

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 284**

(By Senators Nohe, Plymale, Sypolt, Walters, Blair, Williams,  
Prezioso and D. Hall)

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[Originating in the Committee on the Judiciary;  
reported January 30, 2015.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-7-16, relating to dangerous weapons generally; requiring certification of responsible persons seeking federal authorization to possess certain firearms by a chief law enforcement officer when person is not legally proscribed therefrom; clarifying what criteria may be considered when certification is sought from law enforcement that applicant is not prohibited from securing or possessing firearms covered by the National Firearms Act; defining terms; and allowing circuit court appeals or adverse decisions.

*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 section, designated §61-7-16, to read as follows:

**ARTICLE 7. DANGEROUS WEAPONS.**

**§61-7-16. Chief officer certification to transfer or make certain firearms; definitions; appeal.**

1 (a) When certification of a chief law-enforcement officer  
2 is required by federal law or regulation for the making,  
3 transfer, receipt or possession of a firearm, the chief  
4 law-enforcement officer shall, within thirty days of receipt  
5 of such a request, provide such certification upon  
6 determining that to his or her knowledge the applicant is not  
7 prohibited by federal, state or local law from making,  
8 transferring, receiving or possessing the firearm for which  
9 application is being made and is not the subject of a  
10 proceeding that could result in the applicant being prohibited  
11 by law from receiving or possessing a firearm. If the chief  
12 law-enforcement officer is unable to make a certification as

13 contemplated by this section, he or she shall provide the  
14 applicant written notification of the action setting forth the  
15 reasons therefore.

16 (b) For purposes of this section:

17 (1) “Chief law-enforcement officer” means any official,  
18 or his or her designee, that the Bureau of Alcohol, Tobacco,  
19 Firearms and Explosives, or any successor agency, identifies  
20 by regulation or otherwise as eligible to provide the required  
21 law-enforcement certification for the making, transfer, receipt  
22 or possession of a firearm.

23 (2) “Certification” means written confirmation by the  
24 chief law-enforcement officer necessary under federal law  
25 that the applicant seeking to make, transfer, receive or  
26 possess a firearm is not to the chief law-enforcement officer’s  
27 knowledge prohibited by federal, state or local law from  
28 making, transferring, receiving or possessing the designated  
29 firearm.

30 (3) “Firearm” has the same meaning as provided in the  
31 National Firearms Act, 26 U. S. C. § 5845 (a).

32 (c) Chief law-enforcement officers and their designees  
33 who act in good faith are immune from liability arising from  
34 any act or omission related to certifying a responsible person.

35 (d) An applicant whose request for certification is denied  
36 may appeal the chief law-enforcement officer's decision to  
37 the circuit court of the applicant's county of residence. If the  
38 court finds that the applicant is not prohibited by law from  
39 making, transferring, receiving or possessing the firearm, or  
40 is not the subject of a proceeding that could result in  
41 prohibition, the court shall order the chief law-enforcement  
42 officer to issue the certification.

43 (e) A generalized objection to persons or entities making,  
44 transferring, receiving or possessing firearms or particular  
45 types of firearms which may be lawfully made, transferred,  
46 received or possessed does not constitute a valid basis for  
47 refusing certification.

48 (f) In making the certification decision the chief law-  
49 enforcement officer shall require of the applicant only such  
50 information as is necessary to identify the applicant for

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51 purposes of this section or to determine the disposition of an  
52 arrest or proceeding relevant to the applicant's eligibility to  
53 lawfully possess or receive a firearm.