

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

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.⁹§7-4A-10.

3 Miscellaneous.

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

7 (b) 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.