

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Engrossed**

**Committee Substitute**

**for**

**Senate Bill 248**

SENATORS WELD AND CLINE, *original sponsors*

[Originating in the Committee on the Judiciary;

Reported on February 22, 2019]



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, and §7-4A-  
3 8, all relating to creating the Prosecuting Attorney's Detectives Act; providing a short title;  
4 making legislative findings; providing for law-enforcement titles; setting forth the duties  
5 and powers of prosecuting attorney's detectives; providing for compensation of  
6 prosecuting attorney's detectives; permitting prosecuting attorneys to hire detectives;  
7 establishing arrest power of prosecuting attorney's detectives; setting forth requirements;  
8 limiting off-duty employment; and providing miscellaneous 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 Act.

**§7-4A-2. Legislative findings.**

1 The Legislature finds and declares that:

2 (a) In West Virginia's criminal justice system, prosecuting attorney's office investigators,  
3 and the law-enforcement officers assigned to prosecuting attorneys offices, perform vital and  
4 highly sensitive duties.

5 (b) 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 (c) 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.

**§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, have 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 shall be certified law-enforcement officers and have  
8 full power of arrest consistent with that of sheriffs’ deputies.

**§7-4A-5. Employment status compensation.**

1           (a) A full-time prosecuting attorney’s detective shall be compensated at a rate mutually  
2 agreed upon by the prosecuting attorney and the prosecuting attorney detective.

3           (b) A full-time prosecuting attorney’s detective eligible shall be afforded employee benefits  
4 that are available to full-time county employees of the county in which the prosecuting attorney’s  
5 detective is employed.

**§7-4A-6. Appointment of detectives.**

1           The prosecuting attorney may appoint a sufficient number of suitable persons, to be known  
2 as 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, a person may not be appointed to the title of  
2 prosecuting attorney’s detective unless that person:

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

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

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

7           (d) Is a certified law-enforcement officer with at least five years of experience in a  
8           municipal, county, state, or federal law-enforcement agency.

**§7-4A-8. Limitations on off-duty employment.**

1           A prosecuting attorney's detective may not engage in any off-duty employment which is  
2           determined to be in conflict with the role of a prosecuting attorney's detective.

**§7-4A-9. Miscellaneous.**

1           (a) Prosecuting attorney's detectives may participate, join, or be members of charitable,  
2           civic, and professional organizations, associations, or committees. A prosecuting attorney's  
3           detective may not be prohibited from being a member of a law-enforcement union or association.

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