

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2747

BY DELEGATES FAST, CRISS, D. KELLY, REYNOLDS,

HOTT, WESTFALL AND TONEY

[Passed April 10, 2021; in effect ninety days from passage.]

1 AN ACT to amend and reenact §15A-9-1 of the Code of West Virginia, 1931 as amended, and to
2 amend and reenact §62-12-12 of said code, all relating to offices and officers in the
3 Department of Homeland Security generally; clarifying duties and qualifications of the
4 Chief Hearing Examiner of the Department of Homeland Security; removing language
5 dictating residence requirements of Parole Board members based on congressional
6 districts; clarifying that substitute Parole Board members serve at the will and pleasure of
7 the Governor; directing that a least three board members initially appointed after July 1,
8 2021, have at least five years experience in social work, mental health, or prisoner reentry;
9 exempting Parole Board meetings from open meeting law and clarifying that parole
10 hearings are open to the public.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC
SAFETY.**

ARTICLE 9. OFFICE OF ADMINISTRATIVE HEARINGS.

§15A-9-1. Office created; appointment of Chief Hearing Examiner.

1 (a) The Office of Administrative Hearings is created as a separate operating agency within
2 the department.

3 (b) The secretary shall appoint a director of the office who serves as the administrative
4 head of the office and as Chief Hearing Examiner.

5 (c) The Chief Hearing Examiner shall be a citizen of the United States and a resident of
6 this state who is admitted to the practice of law in this state.

7 (d) The salary of the Chief Hearing Examiner shall be set by the secretary of the
8 department.

9 (e) In addition to adherence to the code of conduct set forth in §6B-2-5a of this code, the
10 Chief Hearing Examiner during his or her term shall:

11 (1) Not engage directly or indirectly in any activity, occupation, or business interfering or
12 inconsistent with his or her duties as Chief Hearing Examiner;

13 (2) Not hold any other appointed public office or any elected public office or any other
14 position of public trust; and

15 (3) Not be a candidate for any elected public office, or serve on or under any committee
16 of, any political party.

17 (f) The Chief Hearing Examiner serves at the will and pleasure of the secretary.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-12. Parole Board generally.

1 (a) The West Virginia Parole Board is continued as part of the Division of Corrections and
2 Rehabilitation. The board shall consist of nine members, each of whom shall have been a resident
3 of this state for at least five consecutive years prior to his or her appointment. No more than five
4 of the board members may at any one time belong to the same political party, except as provided
5 in subsection (b) of this section. The board shall be appointed by the Governor, by and with the
6 advice and consent of the Senate and shall serve at the will and pleasure of the Governor.

7 (b) The Governor shall appoint one of the nine members to serve as chairperson at the
8 Governor's will and pleasure. In addition to all other powers, duties, and responsibilities granted
9 and assigned to the chairperson by law and rule, the chairperson has the following powers and
10 duties:

11 (1) To provide for the management of facilities and personnel of the board;

12 (2) To supervise the administration and operation of the board;

13 (3) To delegate the powers and duties of his or her office to the vice chairperson or other
14 members of the board, who shall act under the direction of the chairperson and for whose acts he
15 or she is responsible: *Provided*, That if the position of chairperson becomes vacant by death,
16 resignation, or otherwise, the vice chairperson shall assume all the powers and duties of the

17 chairperson until such time as a new chairperson is appointed pursuant to the provisions of this
18 subsection;

19 (4) To employ one full-time administrative employee, who shall be a classified exempt;
20 and

21 (5) To exercise all other powers and perform all other duties necessary and proper in
22 carrying out his or her responsibilities as chairperson.

23 (c) The board, from its membership, shall elect a vice chairperson, at least once every
24 year, to serve as chair in the absence of a chairperson. In the absence of or at the direction of the
25 chairperson, the vice chairperson may exercise the powers and duties of the chairperson. The
26 vice chairperson shall, while performing the duties and responsibilities of the chairperson, have
27 all of the statutorily authorized power and duties of the chairperson.

28 (d) Members of the board shall have at least an undergraduate degree from an accredited
29 college or university or at least five years of actual experience in the fields of corrections, law
30 enforcement, sociology, law, education, psychology, social work, or medicine, or a combination
31 thereof, and shall be otherwise competent to perform the duties of his or her office: *Provided*,
32 That at least three members initially appointed after July 1, 2021, shall have five or more years
33 experience in the fields of mental health, social work, or inmate reentry services. All members
34 currently serving on the board shall continue the terms they are currently serving, unless
35 otherwise removed. The members shall be appointed for overlapping terms of six years. Members
36 are eligible for reappointment. The members of the board shall devote their full time and attention
37 to their board duties.

38 (e) The Governor may, if he or she is informed that a vacancy is imminent, appoint a
39 member to fill the imminent vacancy prior to it becoming vacant: *Provided*, That the new member
40 may be appointed no more than 30 days prior to the vacancy occurring and only for purposes of

41 training. He or she may not assume the powers and duties of the position until the vacancy has
42 actually occurred.

43 (f) The Governor may appoint no more than five persons to a list of substitute board
44 members. Substitute board members shall meet the qualifications set forth in subsection (d) of
45 this section. The persons on the list shall be used in a rotating fashion. If a full-time board member
46 is unable to serve, a substitute board member may serve in his or her place. These substitute
47 board members shall have the same powers and duties of the fulltime board members while
48 acting as a substitute and shall serve at the will and pleasure of the Governor. These members
49 shall be reimbursed for expenses and paid a per diem rate set by the secretary.

50 (g) The Division of Corrections and Rehabilitation shall provide administrative and other
51 services to the board as the board requires. Expenses of the board shall be included within the
52 annual budget of the Division of Corrections and Rehabilitation: *Provided*, That the salaries of the
53 members appointed pursuant to subsection (b) of this section are to be included in a separate
54 budget for the Parole Board.

55 (h) Notwithstanding any provision of this code to the contrary, meetings of the parole board
56 are not subject to the provisions of §6-9A-1 *et seq.* of this code: *Provided*, That hearings before
57 the parole board shall be open to the public.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2021.

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Governor