

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 248

FISCAL
NOTE

BY SENATORS WELD AND CLINE

[Introduced January 10, 2019; Referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §7-4A-1, §7-4A-2, §7-4A-3, §7-4A-4, §7-4A-5, §7-4A-6, §7-4A-7, §7-4A-8, §7-
 3 4A-9, and §7-4A-10, all relating to creating the Prosecuting Attorney’s Detectives Act;
 4 providing a short title; making legislative findings; providing for law-enforcement titles;
 5 setting forth the duties and powers of detectives; providing for compensation of detectives;
 6 permitting prosecuting attorneys to hire detectives; establishing arrest power of detectives;
 7 setting forth requirements; limiting off-duty employment; and providing miscellaneous
 8 provisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4A. THE PROSECUTING ATTORNEY’S DETECTIVES ACT.

§7-4A-1. Short title.

1 This article shall be known and may be cited as “The Prosecuting Attorney’s Detectives
 2 Act”.

§7-4A-2. Legislative findings.

1 The Legislature finds and declares that:

2 (1) In West Virginia’s criminal justice system, prosecuting attorney’s detectives, and the
 3 law-enforcement officers assigned to the prosecuting attorney’s office, perform vital and highly
 4 sensitive duties.

5 (2) It is critical to the confidence of the public in West Virginia’s criminal justice system that
 6 the integrity and impartiality of prosecuting attorney’s detectives and their investigations be a high
 7 priority at all times.

8 (3) It is the purpose of this article to establish statewide standards and a code of conduct
 9 and professionalism for prosecuting attorney’s detectives and the law-enforcement officers
 10 assigned to the prosecuting attorney’s office and to remove prosecutor’s detectives from political
 11 pressure and influence which is often present in the appointment of these officers.

§7-4A-3. Law-enforcement titles.

1 The provisions of this article include all law-enforcement titles in the office of the
2 prosecuting attorney.

§7-4A-4. Duties and powers of detectives.

1 (a) The prosecuting attorney's detectives of each of the prosecuting attorney's offices, in
2 addition to any and all powers prescribed by law, has the power to enforce:

3 (1) All rules and regulations promulgated by the governing body of the county governing
4 the use by the public of county highways and roads; and

5 (2) All rules and regulations promulgated by the governing body of the county respecting
6 the general health, safety and welfare of the public within the county.

7 (b) Prosecuting attorney's detectives have full power of arrest for any crime committed in
8 their presence and committed anywhere within the territorial limits of the state.

§7-4A-5. Compensation.

1 Whenever any prosecuting attorney's detective has been conferred with state-wide police
2 powers and is acting under lawful authority beyond the territorial limits of the detective's employing
3 county, the officer has all of the pension, relief, disability, Workers' Compensation Insurance and
4 other benefits enjoyed while performing duties within said employing county.

5 Except as otherwise provided by law, no permanently appointed prosecuting attorney's
6 detective may be removed from office for any cause other than incapacity, misconduct, or violation
7 of established rules and regulations, nor may the detective or officer be suspended, removed,
8 fined, or reduced in rank except for just cause as established upon written complaint and following
9 an internal affairs hearing.

§7-4A-6. Appointment of detectives.

1 The prosecuting attorney may appoint such number of suitable persons, to be known as
2 prosecuting attorney's detectives, for the purpose of assisting the prosecuting attorney in the
3 detection, apprehension, arrest, and conviction of offenders against the law.

§7-4A-7. Requirements.

1 Except as otherwise provided by law, no person may be appointed to the title of
2 prosecuting attorney's detective unless that person meets the following requirements:

3 (1) Is a citizen of the United States and a resident of West Virginia;

4 (2) Is able to read, write and speak the English language;

5 (3) Is of good moral character and has not been convicted of any criminal offense involving
6 moral turpitude;

7 (4) Has at least five years of experience on a municipal, county, state, or federal law-
8 enforcement agency;

9 (5) Has at least an associate's degree or 60 hours of college credits from an accredited
10 college or university, or two years of active duty honorable service in the United States Armed
11 Forces;

12 (6) Has attended and graduated from a basic police training course in the state or an
13 approved accredited course certified by the West Virginia State Police; and

14 (7) Will serve a probationary period of one year in the position of prosecuting attorney's
15 detective after which time he or she may become a permanent member of the prosecutor's office.

§7-4A-8. Salary.

1 The salary of a prosecuting attorney's detective shall be established at a level sufficient to
2 effectively recruit and retain qualified law-enforcement officers for the position.

§7-4A-9. Limitations on off duty employment.

3 (a) A prosecuting attorney's detective may not engage in any off-duty employment which
4 is deemed to be in direct conflict with the role of a prosecuting attorney's detective.

5 (b) No prosecuting attorney's detective who is admitted to practice law in the state or
6 before any federal court shall practice criminal law in the state: *Provided*, That nothing in this
7 article may be construed to prohibit a prosecuting attorney's detective authorized to the practice
8 law from the practice of civil law in this state, any other state or before any federal court unless
9 the case or matter comes under the jurisdiction of the prosecuting attorney's office that appointed

10 the detective.

§7-4A-10. Miscellaneous.

1 (a) Prosecuting attorney's detectives may participate, join, or be members of charitable,
2 civic, and professional organizations, associations or committees. No prosecuting attorney's
3 detective may be prohibited from being a member of a law-enforcement union or association.

4 (b) Prosecuting attorney's detectives may not be prohibited from obtaining legal
5 representation in any civil, criminal, or administrative matter unless a clear conflict of interest
6 exists.

7 (c) Nothing in this article may be construed to prohibit a prosecuting attorney's detective
8 from recommending an attorney or providing financial assistance to a family member in a civil or
9 criminal proceeding, except where a clear conflict of interest exists.

NOTE: The purpose of this bill is to create the Prosecuting Attorney's Detectives Act.

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