

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **House Bill 4714**

**FISCAL  
NOTE**

BY DELEGATES SKINNER, GUTHRIE, MOORE,

FLEISCHAUER AND PUSHKIN

[Introduced February 23, 2016; referred to the  
committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §15-9C-1, §15-9C-2, §15-9C-3, §15-9C-4, §15-9C-5 and §15-9C-6, all relating  
 3 to creating a board for review of officer-involved deaths.

*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 §15-9C-1, §15-9C-2, §15-9C-3, §15-9C-4, §15-9C-5 and §15-9C-6, all to read  
 3 as follows:

**ARTICLE 9C. BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS.**

**§15-9C-1. Board for Review of Officer-Involved Deaths created.**

1 (a) There is created within the Governor’s Committee on Crime, Delinquency and  
 2 Correction the West Virginia Board for Review of Officer-Involved Deaths, which shall meet as  
 3 necessary to perform its duties.

4 (b) The board shall be composed of five members as follows:

5 (1) One retired or reserve judge;

6 (2) A former sheriff, chief of police, chief deputy sheriff, or chief deputy chief of police;

7 (3) An assistant Attorney General;

8 (4) A professor or researcher affiliated with a West Virginia University or college who has  
 9 expertise in the field of criminal law or criminal justice; and

10 (5) A former district attorney or assistant district attorney who served in that capacity for  
 11 at least ten years.

12 (c) Members of the board shall be appointed for staggered four-year terms by the  
 13 Governor with advice and consent of the Senate. Initial members shall be appointed as follows:

14 (1) Two members for a term that expires on July 1 two years after the initial appointment, two  
 15 members for a term expiring July 1 three years after the initial appointment, and one member for  
 16 a term expiring July 1 following the initial appointment.

**§15-9C-2. Policy required regarding handling of deaths involving law-enforcement**

**officers.**

1 Each law-enforcement agency shall have a written policy regarding the handling of deaths  
2 involving a law-enforcement officer employed by the agency. Each policy is subject to the review  
3 and approval of the law- enforcement standards board.

**§15-9C-3. Team required for each policy.**

1 (a) Each policy required pursuant to section two of this article must require a team of  
2 investigators consisting of at least three individuals, including individuals from at least two different  
3 agencies that do not employ a law-enforcement officer involved in the death being investigated.  
4 Compensation for participation on a team shall be determined in a manner consistent with mutual  
5 aid agreements.

6 (b) If the death being investigated is traffic related, the policy under section-two of this  
7 article must require the investigative team to use a crash reconstruction unit from an agency that  
8 does not employ a law-enforcement officer involved in the death being investigated. The policy  
9 shall give preference to using a unit from the State Police.

10 (c) Each policy under section two of this article may allow an internal investigation into the  
11 death if the internal investigation does not interfere with the duties under this section of the team  
12 of investigators required pursuant to subsection (a) of this section.

13 (d) Each policy under section two of this article must require any officer involved in the  
14 death to submit a blood sample. No person may perform any analysis or test on the blood sample  
15 without either the permission of the officer who submitted the sample or a search warrant. At the  
16 conclusion of the investigation of the death, the sample may be destroyed if a court approves.

**§15-9C-4. Team reports to the county prosecuting attorney.**

1 (a) A team created under section three of this article shall consult and report to the  
2 prosecuting attorney of the county in which the death occurred. Except as provided in this  
3 subsection, the team shall keep confidential any material and information related to the death and  
4 the investigation.

5 (b) When the report is complete the prosecuting attorney shall release the report to the  
6 board for the Review of Officer-Involved Deaths.

7 (c) A team created pursuant to section three of this article shall respond to requests from  
8 the board under section five of this article unless the district attorney restricts the team from a  
9 response due to a court order or because a response could jeopardize the prosecution or  
10 investigation of an open case.

**§15-9C-5. Review of report; recommendations; board meetings open to the public**

1 (a) When the board for Review of Officer-Involved Deaths receives a report under  
2 subsection (b), section four of this article, it shall review the report and evidence to determine if it  
3 addresses all aspects of the death. The board may request more information, clarification, or  
4 testimony from the investigative team that prepared the report.

5 (b) When the board finishes its review of the report, it may make recommendations to the  
6 district attorney of the county in which the death occurred and forward the report to any person  
7 responsible for disciplining an officer involved.

8 (c) Meetings of the board are open to the public but public comment is closed unless the  
9 majority of the board votes to allow public comment.

**§15-9C-6. Release of report.**

1 When the board for the Review of Officer-Involved Deaths completes its review of a report  
2 prepared by a team under section four of this article, the board shall release the report and any  
3 accompanying written files unless the information must be kept confidential by statute.

NOTE: The purpose of this bill is to establish procedures for investigation and review of police officer-involved deaths.

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