

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4618

BY DELEGATES SHOTT AND HANSHAW

[Passed March 9, 2018; in effect ninety days from passage.]

1 AN ACT to amend and reenact §61-6-1, §61-6-1a, §61-6-3, §61-6-4, and §61-6-5 of the Code of
2 West Virginia, 1931, as amended, relating to the authority of the Division of Protective
3 Services to compel dispersal of a riot or unlawful assemblage; to the authority of the
4 Division of Protective Services to control riots and unlawful assemblages; to include
5 officers of the Division of Protective Services among those officers on whom the penalty
6 for failure to exercise power at riots and unlawful assemblages may be imposed; allowing
7 Division of Protective Services officers to summon persons to suppress unlawful
8 assemblages; to hold harmless Division of Protective Services officers from liability for the
9 death of persons in riots and unlawful assemblages; correcting references to the State
10 Police; removing language making all persons unlawfully assembled criminally liable for
11 deaths of persons quelling unlawful assembly or riot; and to make technical corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-1. Suppression of riots and unlawful assemblages.

1 All members of the West Virginia State Police, the Division of Protective Services, all
2 sheriffs within their respective counties and all mayors within their respective jurisdiction, may
3 suppress riots, routs and unlawful assemblages. It shall be the duty of each of them to go among,
4 or as near as may be with safety, to persons riotously, tumultuously, or unlawfully assembled,
5 and in the name of the law command them to disperse; and if they shall not thereupon immediately
6 and peaceably disperse, such member of the West Virginia State Police, or of the Division of
7 Protective Services, sheriff or mayor giving the command, and any other present, shall command
8 the assistance of all persons present, and of all or any part of other law-enforcement personnel
9 available to him or her, as need be, in arresting and securing those so assembled. If any person
10 present, on being required to give his or her assistance, depart, or fail to obey, he or she shall be
11 deemed a rioter.

§61-6-1a. Control of riots and unlawful assemblages.

1 Members of the West Virginia State Police, the Division of Protective Services, sheriffs
2 and mayors, and those acting under their order, may, when engaged in suppressing a riot, rout
3 or unlawful assemblage, cordon off any area or areas threatened by such riot, rout or unlawful
4 assemblage, and may take all actions which are necessary and reasonable under the emergency
5 to restore law and order, and such actions may be, but are not limited to, the following:

6 (a) Prohibit the sale, offering for sale, dispensing, furnishing, or transportation of firearms
7 or other dangerous weapons, ammunition, dynamite, or other dangerous explosives in, to or from
8 such areas.

9 (b) Prohibit the sale, offering for sale, dispensing, furnishing, or consumption of alcoholic
10 beverages or nonintoxicating beer in a public place in such areas, and prohibit the transportation
11 of alcoholic beverages or nonintoxicating beer in, to, or from such areas.

12 (c) Impose curfews, as required, to control movement of persons in, to, and from such
13 areas.

14 (d) Enter a private dwelling or other building or other private place in such areas when in
15 fresh pursuit of a rioter, when in search of a sniper who has fired upon a person from such a
16 dwelling or other building or place or when in search of firearms, other dangerous weapons,
17 ammunition, dynamite, or other dangerous explosives when there is reason to believe that such
18 items are stored in the said dwelling, building, or place and that they will be removed therefrom
19 before a search warrant could be obtained.

20 No person shall willfully fail to obey a lawful order of any mayor, sheriff, deputy sheriff,
21 municipal police officer, member of the West Virginia State Police, or the Division of Protective
22 Services, or other officer, given pursuant to this section.

23 Any person who violates an order given pursuant to the authority of this section shall be
24 guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500, or
25 imprisoned in the county jail not more than six months, or both fined and imprisoned.

§61-6-3. Failure of member of West Virginia State Police officer, officer of the Division of Protective Services, mayor, or sheriff to exercise powers at riots and unlawful assemblages; penalty.

1 If any member of the West Virginia State Police, the Division of Protective Services, sheriff,
2 or mayor have notice of a riotous, tumultuous, or unlawful assemblage in his or her respective
3 jurisdiction as provided in section one of this article, and fail to proceed immediately to the place
4 of such assemblage, or as near as he or she may safely go, or fail to exercise his or her authority
5 for suppressing it and arresting the offenders, he or she shall be fined not to exceed \$100.

§61-6-4. Summoning of persons to aid in suppressing riots and unlawful assemblages.

1 If any person engaged in such assemblage, being commanded, as hereinbefore provided,
2 to disperse or to peaceably leave the scene of such assemblage, fail to do so without delay, any
3 such member of the West Virginia State Police, the Division of Protective Services, sheriff or
4 mayor may require the aid of a sufficient number of persons, in arms or otherwise, and proceed,
5 in such manner as he or she may deem expedient, to disperse and suppress such assemblage,
6 and arrest and secure those engaged in it.

§61-6-5. Death of person in suppression of riots and unlawful assemblages.

1 If, by any means taken under the authority of this article to disperse any such assemblage
2 or arrest those engaged in it, any person present, as spectator or otherwise, be killed or wounded,
3 and neither malice, nor premeditation be present, any member of the West Virginia State Police,
4 the Division of Protective Services, sheriff, or mayor exercising such authority, and everyone
5 acting under his or her order, shall be held guiltless.

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