

SB 684

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Enrolled

Senate Bill 684

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2017 APR 11 P 3 37

FILED

BY SENATORS TRUMP, WELD, AZINGER, CLEMENTS,
CLINE, FERNS, KARNES, MAYNARD, RUCKER, SMITH,
SWOPE, BEACH, JEFFRIES, MILLER, OJEDA, ROMANO,
AND WOELFEL

[Passed March 31, 2017; in effect from passage]

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1 AN ACT to amend and reenact §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as
2 amended, all relating generally to the West Virginia State Police; and correcting agency
3 referrals and code citations relating to the West Virginia State Police.

Be it enacted by the Legislature of West Virginia:

1 That §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as amended, be amended
2 and reenacted, all to read as follows:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

**§15-2-10. Uniforms; authorized equipment, weapons and supplies; local headquarters;
quarters for members; life insurance; medical and hospital fees for injuries and
illnesses of members incurred in line of duty.**

1 (a) The standard uniform to be used by the West Virginia State Police after the effective
2 date of this article shall be as follows: Forestry green blouse with West Virginia State Police
3 emblem on sleeve; black shoulder strap one-inch black stripe around sleeve, four inches from
4 end of sleeve; forestry green breeches with one-inch black stripe down the side; trousers (slacks)
5 with one-inch black stripe down the side for officers and clerks regularly enlisted in the State
6 Police; forestry green shirts with West Virginia State Police emblem on sleeve; black shoulder
7 straps; forestry green mackinaw with West Virginia State Police emblem on sleeve; black shoulder
8 straps; one-inch black stripe around sleeve four inches from end of sleeve; campaign hat of olive
9 drab color; black Sam Browne belt with holster; black leggings and shoes; the officer's uniform
10 will have one and one-quarter inch black stripe around the sleeve of blouse and mackinaw four
11 inches from end of sleeve circumposed with one-half inch gold braid, also black collars on blouse,
12 with two silver shoulder bars for captains, one silver shoulder bar for first lieutenant, one gold
13 shoulder bar for second lieutenant. For noncommissioned officers the uniform blouse and shirt
14 will have thereon black chevrons of the appropriate rank.

15 (b) The superintendent shall establish the weapons and enforcement equipment which
16 are authorized for use by members of the State Police and shall provide for periodic inspection of

17 the weapons and equipment. He or she shall provide for the discipline of members using other
18 than authorized weapons and enforcement equipment.

19 (c) The superintendent shall provide the members of the State Police with suitable arms
20 and weapons and, when he or she considers it necessary, with suitably equipped automobiles,
21 motorcycles, watercraft, airplanes and other means of conveyance to be used by the West
22 Virginia State Police, the Governor and other officers and executives in the discretion of the
23 Governor, in times of flood, disaster and other emergencies, for traffic study and control, criminal
24 and safety work and in other matters of official business. He or she shall also provide the standard
25 uniforms for all members of the State Police, for officers, noncommissioned officers and troopers
26 provided for in this section. All uniforms and all arms, weapons and other property furnished the
27 members of the State Police by the State of West Virginia are and remain the property of the
28 state.

29 (d) The superintendent may purchase and maintain on behalf of members group life
30 insurance not to exceed the amount of \$5,000 on behalf of each member.

31 (e) The superintendent may contract and furnish at State Police expense medical and
32 hospital services for treatment of illness or injury of a member which shall be determined by the
33 superintendent to have been incurred by the member while engaged in the performance of duty
34 and from causes beyond control of the members. Notwithstanding any other provision of this
35 code, the superintendent has the right of subrogation in any civil action or settlement brought by
36 or on behalf of a member in relation to any act by another which results in the illness, injury or
37 death of a member. To this end, the superintendent may initiate an action on behalf of the State
38 Police in order to recover the costs incurred in providing medical and hospital services for the
39 treatment of a member resulting from injury or illness originating in the performance of official
40 duties. This subsection shall not affect the power of a court to apply ordinary equitable defenses
41 to the right of subrogation.

42 The superintendent may also consult with the West Virginia Insurance Commissioner in
43 an effort to defray the cost of medical and hospital services. In no case will the compensation
44 rendered to health care providers for medical and hospital services exceed the then current rate
45 schedule in use by the West Virginia Insurance Commissioner.

46 Third-party reimbursements received by the superintendent after the expiration of the
47 fiscal year in which the injury, illness or death occurred will be deposited to a nonexpiring special
48 revenue account. Funds deposited to this account may be used solely for defraying the costs of
49 medical or hospital services rendered to any sworn members as a direct result of an illness, injury
50 or death resulting from the performance of official duties.

51 (f) The superintendent shall establish and maintain local headquarters at those places in
52 West Virginia that are in his or her judgment suitable and proper to render the West Virginia State
53 Police most efficient for the purpose of preserving the peace, protecting property, preventing
54 crime, apprehending criminals and carrying into effect all other provisions of this article. The
55 superintendent shall provide, by acquisition, lease or otherwise, for local headquarters, for
56 housing and quarters for the accommodation of the members of the West Virginia State Police,
57 and for any other facilities necessary or useful for the effective operation of the West Virginia
58 State Police and shall provide all equipment and supplies necessary for the members of the West
59 Virginia State Police to perform their duties.

**§15-2-24. Criminal Identification Bureau; establishment; supervision; purpose;
fingerprints, photographs, records and other information; reports by courts and
prosecuting attorneys; offenses and penalties.**

1 (a) The superintendent of the department shall establish, equip and maintain at the
2 departmental headquarters a Criminal Identification Bureau, for the purpose of receiving and filing
3 fingerprints, photographs, records and other information pertaining to the investigation of crime
4 and the apprehension of criminals, as hereinafter provided. The superintendent shall appoint or
5 designate a supervisor to be in charge of the Criminal Identification Bureau and such supervisor

6 shall be responsible to the superintendent for the affairs of the bureau. Members of the
7 department assigned to the Criminal Identification Bureau shall carry out their duties and
8 assignments in accordance with internal management rules and regulations pertaining thereto
9 promulgated by the superintendent.

10 (b) The Criminal Identification Bureau shall cooperate with identification bureaus of other
11 states and of the United States to develop and carry on a complete interstate, national and
12 international system of criminal identification.

13 (c) The Criminal Identification Bureau may furnish fingerprints, photographs, records or
14 other information to authorized law-enforcement and governmental agencies of the United States
15 and its territories, of foreign countries duly authorized to receive the same, of other states within
16 the United States and of the State of West Virginia upon proper request stating that the
17 fingerprints, photographs, records or other information requested are necessary in the interest of
18 and will be used solely in the administration of official duties and the criminal laws.

19 (d) The Criminal Identification Bureau may furnish, with the approval of the superintendent,
20 fingerprints, photographs, records or other information to any private or public agency, person,
21 firm, association, corporation or other organization, other than a law-enforcement or governmental
22 agency as to which the provisions of subsection (c) of this section shall govern and control, but
23 all requests under the provisions of this subsection for such fingerprints, photographs, records or
24 other information must be accompanied by a written authorization signed and acknowledged by
25 the person whose fingerprints, photographs, records or other information is to be released.

26 (e) The Criminal Identification Bureau may furnish fingerprints, photographs, records and
27 other information of persons arrested or sought to be arrested in this state to the identification
28 bureau of the United States government and to other states for the purpose of aiding law
29 enforcement.

30 (f) Persons in charge of any penal or correctional institution, including any city or county
31 jail in this state, shall take, or cause to be taken, the fingerprints and description of all persons

32 lawfully committed thereto or confined therein and furnish the same in duplicate to the Criminal
33 Identification Bureau, Department of Public Safety. Such fingerprints shall be taken on forms
34 approved by the superintendent of the Department of Public Safety. All such officials as herein
35 named may, when possible to do so, furnish photographs to the Criminal Identification Bureau of
36 such persons so fingerprinted.

37 (g) Members of the Department of Public Safety, and all other state law-enforcement
38 officials, sheriffs, deputy sheriffs and each and every peace officer in this state, shall take or cause
39 to be taken the fingerprints and description of all persons arrested or detained by them, charged
40 with any crime or offense in this state, in which the penalty provided therefor is confinement in
41 any penal or correctional institution, or of any person who they have reason to believe is a fugitive
42 from justice or a habitual criminal, and furnish the same in duplicate to the Criminal Identification
43 Bureau of the Department of Public Safety on forms approved by the superintendent of said
44 department. All such officials as herein named may, when possible to do so, furnish to the Criminal
45 Identification Bureau photographs of such persons so fingerprinted. For the purpose of obtaining
46 data for the preparation and submission to the Governor and the Legislature by the Department
47 of Public Safety of an annual statistical report on crime conditions in the state, the clerk of any
48 court of record, the magistrate of any magistrate court and the mayor or clerk of any municipal
49 court before which a person appears on any criminal charge shall report to the Criminal
50 Identification Bureau the sentence of the court or other disposition of the charge and the
51 prosecuting attorney of every county shall report to the Criminal Identification Bureau such
52 additional information as the bureau may require for such purpose, and all such reports shall be
53 on forms prepared and distributed by the Department of Public Safety, shall be submitted monthly
54 and shall cover the period of the preceding month.

55 (h) All persons arrested or detained pursuant to the requirements of this article shall give
56 fingerprints and information required by subsections (f) and (g) of this section. Any person who
57 has been fingerprinted or photographed in accordance with the provisions of this section who is

58 acquitted of the charges upon which he or she was arrested and who has no previous criminal
59 record may, upon the presentation of satisfactory proof to the department, have such fingerprints
60 or photographs, or both, returned to them.

61 (i) All state, county and municipal law-enforcement agencies shall submit to the bureau
62 uniform crime reports setting forth their activities in connection with law enforcement. It shall be
63 the duty of the bureau to adopt and promulgate rules and regulations prescribing the form, general
64 content, time and manner of submission of such uniform crime reports. Willful or repeated failure
65 by any state, county or municipal law-enforcement official to submit the uniform crime reports
66 required by this article shall constitute neglect of duty in public office. The bureau shall correlate
67 the reports submitted to it and shall compile and submit to the Governor and the Legislature
68 semiannual reports based on such reports. A copy of such reports shall be furnished to all
69 prosecuting attorneys and law-enforcement agencies.

70 (j) Neglect or refusal of any person mentioned in this section to make the report required
71 herein, or to do or perform any act on his or her part to be done or performed in connection with
72 the operation of this section, shall constitute a misdemeanor and such person shall, upon
73 conviction thereof, be punished by a fine of not less than \$25 nor more than \$200, or by
74 imprisonment in the county jail for a period of not more than sixty days, or both. Such neglect
75 shall constitute misfeasance in office and subject such persons to removal from office. Any person
76 who willfully removes, destroys or mutilates any of the fingerprints, photographs, records or other
77 information of the Department of Public Safety shall be guilty of a misdemeanor and such person
78 shall, upon conviction thereof, be punished by a fine of not more than \$100, or by imprisonment
79 in the county jail for a period of not more than six months, or both.

80 (k) The Criminal Identification Bureau (CIB) and the Federal Bureau of Investigation (FBI)
81 shall retain applicant fingerprints for the purpose of participating in the Rap Back Program to
82 determine suitability or fitness for a permit, license or employment. Agencies participating in the
83 program shall notify applicants and employees subject to a criminal history check that their

84 fingerprint shall be retained by the CIB and the FBI. Notification shall also be given to the applicant
85 and employee subject to the Rap Back Program.

86 (I) The State Police may assess a fee to applicants, covered providers or covered
87 contractors for conducting the criminal background check and for collecting and retaining
88 fingerprints for Rap Back as authorized under article forty-nine, chapter sixteen of this code. The
89 assessment shall be deposited into a nonappropriated special revenue account within the State
90 Treasurer's office to be known as the WVSP Criminal History Account. Expenditures from this
91 account shall be made by the superintendent for purposes set forth in this article and are
92 authorized from collections. The account shall be administered by the superintendent and may
93 not be deemed a part of the general revenue of the state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mark R. Hayman
.....
Chairman, Senate Committee

Dean Tomasko
.....
Chairman, House Committee

Originated in the Senate.

In effect from passage.

Clark A. Barnes
.....
Clerk of the Senate

Steph J. Harris
.....
Clerk of the House of Delegates

Walter B. Connaught
.....
President of the Senate

[Signature]
.....
Speaker of the House of Delegates

FILED
2017 APR 11 P 3 37
OFFICE WEST VIRGINIA
SECRETARY OF STATE

The within *is approved* this the *11th*
Day of *April*, 2017.

Jim Justice
.....
Governor

PRESENTED TO THE GOVERNOR

APR 06 2017

Time 3:09 pm