

1 **H. B. 4413**

2
3 (By Delegate Butcher)

4 [Introduced February 3, 2012; referred to the
5 Committee on the Judiciary.]

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10 A BILL to amend and reenact §15-10-4 of the Code of West Virginia,
11 1931, as amended, relating to public safety; and requiring an
12 investigation, of an incident resulting in a death or other
13 serious injury caused by a municipal law-enforcement officer
14 or deputy sheriff, by another agency of the state criminal
15 justice system instead of the agency involved in the incident.

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

17 That §15-10-4 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.**

20 **§15-10-4. Cooperation between law-enforcement agencies and other**
21 **groups of state or local law-enforcement officers;**
22 **investigations of death or other serious injury cause**
23 **by law-enforcement officer.**

1 (a) The head of any law-enforcement agency, the head of any
2 campus police or the head of the rangers of the Hatfield-McCoy
3 regional recreational authority, as those terms are defined in
4 section three of this article, may temporarily provide assistance
5 and cooperation to another agency of the state criminal justice
6 system or to a federal law-enforcement agency in investigating
7 crimes or possible criminal activity if requested to do so in
8 writing by the head of another law-enforcement agency or federal
9 law-enforcement agency. Such assistance may also be provided upon
10 the request of the head of the law-enforcement agency or federal
11 law-enforcement agency without first being reduced to writing in
12 emergency situations involving the imminent risk of loss of life or
13 serious bodily injury. The assistance may include, but is not
14 limited to, entering into a multijurisdictional task force
15 agreement to integrate federal, state, county and municipal
16 law-enforcement agencies or other groups of state or local
17 law-enforcement officers, or any combination thereof, for the
18 purpose of enhancing interagency coordination, intelligence
19 gathering, facilitating multijurisdictional investigations,
20 providing criminal justice enforcement personnel of the
21 law-enforcement agency to work temporarily with personnel of
22 another agency, including in an undercover capacity, and making
23 available equipment, training, technical assistance and information
24 systems for the more efficient investigation, apprehension and

1 adjudication of persons who violate the criminal laws of this state
2 or the United States, and to assist the victims of such crimes.
3 When providing the assistance under this article, a head of a
4 law-enforcement agency shall comply with all applicable statutes,
5 ordinances, rules, policies or guidelines officially adopted by the
6 state or the governing body of the city or county by which he or
7 she is employed, and any conditions or restrictions included
8 therein.

9 (b) While temporarily assigned to work with another
10 law-enforcement agency or agencies, criminal justice enforcement
11 personnel and other state and local law-enforcement officers shall
12 have the same jurisdiction, powers, privileges and immunities,
13 including those relating to the defense of civil actions, as such
14 criminal justice enforcement personnel would enjoy if actually
15 employed by the agency to which they are assigned, in addition to
16 any corresponding or varying jurisdiction, powers, privileges and
17 immunities conferred by virtue of their continued employment with
18 the assisting agency.

19 (c) While assigned to another agency or to a
20 multijurisdictional task force, criminal justice enforcement
21 personnel and other state and local law-enforcement officers shall
22 be subject to the lawful operational commands of the superior
23 officers of the agency or task force to which they are assigned,
24 but for personnel and administrative purposes, including

1 compensation, they shall remain under the control of the assisting
2 agency. These assigned personnel shall continue to be covered by
3 all employee rights and benefits provided by the assisting agency,
4 including workers' compensation, to the same extent as though such
5 personnel were functioning within the normal scope of their duties.

6 (d) No request or agreement between the heads of
7 law-enforcement agencies, the heads of campus police or the head of
8 the rangers of the Hatfield-McCoy regional recreation authority,
9 made or entered into pursuant to this article shall remain in
10 force or effect until a copy of said request or agreement is filed
11 with the office of the circuit clerk of the county or counties in
12 which the law-enforcement agencies, the campus police, or the
13 Hatfield-McCoy regional recreation authority rangers involved
14 operate. Agreements made pursuant to this article shall remain in
15 effect unless and until the agreement is changed or withdrawn in
16 writing by the head of one of the law-enforcement agencies. Upon
17 filing, the requests or agreements may be sealed, subject to
18 disclosure pursuant to an order of a circuit court directing
19 disclosure for good cause. Nothing in this article shall be
20 construed to limit the authority of the head of a law-enforcement
21 agency, the head of campus police or the head of the rangers of the
22 Hatfield-McCoy regional recreation authority to withdraw from any
23 agreement at any time.

24 (e) Nothing contained in this article shall be construed so as

1 to grant, increase, decrease or in any manner affect the civil
2 service protection or the applicability of civil service laws as to
3 any criminal justice enforcement personnel, or as to any state or
4 local law-enforcement officer or agency operating under the
5 authority of this article, nor shall this article in any way reduce
6 or increase the jurisdiction or authority of any criminal justice
7 enforcement personnel, or of any state or local law-enforcement
8 officer or agency, except as specifically provided herein.

9 (f) Nothing contained in this article shall be construed so as
10 to authorize the permanent consolidation or merger or the
11 elimination of operations of participating federal, state, county
12 municipal law-enforcement agencies, or other groups of state and
13 local law-enforcement officers, the head campus police or the head
14 of the rangers of the Hatfield-McCoy regional recreation authority.

15 (g) Notwithstanding any other provision of this article or
16 other law to the contrary, when it becomes necessary to investigate
17 an incident resulting in a death or other serious injury caused by
18 a municipal law-enforcement officer or deputy sheriff, the
19 investigation of the incident may not be investigated by members of
20 that officer's or deputy sheriff's law-enforcement agency. The
21 head of the law-enforcement agency involved shall seek the
22 temporary assistance and cooperation of another agency of the state
23 criminal justice system to conduct an appropriate investigation of
24 the incident.

NOTE: The purpose of this bill is to require an investigation, of an incident resulting in a death or other serious injury caused by a municipal law-enforcement officer or deputy sheriff, by another agency of the state criminal justice system instead of the agency involved in the incident.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.