

HB 2891

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

### ENROLLED

### Committee Substitute

for

## House Bill 2891

BY DELEGATES D. KELLY, B. WARD, HOTT, CAPITO,

STEELE, PINSON, QUEEN, WESTFALL, YOUNG AND L.

PACK

[Passed April 10, 2021; in effect ninety days from passage.]

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2021 APR 28 P 4: 21

FILED

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1 AN ACT to amend and reenact §30-29-1 of the Code of West Virginia, 1931, as amended; and to  
2 amend said code by adding thereto a new section, designated §30-29-14, all relating to  
3 minimum standards for hiring of pre-certified law-enforcement officers; adding “pre-  
4 certified law-enforcement officer” as a defined term; prohibiting West Virginia law-  
5 enforcement agencies from employing or offering to employ a pre-certified law-  
6 enforcement officer without certain findings; requiring a hiring West Virginia law-  
7 enforcement agency to make written findings or adopt the written findings of a previous  
8 employing West Virginia law-enforcement agency documenting that the pre-certified law-  
9 enforcement officer meets certain minimum standards; requiring such written findings to  
10 be made available to the Law-Enforcement Professional Standards Subcommittee of the  
11 Governor’s Committee on Crime, Delinquency, and Correction; providing ten minimum  
12 standards for hiring of a pre-certified law-enforcement officer; requiring report from  
13 background investigation to be made part of written findings; authorizing Law-Enforcement  
14 Professional Standards Subcommittee to deny certification or deny admission to a basic  
15 entry-level training program to a person failing to meet minimum standards; requiring  
16 direct supervision of a pre-certified law-enforcement officer by a certified law-enforcement  
17 officer while engaged in law-enforcement duties; providing meaning of “directly  
18 supervised”; providing for recordkeeping; providing for transfer of records between  
19 employing West Virginia law-enforcement agencies; providing exception for West Virginia  
20 State Police; specifying application of requirements pertaining to minimum standards for  
21 hiring of pre-certified law-enforcement officers; and providing exception to disclosure  
22 under West Virginia Freedom of Information Act for certain records.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 29. LAW ENFORCEMENT TRAINING AND CERTIFICATION.**

**§30-29-1. Definitions.**

1 For the purposes of this article, unless a different meaning clearly appears in the context:

2 (1) "Approved law-enforcement training academy" means any training facility which is  
3 approved and authorized to conduct law-enforcement training as provided in this article;

4 (2) "Chief executive" means the Superintendent of the State Police; the chief Natural  
5 Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia  
6 county; any administrative deputy appointed by the chief Natural Resources police officer of the  
7 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement  
8 agency;

9 (3) "County" means the 55 major political subdivisions of the state;

10 (4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or  
11 above;

12 (5) "Governor's Committee on Crime, Delinquency, and Correction" or "Governor's  
13 committee" means the Governor's Committee on Crime, Delinquency, and Correction established  
14 as a state planning agency pursuant to §15-9-1 of this code;

15 (6) "Law-enforcement officer" means any duly authorized member of a law-enforcement  
16 agency who is authorized to maintain public peace and order, prevent and detect crime, make  
17 arrests, and enforce the laws of the state or any county or municipality thereof, other than parking  
18 ordinances, and includes those persons employed as campus police officers at state institutions  
19 of higher education in accordance with the provisions of §18B-4-5 of this code, persons employed  
20 as hospital police officers in accordance with the provisions of §16-5B-19 of this code, and  
21 persons employed by the Public Service Commission as motor carrier inspectors and weight-  
22 enforcement officers charged with enforcing commercial motor vehicle safety and weight  
23 restriction laws, although those institutions and agencies may not be considered law-enforcement  
24 agencies. The term also includes those persons employed as county litter control officers charged  
25 with enforcing litter laws: *Provided*, That those persons have been trained and certified as law-  
26 enforcement officers and that certification is currently active. The term also includes those  
27 persons employed as rangers by resort area districts in accordance with the provisions of §7-25-

28 23 of this code, although no resort area district may be considered a law-enforcement agency:  
29 *Provided, however,* That the subject rangers shall pay the tuition and costs of training. As used in  
30 this article, the term “law-enforcement officer” does not apply to the chief executive of any West  
31 Virginia law-enforcement agency or any watchman or special Natural Resources police officer;

32 (7) “Law-enforcement official” means the duly appointed chief administrator of a  
33 designated law-enforcement agency or a duly authorized designee;

34 (8) “Municipality” means any incorporated town or city whose boundaries lie within the  
35 geographic boundaries of the state;

36 (9) “Pre-certified law-enforcement officer” means a person employed or offered  
37 employment by a West Virginia law-enforcement agency prior to his or her initial certification by  
38 the subcommittee. This term does not include a person employed or offered employment by a  
39 West Virginia law-enforcement agency whose certification status is inactive, suspended, or has  
40 been revoked.

41 (10) “Subcommittee” or “law-enforcement professional standards subcommittee” means  
42 the subcommittee of the Governor’s Committee on Crime, Delinquency, and Correction created  
43 by §30-29-2 of this code; and

44 (11) “West Virginia law-enforcement agency” means any duly authorized state, county, or  
45 municipal organization employing one or more persons whose responsibility is the enforcement  
46 of laws of the state or any county or municipality thereof: *Provided,* That neither the Public Service  
47 Commission nor any state institution of higher education nor any hospital nor any resort area  
48 district is a law-enforcement agency.

**§30-29-14. Minimum standards for hiring of pre-certified law-enforcement officers;  
disqualification for entry into basic law-enforcement academy or from certification;  
direct supervision of uncertified officers; maintenance and transfer of records;  
applicability; limitation on disclosure of records.**

1 (a) Notwithstanding other provisions of law to the contrary, a West Virginia law-  
2 enforcement agency may not employ or offer to employ a pre-certified law-enforcement officer  
3 until it makes written findings documenting that the person meets the minimum standards  
4 contained in this subsection, or adopts a previous employing West Virginia law-enforcement  
5 agency's written findings, which shall be made available upon request to the subcommittee:

6 *Provided*, That the hiring West Virginia law-enforcement agency may set higher minimum  
7 standards, or the subcommittee may promulgate legislative rules which establish higher minimum  
8 standards or interpret the minimum standards contained this section, as the agency or the  
9 subcommittee considers necessary for the employment of law-enforcement officers: *Provided*,  
10 *however*, That nothing in this section shall be construed to limit, abrogate, or modify any existing  
11 rule promulgated by the subcommittee. The minimum standards apply only to the hiring of a pre-  
12 certified law-enforcement officer and consist of the following:

13 (1) The person is 18 years of age or older;

14 (2) The person is a high school graduate or equivalent;

15 (3) The person has submitted to a psychological assessment and has been recommended  
16 for hire as a result;

17 (4) The person has submitted to and passed a polygraph examination;

18 (5) The person has not been dishonorably discharged from any branch of the armed forces  
19 of the United States or the National Guard;

20 (6) The person has not been convicted in any civilian or military court of a crime punishable  
21 by imprisonment for a term exceeding one year, a crime involving moral turpitude, or a crime of  
22 domestic violence, or who has been administratively pardoned for any such crime;

23 (7) The person has not admitted to committing any criminal acts as set forth in subdivision  
24 (6) of this subsection which did not result in a conviction;

25 (8) The person is not prohibited by state or federal law from shipping, transporting,  
26 receiving, or possessing firearms or ammunition;

27 (9) The person is not addicted to narcotics or other controlled substances; and

28 (10) The person has consented to a thorough investigation by the hiring West Virginia law-  
29 enforcement agency into the person’s background and moral character, including, but not limited  
30 to, a nationwide criminal background check consisting of inquiries of the National Instant Criminal  
31 Background Check System, the West Virginia criminal history record responses and the National  
32 Interstate Identification index, the report of which shall be made a part of the written findings  
33 required by this section.

34 (b) Upon review of the written findings of the hiring West Virginia law-enforcement agency  
35 and the background investigation, the subcommittee may deny the certification of a law-  
36 enforcement officer or, if applicable, deny admission to a basic entry-level training program to a  
37 person failing to meet the minimum standards set forth in this section in the discretion of the  
38 subcommittee.

39 (c) A pre-certified law-enforcement officer who is employed by a West Virginia law-  
40 enforcement agency must be directly supervised by a certified law-enforcement officer at all times  
41 when the pre-certified law-enforcement officer is engaged in law-enforcement duties. For  
42 purposes of this section, “directly supervised” means that the certified law-enforcement officer is  
43 physically present with, maintains a close visual and verbal contact with, and provides adequate  
44 direction to, the pre-certified law-enforcement officer while he or she is engaged in law-  
45 enforcement duties.

46 (d) The initial hiring West Virginia law-enforcement agency shall maintain the written  
47 findings and background investigation required herein, for the duration of the person’s term of  
48 employment, at a minimum. Each time the person transfers to a different West Virginia law-  
49 enforcement agency, copies of the written findings and background investigation shall be  
50 transmitted by the West Virginia law-enforcement agency which is the person’s most recent  
51 employer to the West Virginia law-enforcement agency which is the person’s new employer:  
52 *Provided*, That the provisions of this subsection do not apply to the West Virginia State Police.

53           (e) The provisions of this section apply to any person hired by a West Virginia law-  
54 enforcement agency as a pre-certified law-enforcement officer after the effective date of this  
55 section.

56           (f) Written findings and information obtained in the course of any investigation authorized  
57 by this section are not public records and are not subject to disclosure under §29B-1-1 *et seq.* of  
58 this code.



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

*Dean Rusk*  
.....  
Chairman, House Committee

*Mark Stynor*  
.....  
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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

*Jee Linn*  
.....  
Clerk of the Senate

*Dege Haskin*  
.....  
Speaker of the House of Delegates

*C. P. B. O.*  
.....  
President of the Senate

FILED  
2021 APR 28 P 4: 28  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

The within *is approved* this the *28th*  
day of *April*, 2021.

*James Owens*  
.....  
Governor

PRESENTED TO THE GOVERNOR

APR 22 2021

Time 2:53pm