

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled
Committee Substitute
for
Senate Bill 357

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2019 MAR 22 P 3:32

FILED

SENATORS WELD, CLEMENTS, AND CLINE, *original*
sponsors

[Passed March 7, 2019; in effect 90 days from
passage]

SB 357

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1 AN ACT to repeal §15-9A-1, §15-9A-2, §15-9A-3, and §15-9A-4 of the Code of West Virginia,
2 1931, as amended; to amend and reenact §15A-2-1 and §15A-2-3 of said code; and to
3 amend said code by adding thereto two new sections, designated §15A-2-4 and §15A-2-
4 5, all relating to the Division of Administrative Services; designating division as staffing
5 agency for certain agencies; providing that division perform executive and administrative
6 support services for certain agencies; designating the division as the state administrative
7 agency responsible for criminal justice and juvenile justice systems; providing exception;
8 providing that code references to the Division of Justice and Community Services are to
9 be construed as references to Division of Administrative Services; transferring employees
10 of Division of Justice and Community Services to Division of Administrative Services;
11 enumerating duties of director of division; requiring legislative rulemaking; and providing
12 for posting of human trafficking assistance notices.

Be it enacted by the Legislature of West Virginia:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.

§15-9A-1. Legislative findings.

1 [Repealed.]

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

1 [Repealed.]

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

1 [Repealed.]

§15-9A-4. Human trafficking assistance notices.

1 [Repealed.]

CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY.

ARTICLE 2. DIVISION OF ADMINISTRATIVE SERVICES.

§15A-2-1. Division of Administrative Services.

1 (a) The Division of Administrative Services is created within the department to perform the
2 administrative services for identified agencies within the department.

3 (b) The Division of Administrative Services shall provide fiscal services, payroll services,
4 human resources services, and procurement services for the Division of Corrections and
5 Rehabilitation, created in §15A-3-1 *et seq.* of this code, and any other agencies or boards required
6 by the secretary: *Provided*, That the secretary may not require the administrative services of the
7 State Police, the West Virginia National Guard, or the West Virginia Military Authority be provided
8 by the Division of Administrative Services. The division is the designated staffing agency for, and
9 shall provide executive and administrative support to, the Governor's Committee on Crime,
10 Delinquency, and Correction, and all of its subcommittees, in the coordination of planning for the
11 criminal justice system and administering federal and state grant programs assigned to it by the
12 actions of the Governor or Legislature.

13 (c) The State Police, the West Virginia National Guard, and the West Virginia Military
14 Authority may elect to utilize the services of the Division of Administrative Services. The Director
15 of the Division of Administrative Services is authorized to enter into a memorandum of
16 understanding with the head of the State Police, the West Virginia National Guard, or the West
17 Virginia Military Authority to effectuate this utilization.

18 (d) The division may apply for grants and other funding from federal or state programs,
19 foundations, corporations, and organizations which funding is consistent with its responsibilities
20 and the purposes assigned to it or the subcommittees it staffs. The Division of Administrative
21 Services is hereby designated as the state administrative agency responsible for criminal justice
22 and juvenile justice systems, and various component agencies of state and local government, for
23 the planning and development of state programs and grants which may be funded by federal,
24 state, or other allocations in the areas of public safety, community corrections, law-enforcement

25 training and compliance, sexual assault forensic examinations, victim services, human trafficking,
26 and juvenile justice unless such administration has been specifically entrusted to another state
27 agency by the Legislature. The division is empowered to comply with all regulations and
28 requirements to qualify for such grants funded by federal, state, or other allocations and to
29 administer such funds.

30 (e) Notwithstanding any other provision of this code to the contrary, whenever in this code,
31 or a rule promulgated thereunder, a reference is made to the Director of the Division of Justice
32 and Community Services, it shall be construed to mean the Director of the Division of
33 Administrative Services. Whenever in this code, or a rule promulgated thereunder, a reference
34 is made to the Division of Justice and Community Services, it shall be construed to mean the
35 Division of Administrative Services.

§15A-2-3. Transfer of employees; continuation of programs; transfer of equipment and records; protection.

1 (a) All persons employed by the Division of Juvenile Services, the Regional Jail and
2 Correctional Facility Authority, or the Division of Corrections whose employment responsibilities
3 include those to be provided by the Division of Administrative Services are assigned and
4 transferred to the Division of Administrative Services. Effective July 1, 2019, all persons
5 employed on the effective date of this article by the Division of Justice and Community Services
6 whose current employment responsibilities include those to be provided by the Division of
7 Administrative Services are hereby assigned and transferred to the Division of Administrative
8 Services.

9 (1) The Division of Administrative Services shall assume all responsibilities of the
10 administrative services sections of the Division of Juvenile Services, the Regional Jail and
11 Correctional Facility Authority, and the Division of Corrections, including those related to ongoing
12 programs, benefits, litigations, or grievances.

13 (2) All equipment and records necessary to effectuate the purposes of this article shall be
14 transferred to the Division of Administrative Services.

15 (b) Any person transferred to the office of the Director of the Division of Administrative
16 Services who is a classified civil service employee shall, within the limits contained in §29-6-1 *et*
17 *seq.* of this code, remain in the civil service system as a covered employee. Any person
18 transferred to the office of the Director of the Division of Administrative Services who is a classified
19 exempt civil service employee, other than the director, and his or her deputy directors, and one
20 exempt assistant, shall, within the limits contained in §29-6-1 *et seq.* of this code, be transferred
21 into the civil service system as a permanent covered employee, and is no longer exempt:
22 *Provided*, That any transferred employee that has been employed in his or her position for less
23 than the required probationary period must first complete the probationary period prior to
24 becoming a permanent covered employee.

§15A-2-4. Criminal justice and grant administration.

1 (a) The director shall:

2 (1) Carry out the specific duties imposed on the Governor's Committee on Crime,
3 Delinquency, and Correction under the provisions of §15-9-1 *et seq.* of this code, §30-29-1 *et seq.*
4 of this code, and §62-11C-1 *et seq.* of this code;

5 (2) Maintain appropriate liaison with federal, state, and local agencies and units of
6 government, or combinations thereof, in order that all programs, projects, and activities for
7 strengthening and improving law enforcement, public safety, and the administration of criminal
8 justice may function effectively at all levels of government;

9 (3) Seek sources of federal grant assistance programs that may benefit the state when
10 authorized by the Governor and manage the dispersal of those funds through grant contracts to
11 subgrantees in a manner consistent with state and federal law and with sound and accountable
12 management practices for the efficient and effective use of public funds;

13 (4) Seek sources of program or grant assistance from foundations, corporations, and
14 organizations which funding is consistent with its responsibilities and the purposes assigned to
15 the director, the Governor's Committee on Crime, Delinquency, and Correction, and any of its
16 subcommittees; and

17 (5) Serve as the Executive Director of the Governor's Committee on Crime, Delinquency,
18 and Correction and its subcommittees: *Provided*, That notwithstanding any provision of this code
19 or a rule promulgated thereunder to the contrary, appeals to the Governor's Committee on Crime,
20 Delinquency, and Correction from an individual who has been denied entry into an entry level law-
21 enforcement certification program, a trainee who has not been allowed to continue in the entry
22 level law-enforcement training process, an officer who has made application for his or her law-
23 enforcement certification to be reactivated and that application has been denied, or an officer or
24 individual whose law-enforcement certification as a law enforcement officer or as an instructor
25 has been denied, suspended, or decertified, pursuant to a final decision of the Law-Enforcement
26 Professional Standards Subcommittee established by §30-29-2 of this code, shall be heard by
27 the Deputy Secretary of the Department of Military Affairs and Public Safety or his or her designee.

28 (b) In discharging these duties, the director may:

29 (1) Work to bridge gaps between federal, state, and local units of government, as well as
30 private/nonprofit organizations and the general public;

31 (2) Provide staff assistance in the coordination of all facets of the criminal and juvenile
32 justice systems on behalf of the Governor's Committee on Crime, Delinquency, and Correction,
33 including, but not limited to, law enforcement, jails, corrections, community corrections, juvenile
34 justice, sexual assault forensic examinations, and victim services;

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

37 (4) Maintain a web-based database for all community corrections programs;

38 (5) Collect, compile, and analyze crime and justice data in the state, generating statistical
39 and analytical products for criminal justice professionals and policy makers to establish a basis
40 for sound policy and practical considerations for the criminal justice system, make such
41 recommendations for system improvement as may be warranted by such research, and contract
42 with other persons, firms, corporations, or organizations to assist in these responsibilities; and

43 (6) Receive and disburse federal and state grants and funding received from foundations,
44 corporations, or other entities.

45 (c) Nothing in this article authorizes the division to undertake direct operational
46 responsibilities in law enforcement or the administration of criminal justice.

47 (d) The director shall propose legislative rules for legislative approval pursuant to §29A-3-
48 1 *et seq.* of this code which may be necessary to fulfill the functions and responsibilities of this
49 article and the Governor's Committee on Crime, Delinquency, and Correction. All legislative rules
50 and policies of the former Division of Justice and Community Services shall be transferred to the
51 Division of Administrative Services and remain effective until amended or terminated pursuant to
52 the provisions of §29A-3-1 *et seq.* of this code by the Division of Administrative Services:
53 *Provided*, That these rules shall expire on July 1, 2022, if not superseded sooner.

§15A-2-5. Human trafficking assistance notices.

1 (a) For the purpose of assisting victims of human trafficking to obtain help and services,
2 the following businesses and establishments shall post a notice which meets the requirements of
3 this section:

4 (1) All locations licensed by the Alcohol Beverage Control Commissioner that permit on-
5 premises consumption of alcoholic beverages, pursuant to §60-7-1 *et seq.* of this code;

6 (2) Exotic entertainment facilities, which are facilities featuring live nude dancing, nude
7 service personnel, or live nude entertainment;

8 (3) Primary airports;

9 (4) Passenger rail stations;

- 10 (5) Bus stations;
- 11 (6) Locations where gasoline and diesel fuel are sold;
- 12 (7) Emergency departments within hospitals;
- 13 (8) Urgent care centers;
- 14 (9) Locations at which farm labor contractors and day haulers work, if a physical facility is
- 15 available at those locations, upon or in which notice can be posted;
- 16 (10) Privately operated job recruitment centers;
- 17 (11) Rest areas located along interstate highways in this state operated by the Division of
- 18 Highways;
- 19 (12) Hotels; and
- 20 (13) Any other business or establishment that the director determines, by legislative rule,
- 21 is an effective location to provide notice to victims of human trafficking.

22 (b) *Requirements for posting of notice.* — The notice required by this section must be
23 posted in English, Spanish, and any other language determined by legislative rule by the director.
24 The notice must be posted in each public restroom for the business or establishment, and either
25 in a conspicuous place near the public entrance of the business or establishment, or in another
26 location in clear view of the public and employees where similar notices are customarily posted.

27 (c) The director shall provide hyperlinks on the division’s website to downloadable notices
28 that are eight and one-half inches by 11 inches in size that provide information regarding the
29 National Human Trafficking Resource Center and display the telephone number for the National
30 Human Trafficking Resource Center hotline. These downloadable notices must be available in
31 English, Spanish, and any other language determined by legislative rule by the director. These
32 downloadable notices, if printed and posted, will satisfy the notice posting requirements of this
33 section.

34 (d) Any law-enforcement officer, representative of the Bureau for Public Health or of a
35 county health department, representative of the State Alcohol Beverage Control Commissioner,

36 representative of the Division of Labor, or other state representative inspecting a business or
37 establishment, or otherwise lawfully acting under his or her state authority, may notify, in writing,
38 any business or establishment that it has failed to comply with the requirements of this section.
39 The written notice must be delivered to the noncomplying business or establishment by certified
40 mail, with return receipt requested. A business or establishment that does not correct a violation
41 within 30 days from the receipt of the written notice is guilty of a misdemeanor and, upon a first
42 conviction thereof, shall be fined not more than \$250; and upon a second or subsequent
43 conviction, shall be fined not less than \$250 nor more than \$500.

44 (e) For the purposes of this section, and unless a different meaning is plainly required:

45 (1) "Day hauler" means any person who is employed by a farm labor contractor to
46 transport, or who, for a fee, transports, by motor vehicle, workers to render personal services in
47 connection with the production of any farm products to, for, or under the direction of a third person:
48 *Provided*, That such term does not include a person engaged in the production of agricultural
49 products;

50 (2) "Farm labor contractor" means any person who, for a fee, employs workers to render
51 personal services in connection with the production of any farm products to, for, or under the
52 direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an
53 employer engaged in the growing or producing of farm products, and who, for a fee, provides in
54 connection therewith one or more of the following services: Furnishes board, lodging, or
55 transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs
56 or measures their work; or disburses wage payments to such persons: *Provided*, That such term
57 does not include a person engaged in the production of agricultural products;

58 (3) "Hospital" shall have the same meaning as set forth in §16-2D-2(21) of this code;

59 (4) "Hotel" means any establishment which offers overnight accommodations to the public
60 in exchange for a monetary payment;

61 (5) "Primary airport" shall have the same meaning as set forth in 49 U.S.C. § 47102(16);
62 and

63 (6) "Production of agricultural products" means raising, growing, harvesting, or storing of
64 crops; feeding, breeding, or managing livestock, equine, or poultry; and producing or storing feed
65 for use in the production of livestock.

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

Mark Raymond
.....
Chairman, Senate Committee

Steve Ligozio
.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Joe Lavin
.....
Clerk of the Senate

Steve Harris
.....
Clerk of the House of Delegates

Walter B. Carmichael
.....
President of the Senate

Stephane Van Lanen
.....
Speaker of the House of Delegates

FILED
 2019 MAR 22 P 3:32
 OFFICE OF THE SECRETARY OF STATE
 WEST VIRGINIA

The within *is approved* this the *22nd*
Day of *March* 2019.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

1 127 200

Time 11:16am