

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 451

FISCAL
NOTE

By Senators Phillips, Hunt, Jeffries, Nelson, Queen,
Rucker, Smith, Stuart, Swope, Takubo, Taylor, Trump,
Woodrum, Woelfel, Plymale, and Deeds

[Introduced January 15, 2024; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend and reenact §7-4-1a and §7-4-6 of the Code of West Virginia, 1931, as amended,
 2 all relating to mandatory training; requiring all prosecutors to undergo training prior to
 3 perform his or her duties; and requiring the Prosecuting Attorneys Institute to conduct
 4 mandatory training for all prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.

§7-4-1a. Eligibility of prosecuting attorneys.

1 (a) To be eligible to be a candidate for the office of prosecuting attorney, a person shall be
 2 a duly licensed attorney in the State of West Virginia at the time of his or her filing for office.

3 (b) Prior to performing his or her duties as a prosecuting attorney, he or she must attend
 4 prosecutor training as established by the West Virginia prosecuting attorneys Institute.

§7-4-6. West Virginia prosecuting attorneys Institute.

1 (a) There is continued the West Virginia prosecuting attorneys Institute, a public body
 2 whose membership shall consist of the 55 elected county prosecuting attorneys in the state. The
 3 Institute shall meet at least once each calendar year and the presence of 28 of the 55 prosecutors
 4 at any meeting constitutes a quorum for the conduct of the Institute's business.

5 (b) There is continued the Executive Council of the West Virginia prosecuting attorneys
 6 Institute which shall consist of seven prosecuting attorneys elected by the membership of the West
 7 Virginia prosecuting attorneys Institute at its annual meeting and two persons appointed annually
 8 by the county commissioner's association of West Virginia. The executive council shall elect one
 9 member of the council to serve as chairman of the institute for a term of one year without
 10 compensation. The executive council shall serve as the regular executive body of the institute.

11 (c) There is continued the position of Executive Director of the West Virginia prosecuting
 12 attorneys Institute to be employed by the executive council of the institute. The Executive Director
 13 of the West Virginia prosecuting attorneys Institute shall serve at the will and pleasure of the
 14 executive council of the institute. The executive director shall be licensed to practice law in the

15 State of West Virginia and shall devote full time to his or her official duties and may not engage in
16 the private practice of law.

17 (d) The duties and responsibilities of the institute, as implemented by and through its
18 executive council and its executive director, shall include the following:

19 (1) The provision for special prosecuting attorneys to pursue a criminal matter, a juvenile
20 delinquency matter or a matter involving child abuse neglect pursuant to chapter 49 of this code, or
21 in any matter wherein a special prosecutor previously appointed has failed to take any action
22 thereon within such time as the Executive Director deems unreasonable, not to exceed three
23 terms of court from the date on which the special prosecutor was appointed: *Provided*, That such
24 replacement or original appointment may be any attorney with a license in good standing in this
25 state in any county upon the request of a circuit court judge of that county and upon the approval of
26 the executive council;

27 (2) The establishment and implementation of general and specialized training programs for
28 prosecuting attorneys, their staffs and, where determined practical by the executive council and
29 executive director, all statutorily authorized law-enforcement or investigative agencies of the state
30 or its political subdivisions;

31 (3) The establishment of a training program for all prosecutors that must be completed
32 prior to that prosecuting attorney being able to perform his or her duties;

33 ~~(3)~~ (4) The provision of materials for prosecuting attorneys and their staffs, including legal
34 research, technical assistance and technical and professional publications;

35 ~~(4)~~ (5) The compilation and dissemination of information on behalf of prosecuting attorneys
36 and their staffs on current developments and changes in the law and the administration of criminal
37 justice;

38 ~~(5)~~ (6) The establishment and implementation of uniform reporting procedures for
39 prosecuting attorneys and their professional staffs in order to maintain and to provide accurate and
40 timely data and information relative to criminal prosecutorial matters;

41 ~~(6)~~(7) The acceptance and expenditure of grants, moneys for reimbursement of expenses,
42 gifts and acceptance of services from any public or private source;

43 ~~(7)~~(8) The entering into of agreements and contracts with public or private agencies,
44 groups, organizations, or educational institutions;

45 ~~(8)~~(9) The identification of experts and other resources for use by prosecutors in criminal
46 matters;

47 ~~(9)~~(10) The recommendation to the Legislature or the Supreme Court of Appeals of the
48 State of West Virginia on measures required, or procedural rules to be promulgated, to make
49 uniform the processing of juvenile cases in the 55 counties of the state; and

50 ~~(10)~~(11) The development of a written handbook for prosecutors and their assistants to use
51 which delineates relevant information concerning the elements of various crimes in West Virginia
52 and other information the institute considers appropriate.

53 (e) Each prosecuting attorney is subject to appointment by the institute to serve as a
54 special prosecuting attorney in any county where the prosecutor for that county or his or her office
55 has been disqualified from participating in a particular criminal case, a juvenile delinquency matter
56 or a matter involving child abuse neglect pursuant to chapter 49 of this code, or in any matter
57 wherein a special prosecutor previously appointed has failed to take any action thereon within
58 such time as the Executive Director deems unreasonable, not to exceed three terms of court from
59 the date on which the special prosecutor was appointed: *Provided*, That such replacement or
60 original appointment may be any attorney with a license in good standing in this state. The circuit
61 judge of any county of this state, who disqualifies the prosecutor or his or her office from
62 participating in a particular criminal case, a juvenile delinquency matter or a matter involving child
63 abuse or neglect pursuant to chapter 49 of this code in that county, shall seek the appointment by
64 the institute of a special prosecuting attorney to substitute for the disqualified prosecutor. The
65 executive director of the institute shall, upon written request to the institute by any circuit judge as
66 a result of disqualification of the prosecutor or for other good cause shown, and upon approval of

67 the executive council, appoint a prosecuting attorney to serve as a special prosecuting attorney.
 68 The special prosecuting attorney appointed shall serve without any further compensation other
 69 than that paid to him or her by his or her county, except that he or she is entitled to be reimbursed
 70 for his or her legitimate expenses associated with travel, mileage and room and board from the
 71 county to which he or she is appointed as a prosecutor. The county commission in which county he
 72 or she is special prosecutor is responsible for all expenses associated with the prosecution of the
 73 criminal action. No person who is serving as a prosecuting attorney or an assistant prosecuting
 74 attorney of any county is required to take an additional oath when appointed to serve as a special
 75 prosecuting attorney.

76 (f) The executive director of the institute shall maintain an appointment list that shall
 77 include the names of all 55 prosecuting attorneys and that shall also include the names of any
 78 assistant prosecuting attorney who wishes to serve as a special prosecuting attorney upon the
 79 same terms and conditions as set forth in this section. The executive director of the institute, with
 80 the approval of the executive council, shall appoint special prosecuting attorneys from the
 81 appointment list for any particular matter giving due consideration to the proximity of the proposed
 82 special prosecuting attorney's home county to the county requesting a special prosecutor and
 83 giving due consideration to the expertise of the special prosecuting attorney.

84 (g) Each county commission shall pay, on a monthly basis, a special prosecution premium
 85 to the Treasurer of the state for the funding of the West Virginia prosecuting attorneys Institute.
 86 The monthly premiums shall be paid according to the following schedule:

87 **MONTHLY PREMIUMS**

88 Assessed Valuation of Property
 89 of All Classes in the County

90	Category	Minimum	Maximum	Premium
91	A	\$1,500,000,000	Unlimited	\$400
92	B	\$1,000,000,000	\$1,499,999,000	\$375

93	C	\$ 800,000,000	\$ 999,999,000	\$350
94	D	\$ 700,000,000	\$ 799,999,000	\$325
95	E	\$ 600,000,000	\$ 699,999,000	\$300
96	F	\$ 500,000,000	\$ 599,999,000	\$250
97	G	\$ 400,000,000	\$ 499,999,000	\$200
98	H	\$ 300,000,000	\$ 399,999,000	\$150
99	I	\$ 200,000,000	\$ 299,999,000	\$100
100	J	-0-	\$ 199,999,000	\$ 50

101 (h) Upon receipt of a premium, grant, reimbursement or other funding source, excluding
 102 federal funds as provided in article two, chapter four of this code, the Treasurer shall deposit the
 103 funds into a special revenue fund to be known as the "West Virginia prosecuting attorneys Institute
 104 Fund". All costs of operating the West Virginia prosecuting attorneys Institute shall be paid from
 105 the West Virginia prosecuting attorneys Institute Fund upon proper authorization by the executive
 106 council or by the executive director of the institute and subject to annual appropriation by the
 107 Legislature of the amounts contained within the fund.

108 (i) The institute shall annually, by the first day of the regular Legislative session, provide the
 109 Joint Committee on Government and Finance with a report setting forth the activities of the
 110 institute and suggestions for legislative action.

111 (j) Neither the institute nor its employees acting in their employment capacity shall engage
 112 in activities before governmental bodies which advocate positions on issues other than those
 113 issues consistent with the duties of the institute set forth in subsection (d) of this section.

NOTE: The purpose of this bill is to require all prosecutors to undergo training prior to performing his or her duties; and require the West Virginia prosecuting attorneys Institute to conduct mandatory training for all prosecuting attorneys.

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