

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 706**

SENATORS TRUMP AND CLEMENTS, *original sponsors*

[Originating in the Committee on Government

Organization; reported on February 12, 2020]



1 A BILL 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 ~~four~~  
14 ~~hundred~~ 800 classroom hours as promulgated by legislative rule ~~shall provide for credit to be~~  
15 ~~given for relevant classroom hours earned pursuant to training other than training at an~~  
16 ~~established law enforcement training academy if earned within five years immediately preceding~~  
17 ~~the date of application for certification~~ and shall provide that the required classroom hours ~~can~~  
18 shall be accumulated on the basis of a ~~part-time curricula spanning no more than twelve months~~  
19 ~~or a full-time curricula;~~

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

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

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

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

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

39           (12) Establish standards and procedures for the reporting of complaints and certain  
40 disciplinary matters concerning law-enforcement officers and for reviewing the certification of law-  
41 enforcement officers. These standards and procedures shall provide for preservation of records  
42 and access to records by law-enforcement agencies and conditions as to how the information in  
43 those records is to be used regarding an officer's law-enforcement employment by another law-  
44 enforcement agency;

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

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

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

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

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

58           (16) Develop and promulgate rules for state, county, and municipal law-enforcement  
59 officers, law-enforcement agencies, and communications and emergency operations centers that  
60 dispatch law-enforcement officers with regard to the identification, investigation, reporting, and  
61 prosecution of suspected child abuse and neglect: *Provided*, That such rules and procedures

62 must be consistent with the priority criteria prescribed by generally applicable department  
63 procedures.

64 (17) Make recommendations to the Governor's Committee on Crime, Delinquency, and  
65 Correction for legislation related to the subcommittee's duties and responsibilities, or for research  
66 or studies by the Division of Administrative Services ~~Justice and Community Services~~ on topics  
67 related to the subcommittee's duties and responsibilities.

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

70 (1) Establish training to effectively investigate human trafficking offenses as defined in  
71 §61-2-1 *et seq.* of this code for entry level training curricula and for law-enforcement officers who  
72 have not received such training as certified by the committee as required by this section; and

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

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

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

1 (a) Except as provided in subsections (b) and ~~(g)~~ (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 ~~one~~ of the

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

10 (b) Except as provided in subsection ~~(g)~~ (e) of this section, a person who is not certified,  
11 or certifiable in ~~one of the manners specified in subsections~~ subsection (c) ~~through (e), inclusive,~~  
12 of this section, may be conditionally employed as a law-enforcement officer until certified:  
13 *Provided*, That within 90 calendar days of the commencement of employment or the effective date  
14 of this article, if the person is already employed on the effective date, he or she makes a written  
15 application to attend an approved law-enforcement training academy and that the person  
16 satisfactorily completes the approved law-enforcement training academy within 18 consecutive  
17 months of the commencement of his or her employment: *Provided, however, That the*  
18 subcommittee may grant an extension, one-time only, not to exceed six months, based upon a  
19 written request from the person justifying the need for such an extension: *Provided further, That*  
20 the subcommittee, in its sole discretion, may grant an additional extension upon demonstration of  
21 a hardship warranting it. The person's employer shall provide notice, in writing, of the 90-day  
22 deadline to file a written application to the academy within 30 calendar days of that person's  
23 commencement of employment. The employer shall provide full disclosure as to the  
24 consequences of failing to file a timely written application. The academy shall notify the applicant  
25 in writing of the receipt of the application and of the tentative date of the applicant's enrollment.  
26 Any applicant who, as the result of extenuating circumstances acceptable to his or her employing  
27 law-enforcement official, is unable to attend the scheduled training program to which he or she  
28 was admitted may reapply and shall be admitted to the next regularly scheduled training program.  
29 One year after the effective date of this section, certification as a law-enforcement officer within  
30 this state of persons who are not certifiable as provided in subsection (c) of this section, shall, in

31 addition to graduation from an established academy in the state, be based on: Current  
32 employment as a sworn law-enforcement officer by any West Virginia law-enforcement agency  
33 or any state institution of higher education or the Public Service Commission; and the person's  
34 successful completion of an approved entry level law-enforcement examination established by  
35 legislative rule of the subcommittee, which shall include, at a minimum, written testing  
36 requirements, medical standards, physical standards, and good moral character standards  
37 conducted in accordance with such rule. The production of a record of successful passage of the  
38 approved entry level law-enforcement examination shall indicate the applicant as qualified under  
39 the law-enforcement training and certification standards within this state. An applicant who  
40 satisfactorily completes the program and successfully passes the approved entry level law-  
41 enforcement examination shall, within 30 days of completion, make written application to the  
42 subcommittee requesting certification as having met the minimum entry level law-enforcement  
43 qualification and training program requirements. Upon determining that an applicant has met the  
44 requirements for certification as set forth in this section, the subcommittee shall forward to the  
45 applicant documentation of certification. An applicant who fails to complete the training program  
46 to which he or she is first admitted, or was admitted upon reapplication, or who fails to pass the  
47 approved entry level law-enforcement examination, may not be certified by the subcommittee:  
48 ~~Provided, however,~~ And provided further, That an applicant who has completed the minimum  
49 training and examination required by the subcommittee may be certified as a law-enforcement  
50 officer, notwithstanding the applicant's failure to complete additional training hours required in the  
51 training program to which he or she originally applied. If more than 24 months but less than 60  
52 months have passed since the applicant for certification has successfully completed the approved  
53 entry level law-enforcement examination, the person may be certified but must complete the  
54 additional training set forth in legislative rules promulgated by the subcommittee addressing the  
55 recertification requirements of certified officers. If more than 60 months have passed since the  
56 applicant for certification has successfully completed the approved entry level law-enforcement



57 examination, the person must then attend a subcommittee-approved training program and  
58 successfully complete a separate subcommittee entry level law-enforcement examination.

59 ~~(c) Any person who is employed as a law enforcement officer on the effective date of this~~  
60 ~~article and is a graduate of the West Virginia basic police training course, the West Virginia State~~  
61 ~~Police cadet training program, or other approved law enforcement training academy, is certifiable~~  
62 ~~as having met the minimum entry level law enforcement training program requirements and is~~  
63 ~~exempt from the requirement of attending a law enforcement training academy. To receive~~  
64 ~~certification, the person shall make written application within ninety calendar days of the effective~~  
65 ~~date of this article to the subcommittee requesting certification. The subcommittee shall review~~  
66 ~~the applicant's relevant scholastic records and, upon determining that the applicant has met the~~  
67 ~~requirements for certification, shall forward to the applicant documentation of certification.~~

68 ~~(d) Any person who is employed as a law enforcement officer on the effective date of this~~  
69 ~~article and is not a graduate of the West Virginia basic police training course, the West Virginia~~  
70 ~~State Police Cadet Training Program or other approved law enforcement training academy, is~~  
71 ~~certifiable as having met the minimum entry level law enforcement training program requirements~~  
72 ~~and is exempt from the requirement of attending a law enforcement training academy if the person~~  
73 ~~has been employed as a law enforcement officer for a period of not less than five consecutive~~  
74 ~~years immediately preceding the date of application for certification. To receive certification, the~~  
75 ~~person shall make written application within ninety calendar days following the effective date of~~  
76 ~~this article to the subcommittee requesting certification. The application shall include notarized~~  
77 ~~statements as to the applicant's years of employment as a law enforcement officer. The~~  
78 ~~subcommittee shall review the application and, upon determining that the applicant has met the~~  
79 ~~requirements for certification, shall forward to the applicant documentation of certification~~

80 ~~(e) (c)~~ Any person who begins employment on or after the effective date of this article as  
81 a law-enforcement officer is certifiable as having met the minimum entry level law-enforcement  
82 training program requirements and is exempt from attending a law-enforcement training academy

83 if the person has satisfactorily completed a course of instruction in law enforcement equivalent to  
84 or exceeding the minimum applicable law-enforcement training curricula promulgated by the  
85 subcommittee. To receive certification, the person shall make written application within 90  
86 calendar days following the commencement of employment to the subcommittee requesting  
87 certification. The application shall include a notarized statement of the applicant's satisfactory  
88 completion of the course of instruction in law enforcement, a notarized transcript of the applicant's  
89 relevant scholastic records, and a notarized copy of the curriculum of the completed course of  
90 instruction. The subcommittee shall review the application and, if it finds the applicant has met  
91 the requirements for certification, shall forward to the applicant documentation of certification. The  
92 subcommittee may set the standards for required records to be provided by or on behalf of the  
93 applicant officer to verify his or her training, status, or certification as a law-enforcement officer.  
94 The subcommittee may allow an applicant officer to participate in the approved equivalent  
95 certification program to gain certification as a law-enforcement officer in this state.

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

106       (1) Any person who is employed as a law-enforcement officer on or after the effective date  
107 of this article and fails to be certified as a result of hardship and/or circumstance beyond his or

108 her control may apply to the director of a training academy for reentry to the next available  
109 academy.

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

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

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

127 ~~(h)~~ (f) The subcommittee, or its designee, may decertify or reactivate a law-enforcement  
128 officer pursuant to the procedure contained in this article and legislative rules promulgated by the  
129 subcommittee.

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

132           ~~(j)~~ (h) The subcommittee may issue subpoenas for the attendance of witnesses and the  
133 production of necessary evidence or documents in any proceeding, review, or investigation  
134 relating to certification or hearing before the subcommittee.

NOTE: The purpose of this bill is to clarify the duties of the law-enforcement training and certification subcommittee, provide for a minimum of 800 classroom hours for a law-enforcement academy, clarify that the required classroom hours shall be accumulated on the basis of a full-time curricula, authorize the law-enforcement training and certification subcommittee to deny an application for the establishment of a new law-enforcement academy if it is determined that no need exists, require that a person seeking certification complete the approved law-enforcement training academy within 18 consecutive months of the commencement of employment as a law-enforcement officer, authorize extensions of such requirement, require graduates of state law-enforcement academies successfully complete an entry level law-enforcement examination promulgated by the law-enforcement training and certification subcommittee prior to certification, establish time frames for completion of training requirements, and make technical corrections.

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