

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4608

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PYLES

[By Request of the Department of Military Affairs
and Public Safety]

[Introduced January 30, 2020; Referred to the
Committee on Veterans' Affairs and Homeland
Security then the Judiciary]

1 A BILL to amend and reenact §30-29-3 and §30-29-5 of the Code of West Virginia, 1931, as
2 amended, 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;

(6) Promulgate standards governing the training, firearms qualification and initial and ongoing professional certification of law-enforcement officers and the entry-level law-enforcement training curricula. These standards shall require satisfactory completion of a minimum of ~~four hundred~~ 800 classroom hours as promulgated by legislative rule ~~shall provide for credit to be given for relevant classroom hours earned pursuant to training other than training at an established law-enforcement training academy if earned within five years immediately preceding the date of application for certification~~ and shall provide that the required classroom hours ~~can~~ shall be accumulated on the basis of a ~~part-time curricula spanning no more than twelve months or a full- time curricula;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Except as provided in subsections (b) and ~~(g)~~ (e) of this section, a person may not be employed as a law-enforcement officer by any West Virginia law-enforcement agency or by any state institution of higher education or by the Public Service Commission of West Virginia on or after the effective date of this article unless the person is certified, or is certifiable in ~~one of the~~ one of the manners specified in ~~subsections~~ subsection (c) ~~through (e), inclusive~~ of this section, by the 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. The person's employer
20 shall provide notice, in writing, of the 90 day deadline to file a written application to the academy
21 within 30 calendar days of that person's commencement of employment. The employer shall
22 provide full disclosure as to the consequences of failing to file a timely written application. The
23 academy shall notify the applicant in writing of the receipt of the application and of the tentative
24 date of the applicant's enrollment. Any applicant who, as the result of extenuating circumstances
25 acceptable to his or her employing law-enforcement official, is unable to attend the scheduled
26 training program to which he or she was admitted may reapply and shall be admitted to the next
27 regularly scheduled training program. After the effective date of this section, certification as a
28 law-enforcement officer within this state of persons who are not certifiable as provided in
29 subsection (c) of this section, shall, in addition to graduation from an established academy in the
30 state, be based on: Current employment as a sworn law-enforcement officer by any West Virginia
31 law-enforcement agency or any state institution of higher education or the Public Service
32 Commission; and the person's successful completion of an approved entry level law-enforcement

examination established by legislative rule of the subcommittee, which shall include, at a
minimum, written testing requirements, medical standards, physical standards, and good moral
character standards conducted in accordance with such rule. The production of a record of
successful passage of the approved entry level law-enforcement examination shall indicate the
applicant as qualified under the law-enforcement training and certification standards within this
state. An applicant who satisfactorily completes the program and successfully passes the
approved entry level law-enforcement examination shall, within 30 days of completion, make
written application to the subcommittee requesting certification as having met the minimum entry
level law-enforcement qualification and training program requirements. Upon determining that an
applicant has met the requirements for certification as set forth in this section, the subcommittee
shall forward to the applicant documentation of certification. An applicant who fails to complete
the training program to which he or she is first admitted, or was admitted upon reapplication, or
who fails to pass the approved entry level law-enforcement examination, may not be certified by
the subcommittee: *Provided further*, That an applicant who has completed the minimum training
and examination required by the subcommittee may be certified as a law-enforcement officer,
notwithstanding the applicant's failure to complete additional training hours required in the training
program to which he or she originally applied. If more than 24 months but less than 60 months
has passed since the applicant for certification has successfully completed the approved entry
level law-enforcement examination, the person may be certified but must complete the additional
training set forth in legislative rules promulgated by the subcommittee addressing the re-
certification requirements of certified officers. If more than 60 months has passed since the
applicant for certification has successfully completed the approved entry level law-enforcement
examination, the person must then attend and successfully complete a separate subcommittee
entry level-enforcement examination.

~~(c) Any person who is employed as a law-enforcement officer on the effective date of this~~
~~article and is a graduate of the West Virginia basic police training course, the West Virginia State~~

~~Police cadet training program, or other approved law enforcement training academy, is certifiable as having met the minimum entry level law enforcement training program requirements and is exempt from the requirement of attending a law enforcement training academy. To receive certification, the person shall make written application within ninety calendar days of the effective date of this article to the subcommittee requesting certification. The subcommittee shall review the applicant's relevant scholastic records and, upon determining that the applicant has met the requirements for certification, shall forward to the applicant documentation of certification.~~

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

~~(e)~~ (c) Any person who begins employment on or after the effective date of this article as a law-enforcement officer is certifiable as having met the minimum entry level law-enforcement training program requirements and is exempt from attending a law-enforcement training academy if the person has satisfactorily completed a course of instruction in law enforcement equivalent to or exceeding the minimum applicable law-enforcement training curricula promulgated by the subcommittee. To receive certification, the person shall make written application within 90 calendar days following the commencement of employment to the subcommittee requesting

85 certification. The application shall include a notarized statement of the applicant's satisfactory
86 completion of the course of instruction in law enforcement, a notarized transcript of the applicant's
87 relevant scholastic records and a notarized copy of the curriculum of the completed course of
88 instruction. The subcommittee shall review the application and, if it finds the applicant has met
89 the requirements for certification, shall forward to the applicant documentation of certification. The
90 subcommittee may set the standards for required records to be provided by or on behalf of the
91 applicant officer to verify his or her training, status, or certification as a law-enforcement officer.
92 The subcommittee may allow an applicant officer to participate in the approved equivalent
93 certification program to gain certification as a law-enforcement officer in this state.

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

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

108 (2) Any person who is employed as a law-enforcement officer on or after the effective date
109 of this article and fails to be certified as a result of voluntary separation from an academy program
110 shall be automatically terminated and no further emoluments may be paid to such officer by his

111 or her employer. Any person terminated as a result of voluntary separation from an academy
112 program may not be conditionally employed as a law-enforcement officer for a period of two years
113 from the date of voluntary separation.

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

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

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

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

130 ~~(j)~~ (h) The subcommittee may issue subpoenas for the attendance of witnesses and the
131 production of necessary evidence or documents in any proceeding, review or investigation
132 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.