

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4715

BY DELEGATES CAPITO, NELSON, BYRD, ROBINSON,
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D. JEFFRIES

[Introduced February 06, 2020; Referred to the
Committee on Political Subdivisions then the
Judiciary.]

1 A BILL to amend and reenact §8-14-3 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §8-15-1 of said code, all relating to authorizing municipalities to take
3 action to grant certain fire department employees limited power of arrest and investigation;
4 allowing those persons to make arrests and obtain arrest warrants in certain
5 circumstances; and requiring those persons to complete an initial and annual training.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS,
AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS AND
POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING
LOT OR PARKING BUILDING POLICE OFFICERS; CIVIL SERVICE FOR
CERTAIN POLICE DEPARTMENTS.**

§8-14-3. Powers, authority and duties of law-enforcement officials and policemen.

1 The chief and any member of the police force or department of a municipality, ~~and~~ any
2 municipal sergeant, and any municipal fire marshal shall have all of the powers, authority, rights
3 and privileges within the corporate limits of the municipality with regard to the arrest of persons,
4 the collection of claims, and the execution and return of any search warrant, warrant of arrest or
5 other process, which can legally be exercised or discharged by a deputy sheriff of a county:
6 Provided, That any municipal fire marshal granted authority under this section shall have these
7 powers, authority, rights and privileges only to the limits described in §8-15-1 of this code. In order
8 to arrest for the violation of municipal ordinances and as to all matters arising within the corporate
9 limits and coming within the scope of his or her official duties, the powers of any chief, policeman,
10 municipal fire marshal or sergeant shall extend anywhere within the county or counties in which
11 the municipality is located, and any such chief, policeman, municipal fire marshal or sergeant shall
12 have the same authority of pursuit and arrest beyond his or her normal jurisdiction as has a sheriff.
13 For an offense committed in his or her presence, any such officer may arrest the offender without

14 a warrant and take ~~him~~ the offender before the mayor or police court or municipal court to be dealt
15 with according to law. ~~He and His~~ or her sureties ~~shall be~~ are liable to all the fines, penalties and
16 forfeitures which a deputy sheriff is liable to, for any failure or dereliction in such office, to be
17 recovered in the same manner and in the same courts in which such fines, penalties and
18 forfeitures are recovered against a deputy sheriff. In addition to the mayor, or police court judge
19 or municipal court judge, if any, of a city, the chief of police of any municipality and in the absence
20 from the station house of the chief of police the captains of police and lieutenants of police shall
21 each have authority to administer oaths to complainants and to issue arrest warrants thereon for
22 all violations of the ordinances of such municipality.

23 It shall be the duty of the mayor and police officers of every municipality and any municipal
24 sergeant to aid in the enforcement of the criminal laws of the state within the municipality,
25 independently of any charter provision or any ordinance or lack of an ordinance with respect
26 thereto, and to cause the arrest of or arrest any offender and take him or her before a magistrate
27 to be dealt with according to the law. Failure on the part of any such official or officer to discharge
28 any duty imposed by the provisions of this section shall be deemed official misconduct for which
29 he may be removed from office. Any such official or officer shall have the same authority to
30 execute a warrant issued by a magistrate, and the same authority to arrest without a warrant for
31 offenses committed in his or her presence, as a deputy sheriff.

32 No officer or member of the police force or department of a municipality may aid or assist
33 either party in any labor trouble or dispute between employer and employee. They shall in such
34 cases see that the statutes and laws of this state and municipal ordinances are enforced in a legal
35 way and manner. Nor shall he or she engage in off-duty police work for any party engaged in or
36 involved in such labor dispute or trouble between employer and employee.

37 The chief of police shall be charged with the keeping and security of the jail and at any
38 time that one or more prisoners are being held in the jail, he shall require that the jail be attended
39 by a police officer or other responsible person.

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

PART I. FIRE FIGHTING GENERALLY.

§8-15-1. Power and authority of governing body with respect to fires.

1 The governing body of every municipality shall have plenary power and authority to
2 provide for the prevention and extinguishment of fires, and, for this purpose, it may, among other
3 things, regulate how buildings shall be constructed, procure proper engines and implements,
4 provide for the organization, equipment and government of volunteer fire companies or of a paid
5 fire department, prescribe the powers and duties of such companies or department and of the
6 several officers, provide for the appointment of officers to have command of fire fighting, prescribe
7 what their powers and duties shall be, and impose on those who fail or refuse to obey any lawful
8 command of such officers any penalty which the governing body is authorized by law to impose
9 for the violation of an ordinance. It may give authority to any such officer or officers to direct the
10 pulling down or destroying of any fence, house, building or other thing, if deemed necessary to
11 prevent the spreading of a fire. It may give authority to municipal fire marshals to (1) arrest any
12 individual disobeying lawful orders at the scene of a fire, (2) arrest any individual who violates
13 prohibitions against arson and explosives offenses, malicious burning, obstructing a fire marshal,
14 or failure to obey orders, (3) make the arrest without a warrant if the conduct occurs in their
15 presence, (4) detain any persons suspected of the commission of an offense for investigatory
16 purposes, and (5) make complaints in writing to the municipal court or other appropriate judicial
17 officer in order to obtain a warrant for such an arrest and initiate a court proceeding: *Provided,*
18 That any officer given this authority shall receive an initial and annual training that complies with
19 Law Enforcement Core Training Standards of the West Virginia State Fire Commission and the
20 West Virginia State Fire Marshal.

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NOTE: The purpose of this bill is to authorize municipalities to give limited arrest power to its fire marshals to address arson related offenses and other matters rather than requiring the municipal police department to make all such arrests.

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