

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4746

BY DELEGATES FLEISCHAUER, ROWE, ROHRBACH,
EVANS, BUTLER, HANSEN, WALKER, LINVILLE,
ANGELUCCI, CAPUTO AND ZUKOFF

[Introduced February 07, 2020; Referred to the
Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
2 sections, designated §17A-2-26 and §17A-2-27; and to amend and reenact §30-29-5 of
3 said code, all relating to establishing a registry of persons with a communication disability,
4 developing a form to use to include persons in this registry and requiring that the
5 communication disability provisions be included in law-enforcement training and
6 certification.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,
CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

ARTICLE 2. DIVISION OF MOTOR VEHICLES.

§17A-2-26. Registry of persons with communication disability.

1 (a) As used in this section:

2 (1) "Communication disability" has the same meaning as in §17A-2-27 of this code.

3 (2) "Disability that can impair communication" has the same meaning as in §17A-2-27 of
4 this code.

5 (3) "Legal guardian" has the same meaning as in §49-1-205 of this code.

6 (4) "Ward" means a person for whom a legal guardian has been appointed.

7 (b) The Division of Motor Vehicles shall establish and maintain a registry of persons who
8 register under this section as being diagnosed with a communication disability or a disability that
9 can impair communication.

10 (c) Any person diagnosed with a communication disability or a disability that can impair
11 communication who is 18 years of age or older may register with the division for inclusion in the
12 registry by submitting a completed verification form established by the developmental disabilities
13 council under §17A-2-27 of this code.

14 (d) Any parent or guardian of a minor child or a ward diagnosed with a communication

15 disability or a disability that can impair communication may register the minor child or the ward
16 with the division for inclusion in the registry by submitting a completed verification form
17 established by the developmental disabilities council under §17A-2-27 of this code.

18 (e) (1) The division shall include in the registry information provided on a completed
19 verification form that the division determines is necessary for a law-enforcement officer to identify
20 a person as diagnosed with a communication disability or a disability that can impair
21 communication. The division shall make the registry available to state and local law-enforcement
22 officers through a law-enforcement automated data system.

23 (2) Information in the registry is not a public record subject to inspection or copying under
24 Chapter 29B of this code.

25 (f) A person diagnosed with a communication disability or a disability that can impair
26 communication who is included in the registry, or the parent or guardian of a minor child or a ward
27 diagnosed with a communication disability or a disability that can impair communication who is
28 included in the registry, may request removal of the person, minor or ward, as applicable, from
29 the registry. The person, parent or guardian shall do so by completing the verification form with
30 only the information required under subsection (c), subdivisions (1), (2), (3), (8) and (9) of §17A-
31 2-27 of this code, as applicable, and submitting the form to the division. Upon receipt of a properly
32 completed verification form requesting the removal of a person with a communication disability or
33 a disability that can impair communication from the registry, the division shall immediately remove
34 that person from the registry.

35 (g) The division may propose rules for promulgation in accordance with the provisions of
36 §29A-3-1 et seq. of this code to carry out the requirements of this section.

§17A-2-27. Form for inclusion in registry with a communication disability.

1 (a) As used in this section:

2 (1) "Communication disability" means a human condition involving an impairment in the
3 human's ability to receive, send, process or comprehend concepts or verbal, nonverbal or graphic

4 symbol systems that may result in a primary disability or may be secondary to other disabilities.

5 (2) "Disability that can impair communication" means a human condition with symptoms
6 that can impair the human's ability to receive, send, process or comprehend concepts or verbal,
7 nonverbal or graphic symbol systems.

8 (3) "Legal guardian" has the same meaning as in §49-1-205 of this code.

9 (4) "Health care provider" means a person as defined in §16-30-3 of this code.

10 (5) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency
11 training program in psychiatry, as approve by the residency review committee of the American
12 Medical Association, the committee on post-graduate education of the American Osteopathic
13 Association, or the American Osteopathic Board of Neurology and Psychiatry.

14 (6) "Psychologist" means a person licensed under the provisions of §30-21-1 et seq. of
15 this code.

16 (b) The Development Disabilities Council shall develop a verification form for a person
17 diagnosed with a communication disability or a disability that can impair communication to be
18 submitted voluntarily to the Division of Motor Vehicles so that the person may be included in the
19 registry established under §17A-2-26 of this code. The same form shall be used to indicate that
20 the person wishes to be removed from the registry in accordance with subsection (f) of §16A-2-
21 26 of this code.

22 (c) The form shall include the following information:

23 (1) The name of the person diagnosed with a communication disability or a disability that
24 can impair communication;

25 (2) The name of the person completing the form on behalf of the person diagnosed with a
26 communication disability or a disability that can impair communication, if applicable;

27 (3) The relationship between the person completing the form and the person diagnosed
28 with a communication disability or a disability that can impair communication, if applicable;

29 (4) The driver's license number or state identification card number issued to the person

30 diagnosed with a communication disability or a disability that can impair communication, if that
31 person has such a number;

32 (5) The license plate number of each vehicle owned, operated or regularly occupied by
33 the person diagnosed with a communication disability or a disability that can impair
34 communication, or registered in that person's name;

35 (6) A physician's, psychiatrist's, or psychologist's signed certification that the person has
36 been diagnosed with a communication disability or a disability that can impair communication;

37 (7) The name, business address, business telephone number and medical license number
38 of the physician, psychiatrist or psychologist making the certification;

39 (8) The signature of the person diagnosed with a communication disability or a disability
40 that can impair communication, or the signature of the person completing the form on behalf of
41 such a person, that may indicate the desire to be removed from the registry; and

42 (9) Option to explain – A place where the person or persons may include a short
43 explanation of the type of disability, possible symptoms, and measures which could alleviate or
44 lessen the symptoms.

45 (d) Any of the following persons may complete the verification form:

46 (1) Any person diagnosed with a communication disability or a disability that can impair
47 communication who is 18 years of age or older;

48 (2) The parent or parents of a minor child diagnosed with a communication disability or a
49 disability that can impair communication;

50 (3) The guardian of a person diagnosed with a communication disability or a disability that
51 can impair communication, regardless of the age of the person.

52 (e) The Developmental Disabilities Council and the Division of Motor Vehicles shall make
53 the verification form electronically available on each of their respective websites.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**§30-29-5. Certification requirements and power to decertify or reinstate.**

1 (a) Except as provided in subsections (b) and (g) of this section, a person may not be
2 employed as a law-enforcement officer by any West Virginia law-enforcement agency or by any
3 state institution of higher education or by the Public Service Commission of West Virginia on or
4 after the effective date of this article unless the person is certified, or is certifiable in one of the
5 manners specified in subsections (c) through (e), inclusive, of this section, by the subcommittee
6 as having met the minimum entry level law-enforcement qualification and training program
7 requirements promulgated pursuant to this article: *Provided*, That the provisions of this section do
8 not apply to persons hired by the Public Service Commission as motor carrier inspectors and
9 weight enforcement officers before July 1, 2007.

10 (b) Except as provided in subsection (g) of this section, a person who is not certified, or
11 certifiable in one of the manners specified in subsections (c) through (e), inclusive, of this section,
12 may be conditionally employed as a law-enforcement officer until certified: *Provided*, That within
13 ninety calendar days of the commencement of employment or the effective date of this article if
14 the person is already employed on the effective date, he or she makes a written application to
15 attend an approved law-enforcement training academy. The person's employer shall provide
16 notice, in writing, of the ninety-day deadline to file a written application to the academy within thirty
17 calendar days of that person's commencement of employment. The employer shall provide full
18 disclosure as to the consequences of failing to file a timely written application. The academy shall
19 notify the applicant in writing of the receipt of the application and of the tentative date of the
20 applicant's enrollment. Any applicant who, as the result of extenuating circumstances acceptable
21 to his or her law-enforcement official, is unable to attend the scheduled training program to which
22 he or she was admitted may reapply and shall be admitted to the next regularly scheduled training

23 program. An applicant who satisfactorily completes the program shall, within thirty days of
24 completion, make written application to the subcommittee requesting certification as having met
25 the minimum entry level law-enforcement qualification and training program requirements. Upon
26 determining that an applicant has met the requirements for certification, the subcommittee shall
27 forward to the applicant documentation of certification. An applicant who fails to complete the
28 training program to which he or she is first admitted, or was admitted upon reapplication, may not
29 be certified by the subcommittee: *Provided, however,* That an applicant who has completed the
30 minimum training required by the subcommittee may be certified as a law-enforcement officer,
31 notwithstanding the applicant's failure to complete additional training hours required in the training
32 program to which he or she originally applied.

33 (c) Any person who is employed as a law-enforcement officer on the effective date of this
34 article and is a graduate of the West Virginia basic police training course, the West Virginia State
35 Police cadet training program, or other approved law-enforcement training academy, is certifiable
36 as having met the minimum entry level law-enforcement training program requirements and is
37 exempt from the requirement of attending a law-enforcement training academy. To receive
38 certification, the person shall make written application within ninety calendar days of the effective
39 date of this article to the subcommittee requesting certification. The subcommittee shall review
40 the applicant's relevant scholastic records and, upon determining that the applicant has met the
41 requirements for certification, shall forward to the applicant documentation of certification.

42 (d) Any person who is employed as a law-enforcement officer on the effective date of this
43 article and is not a graduate of the West Virginia basic police training course, the West Virginia
44 State Police Cadet Training Program or other approved law-enforcement training academy, is
45 certifiable as having met the minimum entry level law-enforcement training program requirements
46 and is exempt from the requirement of attending a law-enforcement training academy if the person
47 has been employed as a law-enforcement officer for a period of not less than five consecutive
48 years immediately preceding the date of application for certification. To receive certification, the

49 person shall make written application within ninety calendar days following the effective date of
50 this article to the subcommittee requesting certification. The application shall include notarized
51 statements as to the applicant's years of employment as a law-enforcement officer. The
52 subcommittee shall review the application and, upon determining that the applicant has met the
53 requirements for certification, shall forward to the applicant documentation of certification.

54 (e) Any person who begins employment on or after the effective date of this article as a
55 law-enforcement officer is certifiable as having met the minimum entry level law-enforcement
56 training program requirements and is exempt from attending a law-enforcement training academy
57 if the person has satisfactorily completed a course of instruction in law enforcement equivalent to
58 or exceeding the minimum applicable law-enforcement training curricula promulgated by the
59 subcommittee. To receive certification, the person shall make written application within ninety
60 calendar days following the commencement of employment to the subcommittee requesting
61 certification. The application shall include a notarized statement of the applicant's satisfactory
62 completion of the course of instruction in law enforcement, a notarized transcript of the applicant's
63 relevant scholastic records and a notarized copy of the curriculum of the completed course of
64 instruction. The subcommittee shall review the application and, if it finds the applicant has met
65 the requirements for certification, shall forward to the applicant documentation of certification. The
66 subcommittee may set the standards for required records to be provided by or on behalf of the
67 applicant officer to verify his or her training, status, or certification as a law-enforcement officer.
68 The subcommittee may allow an applicant officer to participate in the approved equivalent
69 certification program to gain certification as a law-enforcement officer in this state.

70 (f) Except as provided in subdivisions (1) through (3), inclusive, of this subsection, any
71 person who is employed as a law-enforcement officer on or after the effective date of this article
72 and fails to be certified shall be automatically terminated and no further emoluments shall be paid
73 to such officer by his or her employer. Any person terminated shall be entitled to reapply, as a
74 private citizen, to the subcommittee for training and certification, and upon being certified may

75 again be employed as a law-enforcement officer in this state: *Provided*, That if a person is
76 terminated under this subsection because an application was not timely filed to the academy, and
77 the person's employer failed to provide notice or disclosure to that person as set forth in
78 subsection (b) of this section, the employer shall pay the full cost of attending the academy if the
79 person's application to the subcommittee as a private citizen is subsequently approved.

80 (1) Any person who is employed as a law-enforcement officer on or after the effective date
81 of this article and fails to be certified as a result of hardship and/or circumstance beyond his or
82 her control may apply to the director of a training academy for reentry to the next available
83 academy.

84 (2) Any person who is employed as a law-enforcement officer on or after the effective date
85 of this article and fails to be certified as a result of voluntary separation from an academy program
86 shall be automatically terminated and no further emoluments may be paid to such officer by his
87 or her employer. Any person terminated as a result of voluntary separation from an academy
88 program may not be conditionally employed as a law-enforcement officer for a period of two years
89 from the date of voluntary separation.

90 (3) Any person who is employed as a law-enforcement officer on or after the effective date
91 of this article and fails to be certified as a result of dismissal from an academy program shall be
92 automatically terminated and no further emoluments may be paid to such officer by his or her
93 employer. Any person terminated as a result of dismissal from an academy program may not be
94 conditionally employed as a law-enforcement officer for a period of five years from the date of
95 dismissal and receiving approval from the subcommittee.

96 (g) Nothing in this article may be construed as prohibiting any governing body, Civil
97 Service Commission or chief executive of any West Virginia law-enforcement agency from
98 requiring their law-enforcement officers to meet qualifications and satisfactorily complete a course
99 of law-enforcement instruction which exceeds the minimum entry level law-enforcement
100 qualification and training curricula promulgated by the subcommittee.

101 (h) The subcommittee, or its designee, may decertify or reactivate a law-enforcement
102 officer pursuant to the procedure contained in this article and legislative rules promulgated by the
103 subcommittee.

104 (i) Any person aggrieved by a decision of the subcommittee made pursuant to this article
105 may contest the decision in accordance with the provisions of article five, chapter twenty-nine-a
106 of this code.

107 (j) The subcommittee may issue subpoenas for the attendance of witnesses and the
108 production of necessary evidence or documents in any proceeding, review or investigation
109 relating to certification or hearing before the subcommittee.

110 (k) All future graduates and all law-enforcement officers who are currently certified shall
111 receive training concerning the provisions of §17A-2-26 and §17A-2-27 of this code and how
112 these sections apply to their work.

NOTE: The purpose of this bill is to establish a registry of persons with a communication disability and require all law-enforcement officers be trained in their application to the work performed by the officers.

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