

H. B. 2431

(By Delegate Skinner)

[Introduced January 27, 2015; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
designated §15-9C-1, §15-9C-2, §15-9C-3, §15-9C-4, §15-9C-5 and §15-9C-6, all relating
to creating a board for review of officer-involved deaths.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
article, designated §15-9C-1, §15-9C-2, §15-9C-3, §15-9C-4, §15-9C-5 and §15-9C-6, all to read
as follows:

ARTICLE 9C. BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS.

§15-9C-1. Board for Review of Officer-Involved Deaths created.

(a) There is created within the Governor's Committee on Crime, Delinquency and Correction
the West Virginia Board for Review of Officer-Involved Deaths, which shall meet as necessary to
perform its duties.

(b) The board shall be composed of five members as follows:

1 (1) One retired or reserve judge;

2 (2) A former sheriff, chief of police, chief deputy sheriff, or chief deputy chief of police;

3 (3) An assistant Attorney General;

4 (4) A professor or researcher affiliated with a West Virginia university or college who has
5 expertise in the field of criminal law or criminal justice; and

6 (5) A former district attorney or assistant district attorney who served in that capacity for at
7 least ten years.

8 (c) Members of the board shall be appointed for staggered four-year terms by the Governor
9 with advice and consent of the Senate. Initial members shall be appointed as follows: (1) Two
10 members for a term that expires on July 1 two years after the initial appointment, two members for
11 a term expiring July 1 three years after the initial appointment, and one member for a term expiring
12 July 1 following the initial appointment.

13 **§15-9C-2. Policy required regarding handling of deaths involving law-enforcement officers.**

14 Each law-enforcement agency shall have a written policy regarding the handling of deaths
15 involving a law-enforcement officer employed by the agency. Each policy is subject to the review
16 and approval of the law- enforcement standards board.

17 **§15-9C-3. Team required for each policy.**

18 (a) Each policy required pursuant to section two of this article must require a team of
19 investigators consisting of at least three individuals, including individuals from at least two different
20 agencies that do not employ a law-enforcement officer involved in the death being investigated.
21 Compensation for participation on a team shall be determined in a manner consistent with mutual
22 aid agreements.

1 (b) If the death being investigated is traffic related, the policy under section-two of this
2 article must require the investigative team to use a crash reconstruction unit from an agency that does
3 not employ a law-enforcement officer involved in the death being investigated. The policy shall give
4 preference to using a unit from the State Police.

5 (c) Each policy under section two of this article may allow an internal investigation into the
6 death if the internal investigation does not interfere with the duties under this section of the team of
7 investigators required pursuant to subsection (a) of this section.

8 (d) Each policy under section two of this article must require any officer involved in the
9 death to submit a blood sample. No person may perform any analysis or test on the blood sample
10 without either the permission of the officer who submitted the sample or a search warrant. At the
11 conclusion of the investigation of the death, the sample may be destroyed if a court approves.

12 **§15-9C-4. Team reports to the county prosecuting attorney.**

13 (a) A team created under section three of this article shall consult and report to the
14 prosecuting attorney of the county in which the death occurred. Except as provided in this
15 subsection, the team shall keep confidential any material and information related to the death and
16 the investigation.

17 (b) When the report is complete the prosecuting attorney shall release the report to the board
18 for the Review of Officer-Involved Deaths.

19 (c) A team created pursuant to section three of this article shall respond to requests from the
20 board under section five of this article unless the district attorney restricts the team from a response
21 due to a court order or because a response could jeopardize the prosecution or investigation of an
22 open case.

1 **§15-9C-5. Review of report; recommendations; board meetings open to the public.**

2 (a) When the board for Review of Officer-Involved Deaths receives a report under subsection
3 (b), section four of this article, it shall review the report and evidence to determine if it addresses all
4 aspects of the death. The board may request more information, clarification, or testimony from the
5 investigative team that prepared the report.

6 (b) When the board finishes its review of the report, it may make recommendations to the
7 district attorney of the county in which the death occurred and forward the report to any person
8 responsible for disciplining an officer involved.

9 (c) Meetings of the board are open to the public but public comment is closed unless the
10 majority of the board votes to allow public comment.

11 **§15-9C-6. Release of report.**

12 When the board for the Review of Officer-Involved Deaths completes its review of a report
13 prepared by a team under section four of this article, the board shall release the report and any
14 accompanying written files unless the information must be kept confidential by statute.

NOTE: The purpose of this bill is to establish procedures for investigation and review of police officer-involved deaths.

This article is new; therefore, it has been completely underscored.