

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2916

BY DELEGATES PETHTEL AND HANSHAW

[Introduced March 10, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §6-1-3a of the Code of West Virginia, 1931, as amended; to amend
2 said code by adding thereto a new section, designated §7-15-19; to amend said code by
3 adding thereto a new section, designated §8-15-28; and to amend said code by adding
4 thereto a new section, designated §16-4C-24, all relating to authorizing certain first
5 responders to carry firearms; authorizing supervising entities to authorize reserve deputy
6 sheriffs, ambulance crew members, firefighters, rescue squad members and emergency
7 service personnel to carry firearms; specifying the training required for them to be eligible
8 to carry a firearm; and allowing reimbursement for the cost of the training.

Be it enacted by the Legislature of West Virginia:

1 That §6-1-3a of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; and, that said Code be amended by adding thereto a new section, designated §7-15-
3 19; that said code be amended by adding thereto a new section, designated §8-15-28; and that
4 said code be amended by adding thereto a new section, designated §16-4C-24, all to read as
5 follows:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.

§6-3-1a. Deputy sheriff's reserve; purpose; appointment and qualifications of members; duties; attire; training; oath; bond; not employee of sheriff or county commission for certain purposes; limitation on liability.

1 (a) The sheriff of any county may, for the purposes hereinafter set forth, designate and
2 appoint a deputy sheriffs' reserve, hereinafter referred to as "reserve" or "reserves." A reserve
3 may not be designated or created without the prior approval of the county commission for the
4 establishment of the reserve.

5 (b) Each sheriff may appoint as members of the reserve bona fide citizens of the county
6 who are of good moral character and who have not been convicted of a felony or other crime

7 involving moral turpitude. Any person so appointed shall serve at the will and pleasure of the
8 sheriff and is not subject to the provisions of article fourteen, chapter seven of this code. A
9 member of the reserve may not engage in any political activity or campaign involving the office of
10 sheriff or from which activity or campaign the sheriff or candidates therefor appointing the member
11 would directly benefit.

12 (c) Members of the reserves shall not serve as law-enforcement officers, nor carry
13 firearms, unless a member has first successfully completed a firearms training and certification
14 program and the member maintains certification in a manner which is equivalent to that which is
15 required of members of the State Police. The department may reimburse the member for the cost
16 of the training and maintenance. ~~but~~ Members may carry other weapons, provided that the sheriff
17 certifies in writing to the county commission that the reserve has met the special training
18 requirements for the weapon as established by the Governor's committee on crime, delinquency
19 and corrections. The Governor's committee on crime, delinquency and corrections is authorized
20 to promulgate legislative rules and emergency rules pursuant to the provisions of article three,
21 chapter twenty-nine-a of this code to establish appropriate training standards. The reserves may
22 be provided with radio communication equipment for the purpose of maintaining contact with the
23 sheriff's department or other law-enforcement agencies. The duties of the reserves shall be
24 limited to crowd control or traffic control and direction within the county. In addition, the reserves
25 may perform such other duties of a nonlaw-enforcement nature as are designated by the sheriff
26 or by a deputy sheriff designated and appointed by the sheriff for that purpose: *Provided*, That a
27 member of the reserves may not aid or assist any law-enforcement officer in enforcing the statutes
28 and laws of this state in any labor trouble or dispute between employer and employee.

29 (d) Members of the reserves may be uniformed; however, if so uniformed, the uniforms
30 shall clearly differentiate these members from other law-enforcement deputy sheriffs.

31 (e) After appointment to the reserves but prior to service each member of the reserves
32 shall receive appropriate training and instruction in their functions and authority as well as the

33 limitations of authority. In addition, each member of the reserves shall annually receive in-service
34 training.

35 (f) Each member of the reserve shall take the same oath as prescribed by section five,
36 article IV of the Constitution of the State of West Virginia, but the taking of the oath does not serve
37 to make the member a public officer.

38 (g) The county commission of each county shall provide for the bonding and liability
39 insurance of each member of the reserve.

40 (h) A member of the reserve is not an employee of either the sheriff or of the county
41 commission for any purpose or purposes, including, but not limited to, the purposes of workers'
42 compensation, civil service, unemployment compensation, public employees retirement, public
43 employees insurance or for any other purpose. A member of the reserves may not receive any
44 compensation or pay for any services performed as a member nor may a member use the
45 designated uniform for any other similar work performed.

46 (i) Neither the county commission nor the sheriff is liable for any of the acts of any member
47 of the reserves except in the case of gross negligence on the part of the county commission or
48 sheriff in the appointment of the member or in the case of gross negligence on the part of either
49 the sheriff or any of his or her deputies in directing any action on the part of the member.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 15. EMERGENCY AMBULANCE SERVICE ACT OF 1975.

§7-15-19. Ambulance crew's authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, an authority may authorize a
2 member of an ambulance crew to carry a firearm in the course of performing official duties if the
3 member has first successfully completed a firearms training and certification program and the
4 member maintains certification in a manner which is equivalent to that which is required of

5 members of the State Police. The authority may reimburse the member for the cost of the training
6 and maintenance.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-28. Firefighters' and rescue squad members' authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, a department may authorize a
2 firefighter or rescue squad member to carry a firearm in the course of performing official duties if
3 the firefighter or rescue squad member has first successfully completed a firearms training and
4 certification program and the member maintains certification in a manner which is equivalent to
5 that which is required of members of the State Police. The department may reimburse the
6 firefighter or rescue squad member for the cost of the training and maintenance.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-24. Emergency medical service personnel's authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, a department may authorize
2 emergency medical service personnel to carry a firearm in the course of performing official duties
3 if the individual has first successfully completed a firearms training and certification program and
4 the individual maintains certification in a manner which is equivalent to that which is required of
5 members of the State Police. The Department may reimburse the individual for the cost of the
6 training and maintenance.

NOTE: The purpose of this bill is to authorize supervising entities to authorize reserve deputies, ambulance crew members, firefighters, rescue squad members and emergency

service personnel to carry firearms. It specifies the training required for them to be eligible to carry a firearm and allows them to be reimbursed for the cost of the training.

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