

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4406**

BY DELEGATES CONLEY, COOPER, LONGANACRE,  
BARNHART, J. KELLY, ANDERSON, TONEY, MCGEEHAN,  
REYNOLDS, MANDT, AND LINVILLE

[Introduced January 26, 2022; Referred to the  
Committee on Veterans' Affairs and Homeland  
Security then Government Organization]

1 A BILL to amend and reenact §15A-1-9 of the Code of West Virginia, 1931, as amended, relating  
2 to creating a West Virginia Military Hall of Fame to honor veterans of West Virginia who  
3 have distinguished themselves on the field of battle.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. DEFINITIONS.**

### **§15A-1-9. Department of Homeland Security; Secretary of the Department of Homeland Security; powers and duties.**

1 (a)(1) The Department of Homeland Security is established within the Executive Branch  
2 as a criminal justice agency. In addition to all other powers and duties set forth in this code, the  
3 department is designated as the principal state agency to coordinate the receipt, distribution, and  
4 monitoring of all funds available from any source for the purpose of equipping, training, research,  
5 and education in regard to homeland security related items, issues, or services. The department  
6 is authorized to coordinate and establish standards for all operations and activities of the state  
7 related to homeland security efforts and to establish protocols for coordinating and sharing  
8 information with state and federal law enforcement and intelligence agencies responsible for  
9 investigating and collecting information related to homeland security and national security threats.

10 (2) The department is designated as the state administrative agency responsible for  
11 homeland security and emergency management for the planning and development of state  
12 programs and grants which may be funded by federal, state, or other allocations in the areas of  
13 homeland security and emergency management, unless such administration has been  
14 specifically entrusted to another state agency by the Governor or the Legislature.

15 (3) Notwithstanding any other provision of this code to the contrary, whenever in this code,  
16 or a rule promulgated thereunder, a reference is made to the Department of Military Affairs and  
17 Public Safety, it means the Department of Homeland Security.

18 (b) The secretary is the chief executive officer of the department. Subject to §5F-2-2 of  
19 this code, the secretary shall organize the department into such offices, sections, agencies, and

20 other units of activity as may be found by the secretary to be desirable for the orderly, efficient  
21 and economical administration of the department and for the accomplishment of its objects and  
22 purposes. The secretary may appoint a deputy secretary, chief of staff, assistants, hearing  
23 officers, clerks, stenographers, and other officers, technical personnel, and employees needed  
24 for the operation of the department and may prescribe their powers and duties and fix their  
25 compensation within amounts appropriated.

26 (c) The secretary ~~has the power to and~~ may designate supervisory officers or other officers  
27 or employees of the department to substitute for him or her on any board or commission  
28 established under this code or to sit in his or her place in any hearings, appeals, meetings, or  
29 other activities with such substitute having the same powers, duties, authority, and responsibility  
30 as the secretary. The secretary ~~has the power to~~ may delegate, as he or she considers  
31 appropriate, to supervisory officers or other officers or employees of the department his or her  
32 powers, duties, authority, and responsibility relating to such duties and functions set forth in this  
33 chapter or elsewhere in this code.

34 (d) The secretary has responsibility for the conduct of the intergovernmental relations of  
35 the department, including assuring:

36 (1) That the department carries out its functions in a manner which supplements and  
37 complements the homeland security and public safety policies, programs and procedures of the  
38 federal government, other state governments, and other instrumentalities of this state; and

39 (2) That appropriate officers and employees of the department consult with individuals  
40 responsible for making policy relating to homeland security and public safety issues in the federal  
41 government, other state governments, and other instrumentalities of this state concerning  
42 differences over policies, programs, and procedures and concerning the impact of statutory law  
43 and rules upon the homeland security and public safety of this state.

44 (e) In addition to other powers, duties, and responsibilities granted and assigned to the  
45 secretary by this code, the secretary ~~is authorized and empowered to~~ may:

46           (1) Sign and execute in the name of the state by the Department of Homeland Security  
47 any contract or agreement with the federal government or its departments or agencies,  
48 subdivisions of the state, corporations, associations, partnerships or individuals: *Provided*, That  
49 the powers granted to the secretary to enter into agreements or contracts and to make  
50 expenditures and obligations of public funds under this subdivision may not exceed or be  
51 interpreted as authority to exceed the powers granted by the Legislature to the various  
52 commissioners, directors, or board members of the various departments, agencies, or boards that  
53 comprise and are incorporated into each secretary's department pursuant to the provisions of  
54 chapter 5F of this code;

55           (2) Conduct research in improved homeland security and public safety methods and  
56 disseminate information to the citizens of this state;

57           (3) Require any persons contracting to install, establish, modify, operate, or close a  
58 correctional or other public safety facility to furnish the fingerprints of the person or persons; any  
59 officer, director, or manager of the contractor; any person owning a five percent or more interest,  
60 beneficial or otherwise, in the contractor's business; or any other person conducting or managing  
61 the affairs of the contractor, in whole or in part. These fingerprints may be used to obtain and  
62 review any police record for the purposes that may be in the interest of homeland security or  
63 public safety, and to use the fingerprints furnished to conduct a criminal records check through  
64 the Criminal Identification Bureau of the West Virginia State Police and a national criminal history  
65 check through the Federal Bureau of Investigation. The results of the checks shall be provided to  
66 the secretary;

67           (4) Acquire for the state in the name of the Department of Homeland Security by purchase,  
68 lease, or agreement, or accept or reject for the state, in the name of the Department of Homeland  
69 Security, gifts, donations, contributions, bequests, or devises of money, security, or property, both  
70 real and personal, and any interest in property; and

71           (5) Provide for workshops, training programs, and other educational programs, apart from

72 or in cooperation with other governmental agencies, necessary to ensure adequate standards of  
73 public service in the department. The secretary may provide for technical training and specialized  
74 instruction of any employee. Approved educational programs, training and instruction time may  
75 be compensated for as a part of regular employment. The secretary is authorized to pay out of  
76 federal or state funds, or both, as such funds are available, fees and expenses incidental to the  
77 educational programs, training, and instruction. Eligibility for participation by employees shall be  
78 in accordance with guidelines established by the secretary.

79 (f) The secretary shall be appointed by the Governor, by and with the advice and consent  
80 of the Senate and serves at the will and pleasure of the Governor.

81 (g) The secretary shall serve as the Homeland Security Advisor (HSA) for West Virginia,  
82 and shall be responsible for coordinating, designing, and implementing West Virginia's program  
83 for homeland security. The secretary shall be the principal point of contact between the State of  
84 West Virginia and the federal government with respect to homeland security issues. The HSA  
85 shall either possess at least a secret clearance through the federal government or be able to  
86 qualify for, and be in the process of obtaining, such clearance at the time of his or her appointment  
87 as HSA. The HSA shall keep the Governor advised of all homeland security matters and shall be  
88 the main point of contact for the Governor on these issues. The secretary, with permission of the  
89 Governor, may delegate all or a portion of the functions of the HSA to a designee who possesses  
90 at least a secret clearance.

91 (h) Notwithstanding any other provision of this code to the contrary, any records compiled  
92 by the department or any division, agency, office, or unit thereof, the disclosure of which could be  
93 used to create an endangerment to municipal, county, state, or national welfare and security, are  
94 not public records and are not subject to disclosure in response to a Freedom of Information Act  
95 request under §29B-1-1 *et seq.* of this code.

96 (i) The Department of Homeland Security shall cooperate with the State Resiliency Office  
97 to the fullest extent practicable to assist that office in fulfilling its duties.

98 (j)(1) The secretary shall create a West Virginia Military Hall of Fame with the mission to  
99 honor veterans of West Virginia who have distinguished themselves on the field of battle and for  
100 such actions have received Purple Hearts or awards for valor for a specific act of heroism. The  
101 honorees must:

102 (A) Have received an Honorable Discharged and be of good moral character; and

103 (B) Be natural born citizens of West Virginia; or

104 (C) Have enlisted in or be discharged from the military in West Virginia; or

105 (D) Have resided in West Virginia for 25 years or more.

106 (2) Applicants should submit an application DD214 and a copy of the citation that depicts  
107 a specific act of heroism or valor or the Purple Heart with supporting recommendation. (Awards  
108 for an extended period of time may not qualify if they appear to be for Meritorious service)

109 (k) Medals included under §15A-1-9 (j)(1) of this code are:

110 (1) Medal of Honor;

111 (2) Distinguished Service Cross;

112 (3) Navy Cross;

113 (4) Air Force Cross;

114 (5) Silver Star;

115 (6) Distinguished Flying Cross for Heroism;

116 (7) Bronze Star Medal with "V" Device;

117 (8) Air Medal with "V" Device;

118 (9) Commendation Medal With "V" Device;

119 (10) Achievement Medal With "V" Device; and

120 (11) Purple Heart.

121 (l) The secretary shall appoint a committee of veterans to review applications for  
122 recognition in the Military Hall of Fame. The secretary shall be the chair of the committee and  
123 shall promulgate rules for legislative approval in accordance with §29A-3-1 et seq. of this code to

124 implement the purpose and mission of the Military Hall of Fame. The rules may include  
125 requirements that the committee meet annually, that there be a processing fee to defray costs of  
126 the Military Hall of Fame, and limiting the number of persons who may be recognized by the  
127 Military Hall of Fame annually or during any other determined period of time.

NOTE: The purpose of this bill is to create a West Virginia Military Hall of Fame in the Department of Military Affairs and Public Safety (which is no longer a standalone department, but has been transferred to and is now a part of the Department of Homeland Security).

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