

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5481

By Delegates Shamblin, Jennings, Westfall, W. Hall,
and Rohrbach

[Introduced February 06, 2024; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §16-5B-19 of the Code of West Virginia, 1931, as amended, relating
 2 to providing immunity from liability for hospitals that have established a hospital police
 3 department if a loss or claim results from the failure to provide police protection.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-19. Hospital police departments; appointment of hospital police officers; qualifications; authority; compensation and removal; law-enforcement grants; limitations on liability; and when immune from liability.

1 (a) The governing board of a hospital licensed under §16-5B-2 of this code may establish a
 2 hospital police department and appoint qualified individuals to serve as hospital police officers
 3 upon any premises owned or leased by the hospital and under the jurisdiction of the governing
 4 board, subject to the conditions and restrictions established in this section.

5 (1) A person who fulfills the certification requirements for law-enforcement officers under
 6 §30-29-5 of this code is considered qualified for appointment as a hospital police officer.

7 (2) A retired police officer may qualify for appointment as a hospital police officer if he or
 8 she meets the certification requirements under §30-29-5 of this code.

9 (3) Before performing duties as a hospital police officer in any county, a person shall qualify
 10 as is required of county police officers by:

11 (A) Taking and filing an oath of office as required by §6-1-1 *et seq.* of this code; and

12 (B) Posting an official bond as required by §6-2-1 *et seq.* of this code.

13 (b) A hospital police officer may carry a gun and any other dangerous weapon while on
 14 duty if the officer fulfills the certification requirement for law-enforcement officers under §30-29-5
 15 of this code.

16 (c) It is the duty of a hospital police officer to preserve law and order:

17 (1) On the premises under the jurisdiction of the governing board and its affiliated
 18 properties; and

19 (2) On any street, road, or thoroughfare, except controlled access highways, immediately
20 adjacent to or passing through the premises under the jurisdiction of the governing board, to which
21 the officer is assigned by the chief executive officer or his or her designee: *Provided*, That a
22 hospital police officer may only enforce the provisions of §17C-1-1 *et seq.* of this code upon
23 request of a local law-enforcement agency.

24 (A) For the purposes of this subdivision, the hospital police officer is a law-enforcement
25 officer pursuant to the provisions of §30-29-1 *et seq.* of this code;

26 (B) The hospital police officer has and may exercise all the powers and authority of a law-
27 enforcement officer as to offenses committed within the area assigned;

28 (C) The hospital police officer is subject to all the requirements and responsibilities of a
29 law-enforcement officer;

30 (D) Authority assigned pursuant to this subdivision does not supersede in any way the
31 authority or duty of other law-enforcement officers to preserve law and order on such hospital
32 premises;

33 (E) Hospital police officers may assist a local law-enforcement agency on public highways.
34 The assistance may be provided to control traffic in and around premises owned by the state or
35 political subdivision when:

36 (i) Traffic is generated as a result of activities or events conducted or sponsored by the
37 hospital; and

38 (ii) The assistance has been requested by the local law-enforcement agency;

39 (F) Hospital police officers may assist a local law-enforcement agency in any location
40 under the agency's jurisdiction at the specific request of the agency; and

41 (G) Hospital police officers shall enforce the general policies and procedures of the
42 hospital as established by the chief executive officer or his or her designee.

43 (d) The salary of a hospital police officer is paid by the employing hospital's governing
44 board. The hospital shall furnish each hospital police officer with a firearm and an official uniform to

45 be worn while on duty. The hospital shall furnish, and require each officer while on duty to wear, a
46 shield with the appropriate inscription and to carry credentials certifying the person's identity and
47 authority as a hospital police officer.

48 (e) The governing board of the employing hospital may at its pleasure revoke the authority
49 of any hospital police officer and such officers serve at the will and pleasure of the governing
50 board. The chief executive officer of the hospital or his or her designee shall report the termination
51 of employment of a hospital police officer by filing a notice to that effect in the office of the clerk of
52 each county in which the hospital police officer's oath of office was filed.

53 (f) For the purpose of hospital police officers appointed and established in this section, the
54 civil service provisions of §8-14-1 *et seq.* of this code and the investigation and interrogation
55 provisions of §8-14A-1 *et seq.* of this code shall not apply.

56 (g) A hospital police officer ~~shall~~ may not be subject to civil or criminal liability unless one of
57 the following applies:

58 (1) His or her acts or omissions were manifestly outside the scope of employment or official
59 responsibilities;

60 (2) His or her acts or omissions were with malicious purpose, in bad faith, or in a wanton or
61 reckless manner; or

62 (3) Liability is expressly imposed upon the hospital police officer by any other provision of
63 this code.

64 (h) A hospital is immune from liability if a loss or claim results from the failure to provide
65 police protection.

66 (h) (i) A hospital police officer shall be trained (i) in crisis de-escalation techniques consistent
67 with the goals and objectives of this section: *Provided*, That within 180 days of beginning work as a
68 hospital police officer, the employing hospital shall provide crisis management training to a
69 hospital police officer through a program approved by the Law-Enforcement Professional
70 Standards Subcommittee established by §30-29-2 of this code.

71

NOTE: The purpose of this bill is to provide immunity from liability for hospitals that have established a hospital police department if a loss or claim results from the failure to provide police protection.

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