

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2916

BY DELEGATES PETHTEL, HANSHAW AND LOVEJOY

[Passed March 10, 2018; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new
2 section, designated §5-3-6 and to amend and reenact §6-3-1a of said code all relating to
3 authorizing the carrying of firearms; authorizing investigators employed by the Attorney
4 General to carry a concealed handgun while engaged in official duties; requiring such
5 investigators to obtain and maintain a concealed handgun license; establishing training
6 and recertification requirements; authorizing certain reserve deputy sheriffs to carry
7 firearms; requiring written permission of the sheriff to carry a firearm while acting as a
8 reserve deputy sheriff; authorizing the carrying of a firearm by on-duty reserve deputies
9 only for purposes of defense of self or others, establishing qualifications to carry;
10 specifying the training required for such persons to be eligible to carry a firearm; and
11 allowing for reimbursement for the cost of the training.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

ARTICLE 3. ATTORNEY GENERAL.

§5-3-6. Attorney General's investigators authority to carry concealed weapon.

1 (a) The Attorney General may allow, consistent with the provisions of this section, an
2 investigator to carry a concealed firearm while performing his or her official duties.

3 (b) An investigator employed by the Attorney General may carry a concealed firearm
4 approved by the Attorney General solely for purposes of defense of self or others if the investigator
5 has:

6 (1) Obtained the written authorization by the Attorney General;

7 (2) Been determined not to be prohibited from possessing a firearm under state or federal
8 law;

9 (3) Obtained and maintains a concealed handgun license pursuant to §61-7-1 *et seq.* of
10 this code; and

11 (4) Successfully completed a firearms training and certification program equivalent to that
12 provided to officers attending the entry level law-enforcement certification course provided at the
13 West Virginia State Police Academy. The investigator must thereafter successfully complete an
14 annual firearms qualification counsel equivalent to that required of certified law-enforcement
15 officers as established by legislative rule. The Attorney General may reimburse the investigator
16 for the cost of the training and requalification.

17 (c) Neither the state, a political subdivision, an agency nor an employee of the state acting
18 in an official capacity, may be held personally liable for an act of an investigator employed by the
19 Attorney General if the act or omission was done in good faith while the investigator was
20 performing official duties or responsibilities under the office of the Attorney General.

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; equipment; 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 set forth in this section, designate and
2 appoint a deputy sheriff's 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 appointed shall serve at the will and pleasure of the sheriff
8 and is not subject to the provisions of §7-14-1 *et seq.* seven of this code. A member of the reserve
9 may not engage in any political activity or campaign involving the office of sheriff or from which
10 activity or campaign the sheriff or candidates for sheriff appointing the member would directly
11 benefit.

12 (c) Members of the reserves shall not serve as law-enforcement officers, nor carry
13 firearms, except that a member of the reserves may carry a firearm approved by the sheriff while
14 acting in the capacity as a reserve deputy sheriff solely for purpose of defense of self or others, if
15 that member has:

16 (1) Obtained the written authorization of the sheriff;

17 (2) Been determined not to be prohibited from possessing a firearm under state or federal
18 law; and

19 (3) Successfully completed a firearms training and certification program equivalent to that
20 provided to officers attending the entry level law-enforcement certification course provided at the
21 West Virginia State Police Academy. The member must thereafter successfully complete an
22 annual firearms qualification course equivalent to that required of certified law-enforcement
23 officers as established by legislative rule. The department may reimburse the member for the cost
24 of the training and requalification.

25 Members may carry other weapons, provided that the sheriff certifies in writing to the
26 county commission that the reserve has met the special training requirements for the weapon as
27 established by the Governor's Committee on Crime, Delinquency and Corrections. The
28 Governor's Committee on Crime, Delinquency and Corrections may propose legislative rules for
29 promulgation and emergency rules pursuant to the provisions of §29A-3-1 *et seq.* of this code to
30 establish appropriate training standards. The reserves may be provided with radio communication
31 equipment for the purpose of maintaining contact with the sheriff's department or other law-
32 enforcement agencies. The duties of the reserves shall be limited to crowd control or traffic control

33 and direction within the county. In addition, the reserves may perform any other duties of a
34 nonlaw-enforcement nature designated by the sheriff or by a deputy sheriff designated and
35 appointed by the sheriff for that purpose: *Provided*, That a member of the reserves may not aid
36 or assist any law-enforcement officer in enforcing the statutes and laws of this state in any labor
37 trouble or dispute between employer and employee.

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

40 (e) After appointment to the reserves, but prior to service each member of the reserves
41 shall receive appropriate training and instruction in his or her functions and authority as well as
42 the limitations of authority. In addition, each member of the reserves shall annually receive in-
43 service training.

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor