

Senate Bill No. 306

(By Senators Barnes, Green, Helmick, Sypolt and Williams)

[Introduced January 27, 2011; referred to the Committee on the
Judiciary.]

10 A BILL to amend and reenact §7-4-1 of the Code of West Virginia,
11 1931, as amended, relating to requiring prosecuting attorneys
12 who elect to carry a concealed firearm to receive
13 certification to carry a concealed firearm nationwide as
14 provided in the federal Law-Enforcement Officers Safety Act of
15 2004.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §7-4-1 of the Code of West Virginia, 1931, as amended, be
18 amended and reenacted to read as follows:

19 **ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.**

20 **§7-4-1. Duties of prosecuting attorney; further duties upon**
21 **request of Attorney General.**

22 (a) ~~It shall be the duty of~~ The prosecuting attorney ~~to~~ shall
23 attend to the criminal business of the state in the county in which

1 ~~he~~ the prosecuting attorney is elected and qualified. ~~and~~ When ~~he~~
2 the prosecuting attorney has information of the violation of any
3 penal law committed within ~~such~~ the county in which the prosecuting
4 attorney is elected and qualified, ~~he~~ the prosecuting attorney
5 shall institute and prosecute all necessary and proper proceedings
6 against the offender and may ~~in such case~~ issue or cause to be
7 issued a summons for any witness ~~he may deem~~ the prosecuting
8 attorney considers material. Every public officer shall give ~~him~~
9 the prosecuting attorney information of the violation of any penal
10 law committed within ~~his~~ the county in which the prosecuting
11 attorney is elected and qualified. ~~It shall also be the duty of~~
12 The prosecuting attorney ~~to~~ shall attend to civil suits in ~~such~~ the
13 county in which the prosecuting attorney is elected and qualified,
14 in which the state or any department, commission, ~~or~~ board, ~~thereof~~
15 or other instrumentality of the state is interested, and ~~to~~ advise,
16 attend to, bring, prosecute or defend, as the case may be, all
17 matters, actions, suits and proceedings in which ~~such~~ the county or
18 ~~any~~ county board of education is interested.

19 (b) Any prosecuting attorney or assistant prosecuting attorney
20 who elects to carry a concealed firearm pursuant to the federal Law
21 Enforcement Officers Safety Act, 18 U.S.C. §926B, shall undergo
22 annual firearms training and certification established by the
23 sheriff's department of his or her county, similar to that which is
24 provided to members of the sheriff's department eligible for

1 training and certification under 18 U.S.C. §926B, and which shall
2 reasonably accommodate any physical disability of the trainee. Any
3 prosecuting attorney or assistant prosecuting attorney who elects
4 to undergo training and certification pursuant to this subsection
5 shall provide, at his or her own expense, a suitable firearm and
6 any ammunition actually expended in training and certification
7 pursuant to this subsection. Upon completion of training and
8 certification pursuant to this subsection, each prosecuting
9 attorney or assistant prosecuting attorney shall be issued a
10 photographic identification and certification card, suitable to be
11 carried in a wallet, valid for one year, which shall contain the
12 name, title, official address, full-face color photograph of said
13 prosecuting attorney or assistant prosecuting attorney, the
14 sheriff's signature, the expiration date, the words "qualified
15 law-enforcement officer under 18 U.S.C. §926B" in conspicuous type
16 and shall indicate completion of periodic training consistent with
17 this subsection and 18 U.S.C. §926B. Prosecuting attorneys and
18 assistant prosecuting attorneys shall have all the rights and
19 authorities necessary in order to comply with 18 U.S.C. §926B and
20 receive the rights, benefits, privileges and immunities conferred
21 under 18 U.S.C. §926B. This subsection is supplemental and
22 additional to existing rights to bear arms, and nothing in this
23 subsection shall impair or diminish such rights.

24 (c) ~~It shall be the duty of~~ The prosecuting attorney ~~to~~ shall

1 keep his or her office open in the charge of a responsible person
2 during the hours polls are open on general, primary and special
3 county-wide election days, and the prosecuting attorney, or his
4 assistant prosecuting attorneys, if any, shall be available for the
5 purpose of advising election officials. ~~It shall be the further~~
6 ~~duty of~~ The prosecuting attorney, when requested by the Attorney
7 General, ~~to~~ shall perform or ~~to~~ assist the Attorney General in
8 performing, in the county in which ~~he~~ the prosecuting attorney is
9 elected and qualified, any legal duties required to be performed by
10 the Attorney General, and which are not inconsistent with the
11 duties of the prosecuting attorney as the legal representative of
12 ~~such~~ the county. ~~It shall also be the duty of~~ The prosecuting
13 attorney, when requested by the Attorney General, ~~to~~ shall perform
14 or ~~to~~ assist the Attorney General in performing any legal duties
15 required to be performed by the Attorney General, in any county
16 other than ~~that~~ the county in which ~~such~~ the prosecuting attorney
17 is elected and qualified, and for the performance of any such
18 duties in any county other than ~~that~~ the county in which ~~such~~ the
19 prosecuting attorney is elected ~~he~~ and qualified, the prosecuting
20 attorney shall be paid his or her actual expenses.

21 (d) Upon the request of the Attorney General, the prosecuting
22 attorney shall make a written report of the state and condition of
23 ~~the several causes~~ all cases in which the state is a party, pending
24 in his the county, and upon any matters referred to ~~him~~ the

1 prosecuting attorney by the Attorney General as provided by law.

NOTE: The purpose of this bill is to require prosecuting attorneys, who elect to carry a concealed firearm, to receive certification to carry a concealed firearm nationwide as provided in the federal Law-Enforcement Officers Safety Act of 2004.

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