

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 706

SENATORS TRUMP AND CLEMENTS, *original sponsors*

[Passed February 29, 2020; in effect 90 days from passage]

1 AN ACT to amend and reenact §30-29-3 and §30-29-5 of the Code of West Virginia, 1931, as
2 amended, all relating to the duties of the law-enforcement training and certification
3 subcommittee; providing for a minimum of 800 classroom hours for a law-enforcement
4 academy; clarifying that the required classroom hours shall be accumulated on the basis
5 of a full-time curricula; authorizing the law-enforcement training and certification
6 subcommittee to deny an application for the establishment of a new law-enforcement
7 academy if it is determined that no need exists; requiring that a person seeking certification
8 complete the approved law-enforcement training academy within 18 consecutive months
9 of the commencement of employment as a law-enforcement officer; authorizing
10 extensions of such requirement; requiring graduates of state law-enforcement academies
11 successfully complete an entry level law-enforcement examination promulgated by the
12 law-enforcement training and certification subcommittee prior to certification; establishing
13 time frames for completion of training requirements; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-3. Duties of the subcommittee.

- 1 (a) The subcommittee shall, by or pursuant to rules proposed for legislative approval in
2 accordance with §29A-3-1 *et seq.* of this code:
- 3 (1) Provide funding for the establishment and support of law-enforcement training
4 academies in the state;
- 5 (2) Establish standards governing the establishment and operation of the law-enforcement
6 training academies, including regional locations throughout the state, in order to provide access
7 to each law-enforcement agency in the state in accordance with available funds;
- 8 (3) Establish minimum law-enforcement instructor qualifications;
- 9 (4) Certify qualified law-enforcement instructors;
- 10 (5) Maintain a list of approved law-enforcement instructors;

11 (6) Promulgate standards governing the training, firearms qualification, and initial and
12 ongoing professional certification of law-enforcement officers and the entry-level law-enforcement
13 training curricula. These standards shall require satisfactory completion of a minimum of 800
14 classroom hours as promulgated by legislative rule and shall provide that the required classroom
15 hours shall be accumulated on the basis of a full-time curricula;

16 (7) Establish standards governing in-service law-enforcement officer training curricula and
17 in-service supervisory level training curricula;

18 (8) Certify organized criminal enterprise investigation techniques with a qualified anti-racial
19 profiling training course or module;

20 (9) Establish standards governing mandatory training to effectively investigate organized
21 criminal enterprises as defined in §61-13-1 *et seq.* of this code while preventing racial profiling,
22 as defined in §30-29-10 of this code, for entry level training curricula and for law-enforcement
23 officers who have not received such training as certified by the subcommittee as required in this
24 section;

25 (10) Establish procedures for implementation of a course in investigation of organized
26 criminal enterprises which includes an anti-racial training module to be available on the Internet
27 or otherwise to all law-enforcement officers. The procedures shall include the frequency with
28 which a law-enforcement officer shall receive training in investigation of organized criminal
29 enterprises and anti-racial profiling and a time frame for which all law-enforcement officers must
30 receive such training: *Provided*, That all law-enforcement officers in this state shall receive such
31 training no later than July 1, 2012. In order to implement and carry out the intent of this section,
32 the subcommittee may promulgate emergency rules pursuant to §29A-3-15 of this code;

33 (11) Certify or decertify or reactivate law-enforcement officers, as provided in §30-29-5
34 and §30-29-11 of this code;

35 (12) Establish standards and procedures for the reporting of complaints and certain
36 disciplinary matters concerning law-enforcement officers and for reviewing the certification of law-

37 enforcement officers. These standards and procedures shall provide for preservation of records
38 and access to records by law-enforcement agencies and conditions as to how the information in
39 those records is to be used regarding an officer's law-enforcement employment by another law-
40 enforcement agency;

41 (A) The subcommittee shall establish and manage a database that is available to all law-
42 enforcement agencies in the state concerning the status of any person's certification.

43 (B) Personnel or personal information not resulting in a criminal conviction is exempt from
44 disclosure pursuant to the provisions of chapter 29B of this code;

45 (13) Seek supplemental funding for law-enforcement training academies from sources
46 other than the fees collected pursuant to §30-29-4 of this code;

47 (14) Any responsibilities and duties as the Legislature may, from time to time, see fit to
48 direct to the subcommittee; and

49 (15) Submit, on or before September 30 of each year, to the Governor, the Speaker of the
50 House, the President of the Senate, and, upon request, to any individual member of the
51 Legislature a report on its activities during the previous year, and an accounting of funds paid into
52 and disbursed from the special revenue account established pursuant to §30-29-4 of this code;

53 (16) Develop and promulgate rules for state, county, and municipal law-enforcement
54 officers, law-enforcement agencies, and communications and emergency operations centers that
55 dispatch law-enforcement officers with regard to the identification, investigation, reporting, and
56 prosecution of suspected child abuse and neglect: *Provided*, That such rules and procedures
57 must be consistent with the priority criteria prescribed by generally applicable department
58 procedures;

59 (17) Make recommendations to the Governor's Committee on Crime, Delinquency, and
60 Correction for legislation related to the subcommittee's duties and responsibilities, or for research
61 or studies by the Division of Administrative Services on topics related to the subcommittee's duties
62 and responsibilities.

63 (b) In addition to the duties authorized and established by this section, the subcommittee
64 may:

65 (1) Establish training to effectively investigate human trafficking offenses as defined in
66 §61-2-1 *et seq.* of this code for entry level training curricula and for law-enforcement officers who
67 have not received such training as certified by the committee as required by this section; and

68 (2) Establish procedures for the implementation of a course in investigation of human
69 trafficking offenses. The course may include methods of identifying and investigating human
70 trafficking and methods for assisting trafficking victims. In order to implement and carry out the
71 intent of this subdivision, the committee may promulgate emergency rules pursuant to §29A-3-15
72 of this code.

73 (c) Notwithstanding any provision of this code to the contrary, the subcommittee may deny
74 an application for the establishment of a new law-enforcement training academy if it is determined
75 by the subcommittee that no actual need exists for the establishment of additional law-
76 enforcement training academies to meet the needs of existing law-enforcement agencies in the
77 state.

§30-29-5. Certification requirements and power to decertify or reinstate.

1 (a) Except as provided in subsections (b) and (e) 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 the manner
5 specified in subsection (c) of this section, by the subcommittee as having met the minimum entry
6 level law-enforcement qualification and training program requirements promulgated pursuant to
7 this article: *Provided*, That the provisions of this section do not apply to persons hired by the Public
8 Service Commission as motor carrier inspectors and weight enforcement officers before July 1,
9 2007.

10 (b) Except as provided in subsection (e) of this section, a person who is not certified, or
11 certifiable in the manner specified in subsection (c) of this section, may be conditionally employed
12 as a law-enforcement officer until certified: *Provided*, That within 90 calendar days of the
13 commencement of employment or the effective date of this article, if the person is already
14 employed on the effective date, he or she makes a written application to attend an approved law-
15 enforcement training academy and that the person satisfactorily completes the approved law-
16 enforcement training academy within 18 consecutive months of the commencement of his or her
17 employment: *Provided, however*, That the subcommittee may grant an extension, one-time only,
18 not to exceed six months, based upon a written request from the person justifying the need for
19 such an extension: *Provided further*, That the subcommittee, in its sole discretion, may grant an
20 additional extension upon demonstration of a hardship warranting it. The person's employer shall
21 provide notice, in writing, of the 90-day deadline to file a written application to the academy within
22 30 calendar days of that person's commencement of employment. The employer shall provide full
23 disclosure as to the consequences of failing to file a timely written application. The academy shall
24 notify the applicant in writing of the receipt of the application and of the tentative date of the
25 applicant's enrollment. Any applicant who, as the result of extenuating circumstances acceptable
26 to his or her employing law-enforcement official, is unable to attend the scheduled training
27 program to which he or she was admitted may reapply and shall be admitted to the next regularly
28 scheduled training program. One year after the effective date of this section, certification as a law-
29 enforcement officer within this state of persons who are not certifiable as provided in subsection
30 (c) of this section, shall, in addition to graduation from an established academy in the state, be
31 based on: Current employment as a sworn law-enforcement officer by any West Virginia law-
32 enforcement agency or any state institution of higher education or the Public Service Commission;
33 and the person's successful completion of an approved entry level law-enforcement examination
34 established by legislative rule of the subcommittee, which shall include, at a minimum, written
35 testing requirements, medical standards, physical standards, and good moral character standards

36 conducted in accordance with such rule. The production of a record of successful passage of the
37 approved entry level law-enforcement examination shall indicate the applicant as qualified under
38 the law-enforcement training and certification standards within this state. An applicant who
39 satisfactorily completes the program and successfully passes the approved entry level law-
40 enforcement examination shall, within 30 days of completion, make written application to the
41 subcommittee requesting certification as having met the minimum entry level law-enforcement
42 qualification and training program requirements. Upon determining that an applicant has met the
43 requirements for certification as set forth in this section, the subcommittee shall forward to the
44 applicant documentation of certification. An applicant who fails to complete the training program
45 to which he or she is first admitted, or was admitted upon reapplication, or who fails to pass the
46 approved entry level law-enforcement examination, may not be certified by the subcommittee:
47 *And provided further*, That an applicant who has completed the minimum training and examination
48 required by the subcommittee may be certified as a law-enforcement officer, notwithstanding the
49 applicant's failure to complete additional training hours required in the training program to which
50 he or she originally applied. If more than 24 months but less than 60 months have passed since
51 the applicant for certification has successfully completed the approved entry level law-
52 enforcement examination, the person may be certified but must complete the additional training
53 set forth in legislative rules promulgated by the subcommittee addressing the recertification
54 requirements of certified officers. If more than 60 months have passed since the applicant for
55 certification has successfully completed the approved entry level law-enforcement examination,
56 the person must then attend a subcommittee-approved training program and successfully
57 complete a separate subcommittee entry level law-enforcement examination.

58 (c) Any person who begins employment on or after the effective date of this article as a
59 law-enforcement officer is certifiable as having met the minimum entry level law-enforcement
60 training program requirements and is exempt from attending a law-enforcement training academy
61 if the person has satisfactorily completed a course of instruction in law enforcement equivalent to

62 or exceeding the minimum applicable law-enforcement training curricula promulgated by the
63 subcommittee. To receive certification, the person shall make written application within 90
64 calendar days following the commencement of employment to the subcommittee requesting
65 certification. The application shall include a notarized statement of the applicant's satisfactory
66 completion of the course of instruction in law enforcement, a notarized transcript of the applicant's
67 relevant scholastic records, and a notarized copy of the curriculum of the completed course of
68 instruction. The subcommittee shall review the application and, if it finds the applicant has met
69 the requirements for certification, shall forward to the applicant documentation of certification. The
70 subcommittee may set the standards for required records to be provided by or on behalf of the
71 applicant officer to verify his or her training, status, or certification as a law-enforcement officer.
72 The subcommittee may allow an applicant officer to participate in the approved equivalent
73 certification program to gain certification as a law-enforcement officer in this state.

74 (d) Except as provided in subdivisions (1) through (3), inclusive, of this subsection, any
75 person who is employed as a law-enforcement officer on or after the effective date of this article
76 and fails to be certified shall be automatically terminated and no further emoluments shall be paid
77 to such officer by his or her employer. Any person terminated shall be entitled to reapply, as a
78 private citizen, to the subcommittee for training and certification, and upon being certified may
79 again be employed as a law-enforcement officer in this state: *Provided*, That if a person is
80 terminated under this subsection because an application was not timely filed to the academy, and
81 the person's employer failed to provide notice or disclosure to that person as set forth in
82 subsection (b) of this section, the employer shall pay the full cost of attending the academy if the
83 person's application to the subcommittee as a private citizen is subsequently approved.

84 (1) 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 hardship and/or circumstance beyond his or
86 her control may apply to the director of a training academy for reentry to the next available
87 academy.

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

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

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

105 (f) The subcommittee, or its designee, may decertify or reactivate a law-enforcement
106 officer pursuant to the procedure contained in this article and legislative rules promulgated by the
107 subcommittee.

108 (g) Any person aggrieved by a decision of the subcommittee made pursuant to this article
109 may contest the decision in accordance with the provisions of §29A-5-1 *et seq.* of this code.

110 (h) The subcommittee may issue subpoenas for the attendance of witnesses and the
111 production of necessary evidence or documents in any proceeding, review, or investigation
112 relating to certification or hearing before the subcommittee.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2020.

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Governor