

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

### **Originating**

## **Senate Bill 684**

BY SENATORS TRUMP, WELD, AZINGER, CLEMENTS,  
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[Originating in the Committee on the Judiciary;

Reported on March 20, 2017]



1 A BILL to amend and reenact §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as  
2 amended, all relating generally to the West Virginia State Police; and correcting agency  
3 referrals and code citations relating to the West Virginia State Police.

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

1 That §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as amended, be amended  
2 and reenacted, all to read as follows:

**ARTICLE 2. WEST VIRGINIA STATE POLICE.**

**§15-2-10. Uniforms; authorized equipment, weapons and supplies; local headquarters;  
quarters for members; life insurance; medical and hospital fees for injuries and  
illnesses of members incurred in line of duty.**

1 (a) The standard uniform to be used by the West Virginia State Police after the effective  
2 date of this article shall be as follows: Forestry green blouse with West Virginia State Police  
3 emblem on sleeve; black shoulder strap one-inch black stripe around sleeve, four inches from  
4 end of sleeve; forestry green breeches with one-inch black stripe down the side; trousers (slacks)  
5 with one-inch black stripe down the side for officers and clerks regularly enlisted in the State  
6 Police; forestry green shirts with West Virginia State Police emblem on sleeve; black shoulder  
7 straps; forestry green mackinaw with West Virginia State Police emblem on sleeve; black shoulder  
8 straps; one-inch black stripe around sleeve four inches from end of sleeve; campaign hat of olive  
9 drab color; black Sam Browne belt with holster; black leggings and shoes; the officer's uniform  
10 will have one and one-quarter inch black stripe around the sleeve of blouse and mackinaw four  
11 inches from end of sleeve circumposed with one-half inch gold braid, also black collars on blouse,  
12 with two silver shoulder bars for captains, one silver shoulder bar for first lieutenant, one gold  
13 shoulder bar for second lieutenant. For noncommissioned officers the uniform blouse and shirt  
14 will have thereon black chevrons of the appropriate rank.

15 (b) The superintendent shall establish the weapons and enforcement equipment which  
16 are authorized for use by members of the State Police and shall provide for periodic inspection of

17 the weapons and equipment. He or she shall provide for the discipline of members using other  
18 than authorized weapons and enforcement equipment.

19 (c) The superintendent shall provide the members of the State Police with suitable arms  
20 and weapons and, when he or she considers it necessary, with suitably equipped automobiles,  
21 motorcycles, watercraft, airplanes and other means of conveyance to be used by the West  
22 Virginia State Police, the Governor and other officers and executives in the discretion of the  
23 Governor, in times of flood, disaster and other emergencies, for traffic study and control, criminal  
24 and safety work and in other matters of official business. He or she shall also provide the standard  
25 uniforms for all members of the State Police, for officers, noncommissioned officers and troopers  
26 provided for in this section. All uniforms and all arms, weapons and other property furnished the  
27 members of the State Police by the State of West Virginia are and remain the property of the  
28 state.

29 (d) The superintendent may purchase and maintain on behalf of members group life  
30 insurance not to exceed the amount of \$5,000 on behalf of each member.

31 (e) The superintendent may contract and furnish at State Police expense medical and  
32 hospital services for treatment of illness or injury of a member which shall be determined by the  
33 superintendent to have been incurred by the member while engaged in the performance of duty  
34 and from causes beyond control of the members. Notwithstanding any other provision of this  
35 code, the superintendent has the right of subrogation in any civil action or settlement brought by  
36 or on behalf of a member in relation to any act by another which results in the illness, injury or  
37 death of a member. To this end, the superintendent may initiate an action on behalf of the State  
38 Police in order to recover the costs incurred in providing medical and hospital services for the  
39 treatment of a member resulting from injury or illness originating in the performance of official  
40 duties. This subsection shall not affect the power of a court to apply ordinary equitable defenses  
41 to the right of subrogation.

42 The superintendent may also consult with the ~~executive director of the workers'~~  
43 ~~compensation commission~~ West Virginia Insurance Commissioner in an effort to defray the cost  
44 of medical and hospital services. In no case will the compensation rendered to health care  
45 providers for medical and hospital services exceed the then current rate schedule in use by the  
46 ~~workers' compensation commission~~ West Virginia Insurance Commissioner.

47 Third-party reimbursements received by the superintendent after the expiration of the  
48 fiscal year in which the injury, illness or death occurred will be deposited to a nonexpiring special  
49 revenue account. Funds deposited to this account may be used solely for defraying the costs of  
50 medical or hospital services rendered to any sworn members as a direct result of an illness, injury  
51 or death resulting from the performance of official duties.

52 (f) The superintendent shall establish and maintain local headquarters at those places in  
53 West Virginia that are in his or her judgment suitable and proper to render the West Virginia State  
54 Police most efficient for the purpose of preserving the peace, protecting property, preventing  
55 crime, apprehending criminals and carrying into effect all other provisions of this article. The  
56 superintendent shall provide, by acquisition, lease or otherwise, for local headquarters, for  
57 housing and quarters for the accommodation of the members of the West Virginia State Police,  
58 and for any other facilities necessary or useful for the effective operation of the West Virginia  
59 State Police and shall provide all equipment and supplies necessary for the members of the West  
60 Virginia State Police to perform their duties.

**§15-2-24. Criminal Identification Bureau; establishment; supervision; purpose;  
fingerprints, photographs, records and other information; reports by courts and  
prosecuting attorneys; offenses and penalties.**

1 (a) The superintendent of the department shall establish, equip and maintain at the  
2 departmental headquarters a Criminal Identification Bureau, for the purpose of receiving and filing  
3 fingerprints, photographs, records and other information pertaining to the investigation of crime  
4 and the apprehension of criminals, as hereinafter provided. The superintendent shall appoint or

5 designate a supervisor to be in charge of the Criminal Identification Bureau and such supervisor  
6 shall be responsible to the superintendent for the affairs of the bureau. Members of the  
7 department assigned to the Criminal Identification Bureau shall carry out their duties and  
8 assignments in accordance with internal management rules and regulations pertaining thereto  
9 promulgated by the superintendent.

10 (b) The Criminal Identification Bureau shall cooperate with identification bureaus of other  
11 states and of the United States to develop and carry on a complete interstate, national and  
12 international system of criminal identification.

13 (c) The Criminal Identification Bureau may furnish fingerprints, photographs, records or  
14 other information to authorized law-enforcement and governmental agencies of the United States  
15 and its territories, of foreign countries duly authorized to receive the same, of other states within  
16 the United States and of the State of West Virginia upon proper request stating that the  
17 fingerprints, photographs, records or other information requested are necessary in the interest of  
18 and will be used solely in the administration of official duties and the criminal laws.

19 (d) The Criminal Identification Bureau may furnish, with the approval of the superintendent,  
20 fingerprints, photographs, records or other information to any private or public agency, person,  
21 firm, association, corporation or other organization, other than a law-enforcement or governmental  
22 agency as to which the provisions of subsection (c) of this section shall govern and control, but  
23 all requests under the provisions of this subsection for such fingerprints, photographs, records or  
24 other information must be accompanied by a written authorization signed and acknowledged by  
25 the person whose fingerprints, photographs, records or other information is to be released.

26 (e) The Criminal Identification Bureau may furnish fingerprints, photographs, records and  
27 other information of persons arrested or sought to be arrested in this state to the identification  
28 bureau of the United States government and to other states for the purpose of aiding law  
29 enforcement.

30 (f) Persons in charge of any penal or correctional institution, including any city or county  
31 jail in this state, shall take, or cause to be taken, the fingerprints and description of all persons  
32 lawfully committed thereto or confined therein and furnish the same in duplicate to the Criminal  
33 Identification Bureau, Department of Public Safety. Such fingerprints shall be taken on forms  
34 approved by the superintendent of the Department of Public Safety. All such officials as herein  
35 named may, when possible to do so, furnish photographs to the Criminal Identification Bureau of  
36 such persons so fingerprinted.

37 (g) Members of the Department of Public Safety, and all other state law-enforcement  
38 officials, sheriffs, deputy sheriffs and each and every peace officer in this state, shall take or cause  
39 to be taken the fingerprints and description of all persons arrested or detained by them, charged  
40 with any crime or offense in this state, in which the penalty provided therefor is confinement in  
41 any penal or correctional institution, or of any person who they have reason to believe is a fugitive  
42 from justice or a habitual criminal, and furnish the same in duplicate to the Criminal Identification  
43 Bureau of the Department of Public Safety on forms approved by the superintendent of said  
44 department. All such officials as herein named may, when possible to do so, furnish to the Criminal  
45 Identification Bureau photographs of such persons so fingerprinted. For the purpose of obtaining  
46 data for the preparation and submission to the Governor and the Legislature by the Department  
47 of Public Safety of an annual statistical report on crime conditions in the state, the clerk of any  
48 court of record, the magistrate of any magistrate court and the mayor or clerk of any municipal  
49 court before which a person appears on any criminal charge shall report to the Criminal  
50 Identification Bureau the sentence of the court or other disposition of the charge and the  
51 prosecuting attorney of every county shall report to the Criminal Identification Bureau such  
52 additional information as the bureau may require for such purpose, and all such reports shall be  
53 on forms prepared and distributed by the Department of Public Safety, shall be submitted monthly  
54 and shall cover the period of the preceding month.

55           (h) All persons arrested or detained pursuant to the requirements of this article shall give  
56 fingerprints and information required by subsections (f) and (g) of this section. Any person who  
57 has been fingerprinted or photographed in accordance with the provisions of this section who is  
58 acquitted of the charges upon which he or she was arrested and who has no previous criminal  
59 record may, upon the presentation of satisfactory proof to the department, have such fingerprints  
60 or photographs, or both, returned to them.

61           (i) All state, county and municipal law-enforcement agencies shall submit to the bureau  
62 uniform crime reports setting forth their activities in connection with law enforcement. It shall be  
63 the duty of the bureau to adopt and promulgate rules and regulations prescribing the form, general  
64 content, time and manner of submission of such uniform crime reports. Willful or repeated failure  
65 by any state, county or municipal law-enforcement official to submit the uniform crime reports  
66 required by this article shall constitute neglect of duty in public office. The bureau shall correlate  
67 the reports submitted to it and shall compile and submit to the Governor and the Legislature  
68 semiannual reports based on such reports. A copy of such reports shall be furnished to all  
69 prosecuting attorneys and law-enforcement agencies.

70           (j) Neglect or refusal of any person mentioned in this section to make the report required  
71 herein, or to do or perform any act on his or her part to be done or performed in connection with  
72 the operation of this section, shall constitute a misdemeanor and such person shall, upon  
73 conviction thereof, be punished by a fine of not less than \$25 nor more than \$200, or by  
74 imprisonment in the county jail for a period of not more than sixty days, or both. Such neglect  
75 shall constitute misfeasance in office and subject such persons to removal from office. Any person  
76 who willfully removes, destroys or mutilates any of the fingerprints, photographs, records or other  
77 information of the Department of Public Safety shall be guilty of a misdemeanor and such person  
78 shall, upon conviction thereof, be punished by a fine of not more than \$100, or by imprisonment  
79 in the county jail for a period of not more than six months, or both.



80 (k) The Criminal Identification Bureau (CIB) and the Federal Bureau of Investigation (FBI)  
81 shall retain applicant fingerprints for the purpose of participating in the Rap Back Program to  
82 determine suitability or fitness for a permit, license or employment. Agencies participating in the  
83 program shall notify applicants and employees subject to a criminal history check that their  
84 fingerprint shall be retained by the CIB and the FBI. Notification shall also be given to the applicant  
85 and employee subject to the Rap Back Program.

86 (l) The State Police may assess a fee to applicants, covered providers or covered  
87 contractors for conducting the criminal background check and for collecting and retaining  
88 fingerprints for Rap Back as authorized under article ~~forty-six~~ forty-nine, chapter sixteen of this  
89 code. The assessment shall be deposited into a nonappropriated special revenue account within  
90 the State Treasurer's office to be known as the WVSP Criminal History Account. Expenditures  
91 from this account shall be made by the superintendent for purposes set forth in this article and  
92 are authorized from collections. The account shall be administered by the superintendent and  
93 may not be deemed a part of the general revenue of the state.

NOTE: The purpose of this bill is to correct existing incorrect references in the two sections relating to the West Virginia State Police.

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