

Senate Bill No. 39

(By Senators Jenkins, Barnes, Plymale and Sypolt)

[Introduced January 12, 2011; referred to the Committee on the
Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §62-1-1a, relating to
the temporary detention of criminal suspects by law-
enforcement officers to inquire on commission of a crime where
probable cause appears to exist.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new section, designated §62-1-1a, to read as
follows:

ARTICLE 1. PRELIMINARY PROCEDURE.

**§62-1-1a. Temporary detention by law-enforcement officer of person
suspected of criminal behavior or violating conditions
of parole or probation; limitations.**

(a) Whenever any law-enforcement officer of this state

1 encounters any person under circumstances which reasonably indicate
2 that the person has committed, is committing, or is about to commit
3 a violation of the criminal laws of this state or the criminal
4 ordinances of any municipality, the officer may temporarily detain
5 the person for the purpose of ascertaining the identity of the
6 person temporarily detained and the circumstances surrounding the
7 person's presence in the place which led the officer to believe
8 that the person had committed, was committing, or was about to
9 commit a criminal offense.

10 (b) No person may be temporarily detained under the provisions
11 of subsection (a) of this section longer than is reasonably
12 necessary to effect the purposes of that subsection. The temporary
13 detention may not extend beyond the place where it was first
14 effected or the immediate vicinity thereof: *Provided*, That no
15 detention undertaken pursuant to subsection (a) of this section may
16 last more than six hours.

17 (c) If at any time after the onset of the temporary detention
18 authorized by subsection (a) of this section, probable cause for
19 arrest of person appears, the person shall be arrested. If, after
20 an inquiry into the circumstances which prompted the temporary
21 detention, no probable cause for the arrest of the person appears,
22 the person shall be released.

23 (d) Whenever any law-enforcement officer authorized to detain
24 temporarily any person under the provisions of subsection (a) of

1 this section has probable cause to believe that any person whom the
2 officer has temporarily detained, or is about to detain
3 temporarily, is armed with a dangerous weapon and therefore offers
4 a threat to the safety of the officer or any other person, the
5 officer may search the person so temporarily detained only to the
6 extent necessary to disclose, and for the purpose of disclosing,
7 the presence of such weapon. If the search discloses a weapon or
8 any evidence of a criminal offense, it may be seized.

9 (e) No evidence seized by a law-enforcement officer in any
10 search under this section is admissible against any person in any
11 court of this state or political subdivision thereof unless the
12 search which disclosed its existence was authorized by and
13 conducted in compliance with the provisions of this section.

NOTE: The purpose of this bill is to allow the temporary detention of criminal suspects by law-enforcement officers to inquire on commission of a crime where probable cause appears to exist.

This section is new; therefore, strike-throughs and underscoring have been omitted.