

ENROLLED

Senate Bill No. 370

(By Senators Cole (Mr. President) and Kessler,
By Request of the Executive)

[Passed March 13, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §15-9-1, §15-9-2, §15-9-3 and §15-9-5 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §15-9-6; to amend and reenact §15-9A-1, §15-9A-2 and §15-9A-3 of said code; to amend and reenact §15-9B-1 and §15-9B-2 of said code; to amend and reenact §30-29-2, §30-29-3, §30-29-4, §30-29-5, §30-29-6 and §30-29-7 of said code; and to amend and reenact §62-11C-2, §62-11C-3, §62-11C-4, §62-11C-6 and §62-11C-8 of said code, all relating to codifying provisions relating to the Governor's Committee on Crime, Delinquency and Correction and its subcommittees; reorganizing the committee and certain subcommittees; continuing the Governor's Committee on Crime, Delinquency and Correction and providing for membership, terms and authority of the chair; requiring facility inspection in accordance with the Prison Rape Elimination Act; granting authority to the Governor's Committee on Crime, Delinquency and Correction to establish bylaws, policies and procedures; establishing responsibilities of the Governor's Committee on Crime, Delinquency and Correction; stating legislative findings; designating a staffing agency for the Governor's Committee on Crime,

Delinquency and Correction and providing authority and responsibilities; establishing duties of the Director of the Governor's Committee on Crime, Delinquency and Correction; establishing membership criteria and subcommittee status of the Sexual Assault Forensic Examination Commission; establishing powers and duties of the Sexual Assault Forensic Examination Commission; establishing membership criteria and subcommittee status of the Law-Enforcement Professional Standards Subcommittee; establishing powers and duties of the Law-Enforcement Professional Standards Subcommittee; providing for uses of fees collected for the Law-Enforcement Professional Standards Subcommittee and authorizing adjustments of such fees by legislative rule; establishing the Community Corrections Subcommittee, membership and authority; and making technical edits.

Be it enacted by the Legislature of West Virginia:

That §15-9-1, §15-9-2, §15-9-3 and §15-9-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §15-9-6; that §15-9A-1, §15-9A-2 and §15-9A-3 of said code be amended and reenacted; that §15-9B-1 and §15-9B-2 of said code be amended and reenacted; that §30-29-2, §30-29-3, §30-29-4, §30-29-5, §30-29-6 and §30-29-7 of said code be amended and reenacted; and that §62-11C-2, §62-11C-3, §62-11C-4, §62-11C-6 and §62-11C-8 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9. GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND CORRECTION.

§15-9-1. Governor's Committee on Crime, Delinquency and Correction established;

Committee designated as state planning.

1 (a) The Legislature hereby continues and reconstitutes the Governor’s Committee on Crime,
2 Delinquency and Correction.

3 (b) The committee is composed of the following members:

4 (1) The Secretary of the Department of Military Affairs and Public Safety, who shall serve
5 as chair;

6 (2) The chair of the juvenile justice subcommittee;

7 (3) The chair of the community corrections subcommittee created by section two, article
8 eleven-c, chapter sixty-two of this code;

9 (4) The chair of the law-enforcement professional standards subcommittee created by section
10 two, article twenty-nine, chapter thirty of this code;

11 (5) The chair of the sexual assault forensic examination commission created by section one,
12 article nine-b, chapter fifteen of this code;

13 (6) The Superintendent of the State Board of Education;

14 (7) A representative of a post-secondary education system in this state to be appointed by the
15 Governor. This person shall be appointed on or before July 1, 2015, for an initial term of two years
16 and then shall be appointed for subsequent terms of four years;

17 (8) A representative of a faith-based organization to be appointed by the Governor. This
18 person shall be appointed on or before July 1, 2015, for an initial term of two years and then shall
19 be appointed for subsequent terms of four years;

20 (9) The Administrative Director of the Supreme Court of Appeals who shall serve as an ex
21 officio, nonvoting member;

1 (10) The Executive Director of the West Virginia Prosecuting Attorneys Institute, established
2 pursuant to section six, article four, chapter seven of this code; and

3 (11) The Executive Director of the West Virginia Public Defender Services, established
4 pursuant to section three, article twenty-one, chapter twenty-nine of this code.

5 (c) After initial appointment, members appointed by the Governor pursuant to subsection (b)
6 of this section shall serve for a term of four years from his or her appointment and are eligible for
7 reappointment to that position. A person may not be appointed to the committee who is already a
8 member of the committee by virtue of his or her title or occupation.

9 (d) All members appointed to the committee shall serve until his or her successor has been
10 duly appointed.

11 (e) The Legislature hereby designates the Governor's Committee on Crime, Delinquency and
12 Correction as the state planning agency required for participation by the State of West Virginia in
13 programs provided by the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42
14 United States Code, sections 3701 through 3796c, inclusive) and the Juvenile Justice and
15 Delinquency Prevention Act of 1974, as amended (42 United States Code, section 5601).

16 (f) The chair of the Governor's Committee on Crime, Delinquency and Corrections shall:

17 (1) Appoint members and fill vacancies in the membership of the subcommittees in
18 accordance with the statutory provisions governing such appointments.

19 (2) Call meetings of the committee at least quarterly, and at such other times as he or she may
20 direct, or upon request of a majority of the members of the committee.

21 (g) The Director of the Division of Justice and Community Services shall serve as the
22 Executive Director of the Governor's Committee on Crime, Delinquency and Correction and of its

1 bylaws, policies and procedures for the conduct of its meetings and the operation of the committee.
2 The Governor’s Committee on Crime, Delinquency and Correction may propose legislative rules,
3 for legislative approval, pursuant to article three, chapter twenty-nine-a of this code, for purposes
4 consistent with this act and any responsibilities assigned to it.

5 **§15-9-6. Other responsibilities of the committee.**

6 (a) The committee shall receive reports from the subcommittees and direct those reports to
7 be filed with the Governor and the Joint Committee on Government and Finance on or before
8 September 30 of each year.

9 (b) The committee may direct by vote its executive director, staff or any subcommittee to
10 perform tasks related to the purposes of this article, including seeking funding for programs and
11 grants, implementing criminal justice programs authorized by this code or rule, administering
12 funding and grants, researching findings and recommendations, coordinating resources, and any
13 other task or responsibility related to the purposes of this article.

14 **ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.**

15 **§15-9A-1. Legislative findings.**

16 The West Virginia Division of Justice and Community Services is required to perform certain
17 administrative and executive functions related to the improvement of the criminal justice and
18 juvenile justice systems and various component agencies of state and local government with research
19 and performance data, planning, funding and managing programs supported by federal and state-
20 granted funds, and through its staff activities on behalf of the Governor’s Committee on Crime,
21 Delinquency and Correction, to provide regulatory oversight of law enforcement training and
22 certification, community corrections programs established under the provisions of article eleven-c,

1 chapter sixty-two of this code, the monitoring of facilities for compliance with juvenile detention
2 facilities standards established by state and federal law, and the Sexual Assault Forensic
3 Examination Commission created by article nine-b, chapter fifteen of this code. These administrative
4 and executive staffing functions are necessary to provide for planning and coordination of services
5 among the components of the criminal and juvenile justice systems, community corrections and
6 sexual assault forensic examinations; program development and implementation; and administration
7 of grant-funded programs emphasizing safety, prevention, coordination and the general enhancement
8 of the criminal justice system as a whole, as well as such other federal grant-funded activities as the
9 Governor may from time to time designate for administration by the division.

10 **§15-9A-2. Division established; appointment of director.**

11 (a) The Division of Justice and Community Services is created. The purpose of the division
12 is to provide executive and administrative support to the Governor's Committee on Crime
13 Delinquency and Correction in the coordination of planning for the criminal justice system, to
14 administer federal and state grant programs assigned to it by the actions of the Governor or
15 Legislature and to perform such other duties as the Legislature may from time to time assign to the
16 division. The division is the designated staffing agency for the Governor's Committee on Crime,
17 Delinquency and Correction, and all of its subcommittees. The division may apply for grants and
18 other funding from federal or state programs, foundations, corporations and organizations which
19 funding is consistent with its responsibilities and the purposes assigned to it or the subcommittees
20 it staffs. The Division of Justice and Community Services is hereby designated as the state
21 administrative agency responsible for criminal justice and juvenile justice systems, and various
22 component agencies of state and local government, for the planning and development of state

1 programs and grants which may be funded by federal, state or other allocations in the areas of
2 community corrections, law-enforcement training and compliance, sexual assault forensic
3 examinations, victim services and juvenile justice.

4 (b) The director of the division shall be named by the Governor to serve at his will and
5 pleasure.

6 (c) The director of the division shall take and subscribe to an oath of office in conformity
7 with article IV, section five of the Constitution of the State of West Virginia.

8 **§15-9A-3. Duties and powers of the director.**

9 (a) The director is responsible for the control and supervision of the division.

10 (b) The director shall be charged with executive and administrative responsibility to: (i) Carry
11 out the specific duties imposed on the Governor's Committee on Crime, Delinquency and Correction
12 under the provisions of article nine, chapter fifteen; article twenty-nine, chapter thirty; and article
13 eleven-c, chapter sixty-two of this code; (ii) maintain appropriate liaison with federal, state and local
14 agencies and units of government, or combinations thereof, in order that all programs, projects and
15 activities for strengthening and improving law enforcement and the administration of criminal justice
16 may function effectively at all levels of government;(iii) seek sources of federal grant assistance
17 programs that may benefit the state when authorized by the Governor and manage the dispersal of
18 those funds through grant contracts to subgrantees in a manner consistent with state and federal law,
19 and with sound and accountable management practices for the efficient and effective use of public
20 funds; (iv) seek sources of program or grant assistance from foundations, corporations and
21 organizations which funding is consistent with its responsibilities and the purposes assigned to the
22 director, the Governor's Committee on Crime, Delinquency and Correction, and any of its

1 subcommittees; and (v) serve as the Executive Director of the Governor’s Committee on Crime,
2 Delinquency and Correction and its subcommittees.

3 (c) The director may:

4 (1) Employ necessary personnel, assign them the duties necessary for the efficient
5 management and operation of the division;

6 (2) Work to bridge gaps between federal, state and local units of government, as well as
7 private/nonprofit organizations and the general public;

8 (3) Provide staff assistance in the coordination of all facets of the criminal and juvenile
9 justice systems on behalf of the Governor’s Committee on Crime Delinquency and Correction,
10 including, but not limited to, law enforcement, jails, corrections, community corrections, juvenile
11 justice, sexual assault forensic examinations and victim services;

12 (4) Acquire criminal justice resources and coordinate the allocation of these resources to
13 state, local and not-for-profit agencies;

14 (5) Maintain a web-based database for all community correction programs;

15 (6) Collect, compile and analyze crime and justice data in the state, generating statistical and
16 analytical products for criminal justice professionals and policy makers to establish a basis for sound
17 policy and practical considerations for the criminal justice system and make such recommendations
18 for system improvement as may be warranted by such research and contract with other persons,
19 firms, corporations or organizations to assist in these responsibilities;

20 (7) Receive and disburse federal and state grants and funding received from foundations,
21 corporations or other entities;

22 (8) Propose legislative rules for legislative approval pursuant to article three, chapter twenty-

1 nine-a of this code which may be necessary to fulfill the functions and responsibilities of the
2 Division of Justice and Community Services and the Governor’s Committee on Crime, Delinquency
3 and Correction.

4 (d) Nothing in this chapter shall be construed as authorizing the division to undertake direct
5 operational responsibilities in law enforcement or the administration of criminal justice.

6 **ARTICLE 9B. SEXUAL ASSAULT EXAMINATION NETWORK.**

7 **§15-9B-1. Sexual Assault Forensic Examination Commission.**

8 (a) The Sexual Assault Forensic Examination Commission is continued as a subcommittee
9 of the Governor’s Committee on Crime, Delinquency and Correction. The purpose of the
10 commission is to establish, manage and monitor a statewide system to facilitate the timely and
11 efficient collection of forensic evidence in sexual assault cases. As used in this article, the word
12 “commission” means the Sexual Assault Forensic Examination Commission.

13 (b) Membership on the commission shall consist of the following:

14 (1) A representative chosen from the membership of the West Virginia Prosecuting Attorneys
15 Association who shall be chosen by the president of that organization;

16 (2) A representative chosen from the membership of the West Virginia Association of
17 Counties who shall be chosen by the executive director of that organization;

18 (3) The Commissioner of the Bureau for Public Health, or his or her designee;

19 (4) A representative from the State Police Forensic Laboratory who shall be chosen by the
20 Superintendent of the West Virginia State Police;

21 (5) A representative from the membership of the West Virginia Child Advocacy Network;

22 (6) The President of the West Virginia Hospital Association, or his or her designee;

1 (7) A representative from the membership of the West Virginia Foundation for Rape and
2 Information Services who shall be chosen by the state coordinator of that organization;

3 (8) A representative of the West Virginia University Forensic and Investigative Sciences
4 Program who shall be chosen by the director of that program; and

5 (9) A representative of the Marshall University Forensic Science Center who shall be chosen
6 by the director of that organization.

7 (c) If any of the representative organizations listed in subsection (b) cease to exist, the
8 director of the Division of Justice and Community Services may select a person from a similar
9 organization.

10 (d) The director shall appoint the following additional members of the commission:

11 (1) An emergency room physician licensed to practice and practicing medicine in this state;

12 (2) A victim advocate from a rape crisis center employed in this state;

13 (3) A sexual assault nurse examiner who is engaged in an active practice within this state;

14 (4) A law-enforcement officer in this state with experience in sexual assault investigations;

15 (5) A health care provider with pediatric and child abuse expertise licensed in this state; and

16 (6) A director of a child advocacy center licensed and operating in this state.

17 (e) The commission shall establish mandatory statewide protocols for conducting sexual
18 assault forensic examinations, including designating locations and providers to perform forensic
19 examinations, establishing minimum qualifications and procedures for performing forensic
20 examinations and establishing protocols to assure the proper collection of evidence.

21 **§15-9B-2. Powers and duties of the commission.**

22 (a) The commission shall facilitate the recruitment and retention of qualified health care

1 providers that are properly qualified to conduct forensic examinations. The commission shall work
2 with county and regional officials to identify areas of greatest need and develop and implement
3 recruitment and retention programs to help facilitate the effective collection of evidence.

4 (b) The commission shall authorize minimum training requirements for providers conducting
5 exams and establish a basic standard of care for victims of sexual assault. The commission may
6 adopt necessary and reasonable requirements relating to establishment of a statewide training and
7 forensic examination system, including, but not limited to, developing a data collection system to
8 monitor adherence to established standards, assisting exam providers to receive training and support
9 services, advocating the fair and reasonable reimbursement to exam providers and facilitating
10 transportation services for victims to get to and from designated exam locations.

11 (c) The commission shall approve local plans for each area of the state on a county or
12 regional basis. If the commission deems necessary, it may add or remove a county or portion thereof
13 from a region to assure that all areas of the state are included in an appropriate local plan. Upon the
14 failure of any county or local region to propose a plan, the commission may implement a plan for
15 that county or region.

16 (d) Once a plan is approved by the commission, it can only be amended or otherwise altered
17 as provided by the rules authorized pursuant to subsection (e) of this section. Designated facilities
18 and organizations providing services shall give the commission thirty days' advance notice of their
19 intent to withdraw from the plan. If there is a change of circumstances that would require a change
20 in a county or regional plan, the members of the local board and the state commission shall be
21 notified.

22 (e) The commission may adopt and modify bylaws, policies and procedures for the conduct

1 of its meetings and the operation of the committee. The commission may propose rules for legislative
2 approval, in accordance with article three, chapter twenty-nine-a of this code, as are necessary to
3 implement this article.

4 (f) The commission shall elect a chair and a vice chair and such other officers as it deems
5 necessary. Special meetings may be held upon the call of the chair, vice chair or a majority of the
6 members of the commission. A majority of the members of the commission present in person, by
7 proxy or designation, or by electronic means constitutes a quorum.

8 (g) Any member appointed to the commission who is a written designated representative has
9 the full rights of a member, including the right to vote, serve on subcommittees or perform any other
10 function.

11 (h) The commission may make recommendations to the Governor's Committee on Crime,
12 Delinquency and Correction for legislation related to the commission's duties and responsibilities
13 or for research or studies by the Division of Justice and Community Services on topics related to the
14 commission's duties and responsibilities.

15 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

16 **ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

17 **§30-29-2. Law-enforcement professional standards subcommittee.**

18 (a) The Law-Enforcement Professional Standards Subcommittee is continued as a
19 subcommittee of the Governor's Committee on Crime, Delinquency and Correction. The
20 subcommittee has the following responsibilities:

21 (1) Review and administer programs for qualification, training and certification of
22 law-enforcement officers in the state; and

1 (2) Consider applications by law-enforcement officers whose certification is deemed inactive
2 as a result of his or her separation from employment with a law-enforcement agency.

3 (b) The subcommittee shall be comprised of eleven members, including one representative
4 of each of the following:

5 (1) West Virginia State Police;

6 (2) Law-enforcement section of the Department of Natural Resources;

7 (3) West Virginia Sheriffs' Association;

8 (4) West Virginia Association of Chiefs of Police;

9 (5) West Virginia Deputy Sheriffs' Association;

10 (6) West Virginia State Lodge Fraternal Order of Police;

11 (7) West Virginia Municipal League;

12 (8) West Virginia Association of County Officials;

13 (9) Human Rights Commission;

14 (10) West Virginia Troopers Association; and

15 (11) The public at large.

16 (c) The subcommittee shall elect a chairperson and a vice chairperson. Special meetings may
17 be held upon the call of the chairperson, vice chairperson or a majority of the members of the
18 subcommittee. A majority of the members of the subcommittee who are present in person, by proxy
19 or designation, or by electronic means constitutes a quorum. Any member appointed to the
20 subcommittee who is a written designated representative has the full rights of a member, including
21 the right to vote, serve on subcommittees or perform any other function.

22 **§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 article three, chapter twenty-nine-a of this code:

3 (1) Provide funding for the establishment and support of law- enforcement training academies
4 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 to
7 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 classroom hours as promulgated by legislative rule, shall provide for credit to be given for
15 relevant classroom hours earned pursuant to training other than training at an established
16 law-enforcement training academy if earned within five years immediately preceding the date of
17 application for certification, and shall provide that the required classroom hours can be accumulated
18 on the basis of a part-time curricula spanning no more than twelve months or a full- time curricula;

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

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

1 (9) Establish standards governing mandatory training to effectively investigate organized
2 criminal enterprises as defined in article thirteen, chapter sixty-one of this code while preventing
3 racial profiling, as defined in section ten of this article, for entry level training curricula and for
4 law-enforcement officers who have not received such training as certified by the subcommittee as
5 required in this section;

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

15 (11) Certify or decertify or reactivate law-enforcement officers, as provided in sections five
16 and eleven of this article;

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

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

3 (B) Personnel or personal information not resulting in a criminal conviction is exempt from
4 disclosure pursuant to the provisions of chapter twenty-nine-b of this code.

5 (13) Seek supplemental funding for law-enforcement training academies from sources other
6 than the fees collected pursuant to section four of this article;

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

9 (15) Submit, on or before September 30 of each year, to the Governor, the Speaker of the
10 House, the President of the Senate and, upon request, to any individual member of the Legislature
11 a report on its activities during the previous year and an accounting of funds paid into and disbursed
12 from the special revenue account established pursuant to section four of this article.

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

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

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

1 may:

2 (1) Establish training to effectively investigate human trafficking offenses as defined in
3 article two, chapter sixty-one of this code for entry level training curricula and for law- enforcement
4 officers who have not received such training as certified by the committee as required by this section;
5 and

6 (2) Establish procedures for the implementation of a course in investigation of human
7 trafficking offenses. The course may include methods of identifying and investigating human
8 trafficking and methods for assisting trafficking victims. In order to implement and carry out the
9 intent of this subdivision, the committee may promulgate emergency rules pursuant to section fifteen,
10 article three, chapter twenty-nine-a of this code.

11 **§30-29-4. Special revenue account -- Collections; disbursements; administrative expenses.**

12 (a) A \$2 fee shall be added to the usual court costs of all criminal court proceedings involving
13 violation of any criminal law of the state or any county or municipality thereof, excluding violations
14 of municipal parking ordinances, unless such fee is later modified pursuant to legislative rule.

15 (b) A \$2 fee shall be added to the amount of any cash or property bond posted for violation
16 of any criminal law of the state or any county or municipality thereof, excluding bonds posted solely
17 for violation of municipal parking ordinances, unless such fee is later modified pursuant to
18 legislative rule. Upon forfeiture of such bond, the \$2 fee shall be deposited as provided in subsection
19 (c) of this section.

20 (c) All fees collected pursuant to subsections (a) and (b) of this section shall be deposited in
21 a separate account by the collecting agency. Within ten calendar days following the beginning of
22 each calendar month, the collecting agency shall forward the amount deposited to the State

1 Treasurer. The Treasurer shall deposit all fees so received to a special revenue account. Funds in the
2 account shall be disbursed by the subcommittee for the funding of law-enforcement entry level
3 training programs, professional development programs, the certification of law-enforcement officers
4 and to pay expenses of the Governor's Committee on Crime, Delinquency and Correction or the
5 subcommittee in administering the provisions of this article, which expenses may not in any fiscal
6 year exceed fifteen percent of the funds deposited to said special revenue account during that fiscal
7 year.

8 (d) The fees established by this section may be modified by legislative rule as provided in
9 section three of this article.

10 **§30-29-5. Certification requirements and power to decertify or reinstate.**

11 (a) Except as provided in subsections (b) and (g) of this section, a person may not be
12 employed as a law-enforcement officer by any West Virginia law-enforcement agency or by any state
13 institution of higher education or by the Public Service Commission of West Virginia on or after the
14 effective date of this article unless the person is certified, or is certifiable in one of the manners
15 specified in subsections (c) through (e), inclusive, of this section, by the subcommittee as having met
16 the minimum entry level law-enforcement qualification and training program requirements
17 promulgated pursuant to this article: *Provided*, That the provisions of this section do not apply to
18 persons hired by the Public Service Commission as motor carrier inspectors and weight enforcement
19 officers before July 1, 2007.

20 (b) Except as provided in subsection (g) of this section, a person who is not certified, or
21 certifiable in one of the manners specified in subsections (c) through (e), inclusive, of this section,
22 may be conditionally employed as a law-enforcement officer until certified: *Provided*, That within

1 ninety calendar days of the commencement of employment or the effective date of this article if the
2 person is already employed on the effective date, he or she makes a written application to attend an
3 approved law-enforcement training academy. The person's employer shall provide notice, in writing,
4 of the ninety-day deadline to file a written application to the academy within thirty calendar days of
5 that person's commencement of employment. The employer shall provide full disclosure as to the
6 consequences of failing to file a timely written application. The academy shall notify the applicant
7 in writing of the receipt of the application and of the tentative date of the applicant's enrollment. Any
8 applicant who, as the result of extenuating circumstances acceptable to his or her law-enforcement
9 official, is unable to attend the scheduled training program to which he or she was admitted may
10 reapply and shall be admitted to the next regularly scheduled training program. An applicant who
11 satisfactorily completes the program shall, within thirty days of completion, make written application
12 to the subcommittee requesting certification as having met the minimum entry level law-enforcement
13 qualification and training program requirements. Upon determining that an applicant has met the
14 requirements for certification, the subcommittee shall forward to the applicant documentation of
15 certification. An applicant who fails to complete the training program to which he or she is first
16 admitted, or was admitted upon reapplication, may not be certified by the subcommittee: *Provided,*
17 *however,* That an applicant who has completed the minimum training required by the subcommittee
18 may be certified as a law-enforcement officer, notwithstanding the applicant's failure to complete
19 additional training hours required in the training program to which he or she originally applied.

20 (c) Any person who is employed as a law-enforcement officer on the effective date of this
21 article and is a graduate of the West Virginia basic police training course, the West Virginia State
22 Police cadet training program, or other approved law-enforcement training academy, is certifiable

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

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

19 (e) Any person who begins employment on or after the effective date of this article as a
20 law-enforcement officer is certifiable as having met the minimum entry level law-enforcement
21 training program requirements and is exempt from attending a law-enforcement training academy
22 if the person has satisfactorily completed a course of instruction in law enforcement equivalent to

1 or exceeding the minimum applicable law-enforcement training curricula promulgated by the
2 subcommittee. To receive certification, the person shall make written application within ninety
3 calendar days following the commencement of employment to the subcommittee requesting
4 certification. The application shall include a notarized statement of the applicant's satisfactory
5 completion of the course of instruction in law enforcement, a notarized transcript of the applicant's
6 relevant scholastic records and a notarized copy of the curriculum of the completed course of
7 instruction. The subcommittee shall review the application and, if it finds the applicant has met the
8 requirements for certification, shall forward to the applicant documentation of certification. The
9 subcommittee may set the standards for required records to be provided by or on behalf of the
10 applicant officer to verify his or her training, status, or certification as a law-enforcement officer.
11 The subcommittee may allow an applicant officer to participate in the approved equivalent
12 certification program to gain certification as a law-enforcement officer in this state.

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

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

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

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

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

21 (h) The subcommittee, or its designee, may decertify or reactivate a law-enforcement officer
22 pursuant to the procedure contained in this article and legislative rules promulgated by the

1 subcommittee.

2 (i) Any person aggrieved by a decision of the subcommittee made pursuant to this article may
3 contest the decision in accordance with the provisions of article five, chapter twenty-nine-a of this
4 code.

5 (j) The subcommittee may issue subpoenas for the attendance of witnesses and the production
6 of necessary evidence or documents in any proceeding, review or investigation relating to
7 certification or hearing before the subcommittee.

8 **§30-29-6. Review of certification.**

9 Certification of each West Virginia law-enforcement officer shall be reviewed annually
10 following the first certification and until such time as the officer may achieve exempt rank.
11 Certification may be revoked, suspended or not renewed if any law-enforcement officer fails to
12 attend annually an in-service approved law-enforcement training program, or if a law-enforcement
13 officer achieving exempt rank fails to attend biennially an approved in-service supervisory level
14 training program. When a law-enforcement officer is a member of the United States Air Force,
15 Army, Coast Guard, Marines or Navy, or a member of the national guard or reserve military forces
16 of any such armed forces, and has been called to active duty, resulting in separation from a
17 law-enforcement agency for more than twelve months but less than twenty-four months, he or she
18 shall attend and complete the mandated in-service training for the period and rank and qualify with
19 his or her firearm within ninety days from his or her reappointment as a law-enforcement officer by
20 a law-enforcement agency.

21 **§30-29-7. Compliance.**

22 The subcommittee and the executive of each West Virginia law-enforcement agency shall

1 ensure employee compliance with this article.

2 **CHAPTER 62. CRIMINAL PROCEDURE.**

3 **ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.**

4 **§62-11C-2. Community Corrections Subcommittee.**

5 (a) A Community Corrections Subcommittee of the Governor's Committee on Crime,
6 Delinquency and Correction is continued and continues to be assigned responsibility for screening
7 community corrections programs for approval for funding by the subcommittee and for making
8 disbursement of funds for approved community corrections programs.

9 (b) The subcommittee shall be comprised of the following members:

10 (1) A representative of the Division of Corrections;

11 (2) A representative of the Regional Jail and Correctional Facility Authority;

12 (3) A representative of the Bureau for Behavioral Health and Health Facilities;

13 (4) A person representing the interests of victims of crime;

14 (5) An attorney employed by a public defender corporation;

15 (6) An attorney who is licensed to practice and practicing criminal law in this state;

16 (7) A prosecuting attorney or assistant prosecuting attorney actively engaged as such in this
17 state;

18 (8) A representative of the West Virginia Coalition Against Domestic Violence; and

19 (9) At the discretion of the Supreme Court of Appeals, the Administrator of the Supreme
20 Court of Appeals, a probation officer and a circuit judge may serve on the subcommittee as ex
21 officio, nonvoting members.

22 (c) The subcommittee shall elect a chairperson and a vice chairperson. The subcommittee

1 shall meet quarterly. Special meetings may be held upon the call of the chairperson, vice chairperson
2 or a majority of the members of the subcommittee. A majority of the members of the subcommittee
3 constitutes a quorum.

4 (d) The subcommittee may adopt bylaws, policies and procedures for the operation of the
5 subcommittee.

6 (e) The subcommittee may propose legislative rules for legislative approval pursuant to
7 article three, to chapter twenty-nine-a of this code for policies and procedures consistent with the
8 duties and responsibilities which are or may be assigned to it.

9 (f) Any member appointed to the subcommittee who is a written designated representative
10 has the full rights of a member, including the right to vote, serve on subcommittees or perform any
11 other function.

12 **§62-11C-3. Duties of the subcommittee.**

13 (a) The subcommittee shall propose for promulgation in accordance with the provisions of
14 article three, chapter twenty-nine-a of this code legislative rules to:

15 (1) Establish standards for approval of community corrections programs submitted by
16 community criminal justice boards or other entities authorized by the provisions of this article to do
17 so;

18 (2) Establish minimum standards for community corrections programs to be funded,
19 including requiring annual program evaluations;

20 (3) Make any necessary adjustments to the fees established in section four of this article;

21 (4) Establish reporting requirements for community corrections programs; and

22 (5) Carry out the purpose and intent of this article.

1 (b) The subcommittee shall:

2 (1) Maintain records of community corrections programs including the corresponding
3 community criminal justice board or other entity contact information and annual program
4 evaluations, when available;

5 (2) Seek funding for approved community corrections programs from sources other than the
6 fees collected pursuant to section four of this article; and

7 (3) Provide funding for approved community corrections programs, as available.

8 (c) The subcommittee shall submit, on or before September 30 of each year, to the Governor,
9 the Speaker of the House of Delegates, the President of the Senate and, upon request, to any
10 individual member of the Legislature a report on its activities during the previous year and an
11 accounting of funds paid into and disbursed from the special revenue account established pursuant
12 to section four of this article. The subcommittee may make recommendations to the Governor's
13 Committee on Crime, Delinquency and Correction for legislation related to the subcommittee's
14 duties and responsibilities, or for research or studies by the Division of Justice and Community
15 Services on topics related to the subcommittee's duties and responsibilities.

16 (d) The subcommittee shall review the implementation of evidence-based practices and
17 conduct regular assessments for quality assurance of all community-based criminal justice services,
18 including day report centers, probation, parole and home confinement. In consultation with the
19 affected agencies, the subcommittee shall establish a process for reviewing performance. The process
20 shall include review of agency performance measures and identification of new measures by the
21 subcommittee, if necessary, for measuring the implementation of evidence-based practices or for
22 quality assurance. After providing an opportunity for the affected agencies to comment, the

1 subcommittee shall submit, on or before September 30 of each year, to the Governor, the Speaker
2 of the House of Delegates, the President of the Senate and, upon request, to any individual member
3 of the Legislature a report on its activities and results from assessments of performance during the
4 previous year.

5 **§62-11C-4. Special revenue account.**

6 (a) There is hereby created in the State Treasury a special revenue account to be known as
7 the West Virginia Community Corrections Fund. Expenditures from the fund are for the purposes
8 set forth in subsection (e) of this section and are not authorized from collections but are to be made
9 only in accordance with appropriation by the Legislature and in accordance with the provisions of
10 article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article
11 two, chapter five-a of this code. The West Virginia Community Corrections Fund may receive any
12 gifts, grants, contributions or other money from any source which is specifically designated for
13 deposit in the fund.

14 (b) In addition to the fee required in section nine, article twelve of this chapter, a fee not to
15 exceed \$35 per month, unless modified by legislative rule as provided in section three of this article,
16 is also to be collected from those persons on probation. This fee is to be based upon the person's
17 ability to pay. The magistrate or circuit judge shall conduct a hearing prior to imposition of probation
18 and make a determination on the record that the offender is able to pay the fee without undue
19 hardship. The magistrate clerk, deputy magistrate clerk, magistrate assistant, circuit clerk or deputy
20 circuit clerk shall collect all fees imposed pursuant to this subsection and deposit them in a separate
21 account. Within ten calendar days following the beginning of the calendar month, the magistrate
22 clerk or circuit clerk shall forward the amount deposited to the State Treasurer to be credited to the

1 West Virginia Community Corrections Fund.

2 (c) In addition to the fee required in section five, article eleven-b of this chapter, a fee of
3 \$2.50 per day, unless modified by legislative rule as provided in section three of this article, is to be
4 collected from those persons on home incarceration. The circuit judge, magistrate or municipal court
5 judge shall consider the person's ability to pay in determining the imposition of the fee. The circuit
6 clerk, magistrate clerk, municipal court clerk or his or her designee shall collect all fees imposed
7 pursuant to this subsection and deposit them in a separate account. Within ten calendar days
8 following the beginning of the calendar month, the circuit clerk, magistrate clerk or municipal court
9 clerk shall forward the amount deposited to the State Treasurer to be credited to the West Virginia
10 Community Corrections Fund.

11 (d) In addition to the usual court costs in any criminal case taxed against any defendant
12 convicted in a municipal, magistrate or circuit court, excluding municipal parking ordinances, a \$10
13 fee shall be added, unless the fee is modified by legislative rule as provided in section three of this
14 article. The circuit clerk, magistrate clerk, municipal court clerk or his or her designee shall collect
15 all fees imposed pursuant to this subsection and deposit them in a separate account. Within ten
16 calendar days following the beginning of the calendar month, the circuit clerk, magistrate court clerk
17 and the municipal court clerk shall forward the amount deposited to the State Treasurer to be
18 credited to the West Virginia Community Corrections Fund.

19 (e) The moneys of the West Virginia Community Corrections Fund are to be disbursed by
20 the subcommittee for the funding of community corrections programs and to pay expenses of the
21 subcommittee in administering the provisions of this article, which expenses may not in any fiscal
22 year exceed fifteen percent of the funds deposited to the special revenue account during that fiscal

1 year.

2 (f) Any disbursements from the West Virginia Community Corrections Fund allocated for
3 community corrections programs by the subcommittee may be made contingent upon local
4 appropriations or gifts in money or in kind for the support of the programs. Any county commission
5 of any county or the governing body of a municipality may appropriate and expend money for
6 establishing and maintaining community corrections programs.

7 **§62-11C-6. Community criminal justice boards.**

8 (a) Each county or combination of counties or a county or counties and a Class I or II
9 municipality that seek to establish community-based corrections services shall establish a community
10 criminal justice board. Any county which chooses to operate without a community criminal justice
11 board is subject to the regulations and requirements established by the subcommittee.

12 (b) A community criminal justice board shall consist of no more than fifteen voting members.

13 (c) All members of a community criminal justice board shall be residents of the county or
14 counties represented.

15 (d) A community criminal justice board shall consist of the following members:

16 (1) The sheriff or chief of police or, if the board represents more than one county or
17 municipality, at least one sheriff or chief of police from the counties represented;

18 (2) The prosecutor or, if the board represents more than one county, at least one prosecutor
19 from the counties represented;

20 (3) If a public defender corporation exists in the county or counties represented, at least one
21 attorney employed by any public defender corporation existing in the counties represented or, if no
22 public defender office exists, one criminal defense attorney from the counties represented;

1 (4) One member to be appointed by the local board of education or, if the board represents
2 more than one county, at least one member appointed by a board of education of the counties
3 represented;

4 (5) One member with a background in mental health care and services to be appointed by the
5 commission or commissions of the county or counties represented by the board;

6 (6) Two members who can represent organizations or programs advocating for the rights of
7 victims of crimes with preference given to organizations or programs advocating for the rights of
8 victims of the crimes of domestic violence or driving under the influence;

9 (7) One member with a background in substance abuse treatment and services to be appointed
10 by the commission or commissions of the county or counties represented by the board; and

11 (8) Three at-large members to be appointed by the commission or commissions of the county
12 or counties represented by the board.

13 (e) At the discretion of the Supreme Court of Appeals, any or all of the following people may
14 serve on a community criminal justice board as ex officio, nonvoting members:

15 (1) A circuit judge from the county or counties represented;

16 (2) A magistrate from the county or counties represented; or

17 (3) A probation officer from the county or counties represented.

18 (f) Community criminal justice boards may:

19 (1) Provide for the purchase, development and operation of community corrections services;

20 (2) Coordinate with local probation departments in establishing and modifying programs and
21 services for offenders;

22 (3) Evaluate and monitor community corrections programs, services and facilities to

1 determine their impact on offenders; and

2 (4) Develop and apply for approval of community corrections programs by the Governor's
3 Committee on Crime, Delinquency and Correction.

4 (g) If a community criminal justice board represents more than one county, the appointed
5 membership of the board, excluding any ex officio members, shall include an equal number of
6 members from each county, unless the county commission of each county agrees in writing
7 otherwise.

8 (h) If a community criminal justice board represents more than one county, the board shall,
9 in consultation with the county commission of each county represented, designate one county
10 commission as the fiscal agent of the board.

11 (i) Any political subdivision of this state operating a community corrections program shall,
12 regardless of whether or not the program has been approved by the Community Corrections
13 Subcommittee of the Governor's Committee on Crime, Delinquency and Correction, provide to the
14 subcommittee required information regarding the program's operations.

15 **§62-11C-8. Local community criminal justice accounts.**

16 (a) The treasurer of the county designated as the fiscal agent for the board pursuant to section
17 six of this article shall establish a separate fund designated the community criminal justice fund. He
18 or she shall deposit all fees remitted by the municipal, magistrate and circuit clerks pursuant to
19 section seven of this article and all funds appropriated by a county commission pursuant to section
20 seven, article eleven-b of this chapter or any other provision of this code and all funds provided by
21 the subcommittee for approved community corrections programs in the community criminal justice
22 fund. Funds in the community criminal justice account are to be expended by order of the designated

1 county's commission upon recommendation of the community criminal justice board in furtherance
2 of the operation of an approved community corrections program.

3 (b) A county commission representing the same county as a community criminal justice
4 board may require the community criminal justice board to render an accounting, at intervals the
5 county commission may designate, of the use of money, property, goods and services made available
6 to the board by the county commission and to make available at quarterly intervals an itemized
7 statement of receipts and disbursements, and its books, records and accounts during the preceding
8 quarter, for audit and examination pursuant to article nine, chapter six of this code.