

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2891

BY DELEGATES D. KELLY, B. WARD, HOTT, CAPITO,

STEELE, PINSON, QUEEN AND WESTFALL

[Introduced March 03, 2021; 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 §30-29-14, relating to creating minimum standards for law-enforcement
3 officers; providing for the disqualification for entry into the basic law-enforcement academy
4 or from certification in certain instances; providing for the direct supervision of officers who
5 are not certified; providing for the maintenance and the transfer of certain records; and
6 setting a limitation on the disclosure of certain records.

Be it enacted by the Legislature of West Virginia:

ARTICLE 29. LAW ENFORCEMENT TRAINING AND CERTIFICATION.

**§30-29-14. Minimum standards for law-enforcement officers; disqualification for entry into
basic law-enforcement academy or from certification; direct supervision of
uncertified officers; maintenance and transfer of records; applicability; limitation
on disclosure of records.**

1 (a) Notwithstanding other provisions of law to the contrary, a law-enforcement agency may
2 not employ or offer to employ a law-enforcement officer until it makes written findings
3 documenting that the person meets certain minimum standards, which shall be made available
4 upon request to the subcommittee: *Provided*, That the hiring agency may set higher minimum
5 standards, or the subcommittee may promulgate legislative rules which establish higher minimum
6 standards as it considers necessary for the employment of law-enforcement officers: *Provided*,
7 *however*, That nothing in this section shall be construed to limit, abrogate, or modify any existing
8 rule promulgated by the subcommittee. The minimum standards shall apply only to the initial hiring
9 of a pre-certified law-enforcement officer and consist of the following:

10 (1) The person is 21 years of age or older, or will be 21 years of age by the date of his or
11 her academy graduation;

12 (2) The person is a high school graduate or equivalent;

13 (3) The person has submitted to a psychological assessment and has been recommended
14 for hire as a result;

15 (4) The person has submitted to and passed a polygraph examination;

16 (5) The person has not been dishonorably discharged from any branch of the armed forces
17 of the United States or the National Guard;

18 (6) The person has not been convicted in any civilian or military court of a crime punishable
19 by imprisonment for a term exceeding one year, a crime involving moral turpitude, a crime of
20 domestic violence, or a drug-related crime, or who has been administratively pardoned for any
21 such crime;

22 (7) The person has not admitted to committing any criminal acts as set forth in subdivision
23 (a)(6) of this subsection which did not result in a conviction;

24 (8) The person is not prohibited by state or federal law from shipping, transporting,
25 receiving, or possessing firearms or ammunition; and

26 (9) The person has consented to a thorough investigation by the hiring agency into the
27 person's background and moral character, including, but not limited to, a nationwide criminal
28 background check consisting of inquiries of the National Instant Criminal Background Check
29 System, the West Virginia criminal history record responses and the National Interstate
30 Identification index, the report of which shall be made a part of the written findings required by
31 this section.

32 (b) Upon review of the written findings of the hiring agency and the background
33 investigation, the subcommittee may suspend, decertify, or deny the certification of a law-
34 enforcement officer or, if applicable, deny admission to a basic entry-level training program to and
35 person failing to meet these minimum standards in the discretion of the subcommittee.

36 (c) No person shall be employed as a law-enforcement officer prior to his or her
37 certification unless the person is directly supervised by a certified law-enforcement officer at all
38 times when such person is engaged in law-enforcement duties. For purposes of this section,
39 "directly supervised" means that the certified law-enforcement officer is physically present with,

40 maintains a close visual and verbal contact with, and provides adequate direction to, the person
41 while engaged in law-enforcement duties.

42 (d) The written findings and background investigation shall be maintained by the initial
43 hiring law-enforcement agency, at a minimum, for the duration of the person's term of
44 employment. Each time the person transfers to a different law-enforcement agency, copies of the
45 written findings and background investigation shall be transmitted by the person's most recent
46 employing law-enforcement agency to the newly employed law-enforcement agency: *Provided,*
47 That the provisions of this subsection do not apply to the West Virginia State Police.

48 (e) The provisions of this section shall apply to any persons hired as law-enforcement
49 officers after the effective date of this section.

50 (f) Written findings and information obtained in the course of any investigation authorized
51 by this section are not public records and are not subject to disclosure under §29B-1-1 *et seq.* of
52 this code.

NOTE: The purpose of this bill is to create minimum standards for law-enforcement officers; to provide for the disqualification for entry into the basic law enforcement academy or from certification in certain instances; to provide the direct supervision of officers who are not certified; to provide for the maintenance and the transfer of certain records; and to provide a limitation on the disclosure of certain records.

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