

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4202

**FISCAL
NOTE**

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PHILLIPS AND FOSTER

[Introduced January 21, 2016; Referred
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated, §15-2F-1, §15-2F-2, §15-2F-3, §15-2F-4, §15-2F-5, §15-2F-6, §15-2F-7, §15-
 3 2F-8, §15-2F-9 and §15-2F-10, all relating to providing legislators with the information
 4 necessary for basic oversight of members of the executive branch law-enforcement
 5 agencies who seize and forfeit private property under state and federal forfeiture laws;
 6 and requiring the Superintendent of the West Virginia State Police to maintain databases
 7 concerning that information.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §15-2F-1, §15-2F-2, §15-2F-3, §15-2F-4, §15-2F-5, §15-2F-6, §15-2F-7, §15-
 3 2F-8, §15-2F-9 and §15-2F-10, all to read as follows:

ARTICLE 2F. FORFEITURE DATABASE.

§15-2F-1. Purpose.

1 Under state and federal forfeiture laws, state law-enforcement agencies can seize money,
 2 vehicles, and other property, have them sold and use the proceeds to fund agency budgets. It is
 3 the responsibility of state legislators to monitor forfeiture. This article provides legislators with the
 4 information necessary for basic oversight of members of the executive branch law-enforcement
 5 agencies who seize and forfeit private property under state and federal forfeiture laws.

§15-2F-2. Definitions.

1 As used in this article:

2 “Law-enforcement agency” means any police force, multijurisdictional task force, fire
 3 department, or other local, county or state agency that has the authority under state law or
 4 operates in cooperation with a federal agency under federal law to engage in seizure and
 5 forfeiture.

6 “Superintendent” means the Superintendent of the West Virginia State Police.

§15-2F-3. Applicability.

1 This article is applicable to property authorized to be seized under a provision of this code,
2 including, but not limited to:
3 (1) Article two, chapter twenty;
4 (2) Article twenty-two-b, chapter twenty-nine;
5 (3) Article seven, chapter sixty-a;
6 (4) Article eight-c and article thirteen, chapter sixty-one; and
7 (5) Any other criminal statute that authorizes a law-enforcement agency to seize property
8 that is used in the commission of a criminal offense.

§15-2F-4. Database for information from closed cases involving seized property.

1 The superintendent shall establish and maintain a searchable public website that includes
2 the following information from closed cases involving property, other than currency, seized by a
3 state, county or city law-enforcement agency under federal and state law:
4 (1) The name of the law-enforcement agency that seized the property;
5 (2) A description of each seized property, other than currency, including the make and
6 model, unless if publishing them would compromise an ongoing investigation;
7 (3) The date the law-enforcement agency seized the property;
8 (4) The estimated value of the seized property;
9 (5) Whether the suspect was charged with a crime;
10 (6) The criminal offense alleged to have been committed that led to the property's seizure;
11 (7) Whether the criminal offense is under federal or state law;
12 (8) A description of the case's resolution, such as dropped charges, acquittal, plea
13 agreement, jury conviction or other;
14 (9) Whether the forfeiture litigation was completed under civil or criminal procedures;
15 (10) The date of the sale, if the property was sold;
16 (11) Selling expenses associated with the property's sale;
17 (12) The total net proceeds received from the property's sale;

18 (13) The proceeds received by the law-enforcement agency from the property's sale;

19 (14) If the property was retained, the purpose for which it was used, unless if publishing
20 them would compromise an ongoing investigation;

21 (15) The date of the destruction, if the property was destroyed; and

22 (16) The date of the return of the property if the property was returned to an owner or
23 interest holder, by the law-enforcement agency, prosecuting authority or by court order.

§15-2F-5. Database for information from closed cases involving seized currency.

1 The Superintendent of the State Police shall also establish and maintain a searchable
2 public website that includes the following information from closed cases involving currency seized
3 by a state, county or city law-enforcement agency under federal and state law:

4 (1) The name of the law-enforcement agency that seized the currency;

5 (2) The amount of currency seized;

6 (3) The date the law-enforcement agency seized the currency;

7 (4) Whether the suspect was charged with a crime;

8 (5) The criminal offense alleged to have been committed that led to the currency's seizure;

9 (6) Whether the criminal offense is under federal or state law;

10 (7) A description of the case's resolution, such as dropped charges, acquittal, plea
11 agreement, jury conviction or other;

12 (8) Whether the forfeiture litigation was completed under civil or criminal procedures; and

13 (9) The date of the return of the currency if the currency was returned to an owner or
14 interest holder, by the seizing law-enforcement agency, prosecuting authority of by court order.

§15-2F-6. Database of expenditures.

1 The superintendent shall also establish and maintain a searchable public website that
2 shows:

3 (1) The total amount of funds expended, in each of the following eight categories, which
4 resulted from property seized and reported under this section:

- 5 (A) Abuse and crime prevention programs;
- 6 (B) Witness protection, victim reparations, informant fees, gang programs, and controlled
- 7 buys;
- 8 (C) Salaries, overtime and benefits;
- 9 (D) Professional outside services, including auditing, court reporting, expert witness,
- 10 outside attorney’s fees, and membership fees paid to trade associations;
- 11 (E) Travel, meals, entertainment, training, conferences, continuing education seminars;
- 12 (F) Other operating expenses including office supplies, postage and advertising;
- 13 (G) Capital expenditures including vehicles, firearms, equipment, computers and furniture;
- 14 and
- 15 (H) Other expenditures of forfeiture proceeds; and
- 16 (2) The total amount of currency held by the agency at the end of the reporting period.

§15-2F-7. Information on seizures required to be updated.

1 The law-enforcement agency that seizes property shall update the superintendent’s
2 website with the information required under sections four and five of this article at the end of the
3 second month following each seizure of property. The commander of a multijurisdictional task
4 force may appoint one agency to report its seizures.

§15-2F-8. Information on expenditures on forfeiture related proceeds required to be updated.

1 The law-enforcement agency that expends forfeiture related proceeds shall update the
2 superintendent’s website with the information required under section six of this article by January
3 31 and July 31 of each year for the six month periods between July 1 and December 31, and
4 January 1 and June 30, respectively. The commander of a multijurisdictional task force may
5 appoint one agency to report its expenditures.

§15-2F-9. Rulemaking.

1 The superintendent may adopt interpretive and procedural rules and propose legislative

2 rules for legislative approval in accordance with the provisions of article three, chapter twenty-
3 nine-a of this code, necessary to implement and administer this section.

§15-2F-10. Superintendent may recoup costs.

1 The superintendent may recoup the costs of complying with this article by charging a fee
2 to the law-enforcement agency filing a report. The agency may use forfeiture proceeds to pay
3 the costs of compiling and reporting data under this article, and to pay any fees imposed by the
4 superintendent.

NOTE: The purpose of this bill is to provide legislators with the information necessary for basic oversight of members of the executive branch law-enforcement agencies who seize and forfeit private property under state and federal forfeiture laws. It requires the Superintendent of the West Virginia State Police to maintain databases concerning that information.

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