescribing the form, general content, time and manner of submission of such uniform crime reports. Willful or repeated failure by any state, county or municipal law-enforcement official to submit the uniform crime reports required by this article shall constitute neglect of duty in public office. The bureau shall correlate the reports submitted to it and shall compile and submit to the Governor and the Legislature semiannual reports based on such reports. A copy of such reports shall be furnished to all prosecuting attorneys and law-enforcement agencies.

(j) Neglect or refusal of any person mentioned in this section to make the report required herein, or to do or perform any act on his or her part to be done or performed in connection with the operation of this section, shall constitute a misdemeanor and such person shall, upon conviction thereof, be punished by a fine of not less than $25 nor more than $200, or by imprisonment in the county jail for a period of not more than sixty days, or both. Such neglect shall constitute misfeasance in office and subject such persons to removal from office. Any person who willfully removes, destroys or mutilates any of the fingerprints, photographs, records or other information of the Department of Public Safety shall be guilty of a misdemeanor and such person shall, upon conviction thereof, be punished by a fine of not more than $100, or by imprisonment in the county jail for a period of not more than six months, or both.

(k) The Criminal Identification Bureau (CIB) and the Federal Bureau of Investigation (FBI) shall retain applicant fingerprints for the purpose of participating in the Rap Back Program to determine suitability or fitness for a permit, license or employment. Agencies participating in the program shall notify applicants and employees subject to a criminal history check that their
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84 fingerprint shall be retained by the CIB and the FBI. Notification shall also be given to the applicant and employee subject to the Rap Back Program.

86 (I) The State Police may assess a fee to applicants, covered providers or covered contractors for conducting the criminal background check and for collecting and retaining fingerprints for Rap Back as authorized under article forty-nine, chapter sixteen of this code. The assessment shall be deposited into a nonappropriated special revenue account within the State Treasurer's office to be known as the WVSP Criminal History Account. Expenditures from this account shall be made by the superintendent for purposes set forth in this article and are authorized from collections. The account shall be administered by the superintendent and may not be deemed a part of the general revenue of the state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Originated in the Senate.

In effect from passage.

[Signatures]

The within is approved this the 11th Day of April, 2017.

[Signature]
PRESENTED TO THE GOVERNOR

APR 06 2017

Time 3:04 p.m.