WEST virginia legislature

2024 regular session

Introduced

House Bill 5098

By Delegates Ridenour, Foster, Mallow, Kirby, Marple, Martin, Phillips, C. Pritt, Kump, Hillenbrand, and Kimble

[Introduced January 25, 2024; Referred to the Committee on Veterans' Affairs and Homeland Security then the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-2b, relating to requiring federal law enforcement officials to provide a minimum of 48 hours' notice to the Attorney General and affected local sheriff's department prior to execution of federal warrants or arrests in the state of West Virginia; providing legislative findings; and setting forth jurisdiction.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 3. ATTORNEY GENERAL.**

§5-3-2b. Federal law enforcement officials required to coordinate with Attorney General and local sheriffs' departments prior to enforcement action.

(a) *Legislative findings*. The Legislature finds that the federal government is exceeding its Constitutional authorities by conducting politicized prosecutions and persecution of its political opponents. The Legislature finds that the federal government is:

(1) Using the Federal Bureau of Investigation (FBI) and other federal law enforcement entities to conduct politicized investigations, persecution and prosecutions of Americans exercising their rights under the United States Constitution, particularly those guaranteed by the First Amendment;

(2) Using the FBI and other federal law enforcement and intelligence entities to unconstitutionally conduct surveillance on Americans;

(3) Illegally manufacturing evidence to deceive the public and potentially juries, particularly regarding the January 6, 2021, protest at the United States Capitol;

(4) Using human sources to infiltrate groups to entrap Americans in spurious charges;

(5) Misallocating federal law enforcement resources to politicized investigations, while ignoring critical threats, including terrorism, child exploitation, and espionage;

(6) Regularly overcharging minor offenses or no offense at all to convict or persecute political opponents; and

(7) Using equally unjust convictions of individuals on fabricated or spurious charges as part of its politicized prosecutions and persecution of political opponents.

(b) The Legislature further finds that the federal government is using federal law enforcement entities, under color of law or office, to facilitate the politicized prosecutions and persecution described herein.

(c) The Legislature finds that the federal government is failing to properly regulate the heavy hand of federal law enforcement, and that federal law enforcement regularly uses excessive force to conduct search warrants and arrests.

(d) The Legislature finds that the routine application of excessive force by federal law enforcement results in injuries and death of Americans, who are innocent until proven guilty and consequential damage to private property.

(e) The Legislature finds that the federal government is actively avoiding the use of federal law enforcement in their appropriate roles to protect the border from infiltration and illegal immigration, to pursue international terrorists, to investigate hostile countries' actions against the people of the United States and West Virginia, to counter hostile countries' intelligence activities against the United States, and other critical national issues.

(f) *Federal law enforcement official required to coordinate with Attorney General and local sheriffs' departments prior to enforcement action*. At least 48 hours prior to the execution or service of any federal warrant or completion of an arrest in the state of West Virginia, federal law enforcement officials with any federal agency shall provide the Office of the West Virginia Attorney General and affected local county sheriff's department with written notice of any impending search warrant or arrest that will be executed in West Virginia. Such notice may be by letter or email. Letters must be delivered to and acknowledged by the Attorney General's Office and the affected local county sheriff's office at least 24 hours prior to any action by federal law enforcement. If written notice is transmitted by email, the Attorney General's Office and the affected local sheriff's department must acknowledge receipt at least 48 hours prior to any action by federal law enforcement.

(g) *Jurisdiction*. The requirements set forth in this section are covered by the Tenth Amendment to the United States Constitution and, as such, the federal government has no authority or jurisdiction over this issue.

NOTE: The purpose of this bill is to require federal law enforcement officials to provide a minimum of 48 hours' notice to the Attorney General and affected local sheriff's department prior to execution of federal warrants or arrests in the state of West Virginia.

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