

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 2916

BY DELEGATES PETHTEL AND HANSHAW

[Introduced January 10, 2018; 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 section,
2 designated §5-3-6; to amend and reenact §6-1-3a of said Code; to amend said code by
3 adding thereto a new section, designated §7-15-19; to amend said code by adding thereto
4 a new section, designated §8-15-28; and to amend said code by adding thereto a new
5 section, designated §16-4C-24, all relating to authorizing certain investigators and first
6 responders to carry firearms; authorizing supervising entities to authorize investigators
7 employed by the attorney general, reserve deputy sheriffs, ambulance crew members,
8 firefighters, rescue squad members and emergency service personnel to carry firearms;
9 specifying the training required for such persons to be eligible to carry a firearm; and, for
10 first responders, allowing for reimbursement for the cost of the training.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 3. ATTORNEY GENERAL.

§5-3-6. Attorney General's investigators authority to carry concealed weapon.

1 (a) The Attorney General may allow an investigator who has met the standards set forth
2 in section four, article seven, chapter sixty-one of this code to carry a firearm or concealed weapon
3 while performing the investigator's official duties if the investigator has obtained and maintains
4 firearms training and certification which is equivalent to that which is required of members of the
5 State Police. The designated investigator must also possess a license to carry a concealed deadly
6 weapon in the manner prescribed in article seven, chapter sixty-one of this code, or otherwise be
7 exempted from the code's provisions.

8 (b) Neither the state, a political subdivision, an agency nor an employee of the state acting
9 in an official capacity, may be held personally liable for an act of an investigator employed by the
10 Attorney General if the act or omission was done in good faith while the investigator was
11 performing official duties or responsibilities under the office of the Attorney General.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.

**§6-3-1a. Deputy sheriff’s reserve; purpose; appointment and qualifications of members;
duties; equipment; attire; training; oath; bond; not employee of sheriff or county
commission for certain purposes; limitation on liability.**

1 (a) The sheriff of any county may, for the purposes hereinafter set forth, designate and
2 appoint a deputy sheriffs’ reserve, hereinafter referred to as “reserve” or “reserves.” A reserve
3 may not be designated or created without the prior approval of the county commission for the
4 establishment of the reserve.

5 (b) Each sheriff may appoint as members of the reserve bona fide citizens of the county
6 who are of good moral character and who have not been convicted of a felony or other crime
7 involving moral turpitude. Any person so appointed shall serve at the will and pleasure of the
8 sheriff and is not subject to the provisions of article fourteen, chapter seven of this code. A
9 member of the reserve may not engage in any political activity or campaign involving the office of
10 sheriff or from which activity or campaign the sheriff or candidates therefor appointing the member
11 would directly benefit.

12 (c) Members of the reserves shall not serve as law-enforcement officers, nor carry
13 firearms, except that a member of the reserves may carry firearms if that member has

14 (1) obtained the authorization of the Sheriff; and

15 (2) successfully completed a firearms training and certification program equivalent to that
16 provided to officers attending the entry level law-enforcement certification course provided at the
17 West Virginia State Police Academy. The member must thereafter successfully complete an
18 annual firearms qualification course equivalent to that required of certified law-enforcement
19 officers as established by legislative rule. The department may reimburse the member for the cost
20 of the training and maintenance. ~~but~~

21 Members may carry other weapons, provided that the sheriff certifies in writing to the
22 county commission that the reserve has met the special training requirements for the weapon as
23 established by the Governor's committee on crime, delinquency and corrections. The Governor's
24 committee on crime, delinquency and corrections is authorized to promulgate legislative rules and
25 emergency rules pursuant to the provisions of article three, chapter twenty-nine-a of this code to
26 establish appropriate training standards. The reserves may be provided with radio communication
27 equipment for the purpose of maintaining contact with the sheriff's department or other law-
28 enforcement agencies. The duties of the reserves shall be limited to crowd control or traffic control
29 and direction within the county. In addition, the reserves may perform such other duties of a
30 nonlaw-enforcement nature as are designated by the sheriff or by a deputy sheriff designated and
31 appointed by the sheriff for that purpose: *Provided*, That a member of the reserves may not aid
32 or assist any law-enforcement officer in enforcing the statutes and laws of this state in any labor
33 trouble or dispute between employer and employee.

34 (d) Members of the reserves may be uniformed; however, if so uniformed, the uniforms
35 shall clearly differentiate these members from other law-enforcement deputy sheriffs.

36 (e) After appointment to the reserves but prior to service each member of the reserves
37 shall receive appropriate training and instruction in their functions and authority as well as the
38 limitations of authority. In addition, each member of the reserves shall annually receive in-service
39 training.

40 (f) Each member of the reserve shall take the same oath as prescribed by section five,
41 article IV of the Constitution of the State of West Virginia, but the taking of the oath does not serve
42 to make the member a public officer.

43 (g) The county commission of each county shall provide for the bonding and liability
44 insurance of each member of the reserve.

45 (h) A member of the reserve is not an employee of either the sheriff or of the county
46 commission for any purpose or purposes, including, but not limited to, the purposes of workers'
47 compensation, civil service, unemployment compensation, public employees retirement, public
48 employees insurance or for any other purpose. A member of the reserves may not receive any
49 compensation or pay for any services performed as a member nor may a member use the
50 designated uniform for any other similar work performed.

51 (i) Neither the county commission nor the sheriff is liable for any of the acts of any member
52 of the reserves except in the case of gross negligence on the part of the county commission or
53 sheriff in the appointment of the member or in the case of gross negligence on the part of either
54 the sheriff or any of his or her deputies in directing any action on the part of the member.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 15. EMERGENCY AMBULANCE SERVICE ACT OF 1975.

§7-15-19. Ambulance crew's authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, an authority may authorize an
2 emergency medical service member to carry a handgun in the course of performing his or her
3 official duties if the member has first successfully completed an initial firearms training course
4 equivalent to that provided to officers attending the entry level law-enforcement certification
5 course provided at the West Virginia State Police Academy, and thereafter, successfully
6 completes an annual firearms qualification course equivalent to that required of certified law-
7 enforcement officers as established by legislative rule.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-28. Firefighters' and rescue squad members' authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, a department may authorize a
2 firefighter or rescue squad member to carry a handgun in the course of performing his or her
3 official duties if the member has first successfully completed an initial firearms training course
4 equivalent to that provided to officers attending the entry level law-enforcement certification
5 course provided at the West Virginia State Police Academy, and thereafter, successfully
6 completes an annual firearms qualification course equivalent to that required of certified law-
7 enforcement officers as established by legislative rule.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-24. Emergency medical service personnel's authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, an emergency medical service
2 agency may authorize emergency medical service personnel to carry a handgun in the course of
3 performing official duties if that person has first successfully completed an initial firearms training
4 course equivalent to that provided to officers attending the entry level law-enforcement
5 certification course provided at the West Virginia State Police Academy, and thereafter,
6 successfully completes an annual firearms qualification course equivalent to that required of
7 certified law-enforcement officers as established by legislative rule.

NOTE: The purpose of this bill is to authorize supervising entities to authorize reserve deputies, ambulance crew members, firefighters, rescue squad members and emergency service personnel to carry firearms. It specifies the training required for them to be eligible to carry a firearm and allows them to be reimbursed for the cost of the training.

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