

bill to require current and retired LEOs to be offered the  
training required for nationwide concealed carry under  
federal law

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[Effective July 1]

A BILL to amend and reenact §7-4-1 and §15-2-25 of the code of West Virginia, 1931, as amended; and to further amend said code by adding thereto two new sections, designated §30-29-11 and §61-7-4a, all relating to requiring qualifying law-enforcement officers employed by a West Virginia law-enforcement agency to receive certification to carry a concealed firearm nationwide as provided in the federal Law Enforcement Officers Safety Act of 2004; establishing procedure for a retired or medically discharged member of the state police to appeal a denial of a letter of authorization to carry concealed handguns; providing that certain methods of authorization for retired or medically discharged members of the state police to carry concealed handguns are cumulative; providing that a letter of

1 authorization for a retired or medically discharged member  
2 of the state police to carry concealed handguns shall be  
3 deemed a West Virginia concealed handgun license for the  
4 purpose of participating in reciprocity with other states;  
5 providing that law-enforcement agencies are neither  
6 prohibited from nor required to permit an officer to carry  
7 his service weapon off-duty; requiring West Virginia law-  
8 enforcement agencies to offer access to training and  
9 certification for honorably retired officers to be  
10 permitted to carry a concealed firearm nationwide as a  
11 qualified retired law enforcement officer as provided in  
12 the federal Law Enforcement Officers Safety Act of 2004;  
13 and establishing program for issuing special qualified  
14 retired law-enforcement officer concealed firearm license  
15 by the state police; authorizing legislative rules; and  
16 providing that special qualified retired law-enforcement  
17 officer concealed firearm license is cumulative and  
18 supplemental.

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

20 That §7-4-1 and §15-2-25 of the code of West Virginia,  
21 1931, as amended, be amended and reenacted; and that said code  
22 be further amended by adding thereto two new sections,  
23 designated §30-29-11 and §61-7-4a, all to read as follows:

1                   **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

2                   **ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.**

3                   **§7-4-1. Duties of prosecuting attorney; further duties upon**  
4                   **request of Attorney General.**

5                   (a) It shall be the duty of the prosecuting attorney to  
6 attend to the criminal business of the state in the county in  
7 which he or she is elected and qualified, and when he or she has  
8 information of the violation of any penal law committed within  
9 such county, he or she shall institute and prosecute all  
10 necessary and proper proceedings against the offender, and may  
11 in such case issue or cause to be issued a summons for any  
12 witness he or she may deem material. Every public officer shall  
13 give him or her information of the violation of any penal law  
14 committed within his or her county. It shall also be the duty of  
15 the prosecuting attorney to attend to civil suits in such county  
16 in which the state, or any department, commission or board  
17 thereof, is interested, and to advise, attend to, bring,  
18 prosecute or defend, as the case may be, all matters, actions,  
19 suits and proceedings in which such county or any county board  
20 of education is interested.

21                   (b) A prosecuting attorney or assistant prosecuting  
22 attorney desiring to be certified as a qualified law enforcement  
23 officer and carry a concealed firearm pursuant to 18 U.S.C. §  
24 926B shall undergo training, at least annually, established by

1 the sheriff's department of his or her county, similar to that  
2 which is provided to deputy sheriffs. Upon completion of the  
3 annual training, each prosecuting attorney or assistant  
4 prosecuting attorney shall be issued a certification indicating  
5 completion of the annual training consistent with this  
6 subsection and 18 U.S.C. § 926B. Prosecuting attorneys or  
7 assistant prosecuting attorneys shall have all the rights and  
8 authorities necessary in order to comply with 18 U.S.C. § 926B  
9 and receive the rights, benefits, privileges and immunities  
10 conferred under 18 U.S.C. § 926B. This subsection is  
11 supplemental and additional to existing rights to bear arms, and  
12 nothing in this subsection shall impair or diminish such rights.

13 (c) It shall be the duty of the prosecuting attorney to  
14 keep his or her office open in the charge of a responsible  
15 person during the hours polls are open on general, primary and  
16 special county-wide election days, and the prosecuting attorney,  
17 or his or her assistant, if any, shall be available for the  
18 purpose of advising election officials. It shall be the further  
19 duty of the prosecuting attorney, when requested by the Attorney  
20 General, to perform or to assist the Attorney General in  
21 performing, in the county in which he or she is elected, any  
22 legal duties required to be performed by the Attorney General,  
23 and which are not inconsistent with the duties of the  
24 prosecuting attorney as the legal representative of such county.

1 It shall also be the duty of the prosecuting attorney, when  
2 requested by the Attorney General, to perform or to assist the  
3 Attorney General in performing, any legal duties required to be  
4 performed by the Attorney General, in any county other than that  
5 in which such prosecuting attorney is elected, and for the  
6 performance of any such duties in any county other than that in  
7 which such prosecuting attorney is elected he or she shall be  
8 paid his or her actual expenses.

9 (d) Upon the request of the Attorney General the  
10 prosecuting attorney shall make a written report of the state  
11 and condition of the several causes in which the state is a  
12 party, pending in his or her county, and upon any matters  
13 referred to him or her by the Attorney General as provided by  
14 law.

## 15 **CHAPTER 15. PUBLIC SAFETY.**

### 16 **ARTICLE 2. WEST VIRGINIA STATE POLICE.**

#### 17 **§15-2-25. Rules generally; carrying of weapons upon retirement** 18 **or medical discharge.**

19 (a) Subject to the written approval of the governor and the  
20 provisions of this article, the superintendent may make and  
21 promulgate proper rules for the government, discipline and  
22 control of the West Virginia state police and shall also cause  
23 to be established proper rules for the examinations of all  
24 applicants for appointment thereto. The members of the West

1 Virginia state police shall be permitted to carry arms and  
2 weapons and no license may be required for the privilege.

3       **(b)** Upon retirement or medical discharge from the West  
4 Virginia state police and with the written consent of the  
5 superintendent, any retired or medically discharged member who  
6 is not prohibited by federal law or §61-7-7 from possessing a  
7 handgun may carry ~~a handgun~~ concealed handguns without a license  
8 for the life of the member following retirement or medical  
9 discharge notwithstanding the provisions of article seven,  
10 chapter sixty-one of this code: *Provided*, That the  
11 superintendent's written ~~letter of consent~~ authorization to  
12 carry ~~a handgun~~ concealed handguns may not last for more than  
13 five years at a time and a retired or medically discharged  
14 member who wishes to continue to carry ~~a handgun~~ concealed  
15 handguns beyond five years of the date of his or her initial  
16 retirement or medical discharge must request and obtain a  
17 renewal of the superintendent's written ~~permission~~ authorization  
18 to carry ~~a handgun~~ concealed handguns at least once every five  
19 years. A retired or medically discharged member desiring to  
20 carry ~~a handgun~~ concealed handguns after retirement or medical  
21 discharge must provide his or her own handgun. Upon request,  
22 each member shall be presented with a ~~letter~~ certificate of  
23 authorization signed by the superintendent authorizing the  
24 retired or medically discharged member to carry ~~a handgun~~

1 concealed handguns. The ~~written~~ certificate of authorization  
2 shall be shall be carried by the retired or medically discharged  
3 member at all times that he or she has a ~~handgun~~ concealed  
4 handguns on or about his or her person. The superintendent may  
5 not withhold, deny or revoke any certificate of authorization  
6 issued under this subsection without cause if the retired or  
7 medically discharged member is qualified for the authorization.  
8 The superintendent may not issue a ~~letter~~ certificate of  
9 authorization to any retired or medically discharged member who  
10 is no longer employed by the state police due to a mental  
11 disability, ~~or~~ who the superintendent has reason to believe is  
12 mentally incapacitated to the extent it would present a threat  
13 of physical harm to one or more persons for the member to carry  
14 ~~a concealed weapon~~ handguns or who is prohibited by federal law  
15 or §61-7-7 from possessing, purchasing or receiving a handgun.  
16 The superintendent may revoke the ~~authority at any time without~~  
17 ~~cause and without recourse~~ certificate of authorization for just  
18 cause. Conviction of the retired or medically discharged member  
19 for the commission of any felony or for a misdemeanor involving  
20 the improper or illegal use of a firearm or the retired or  
21 medically discharged member becoming prohibited by federal law  
22 or §61-707 from possessing, purchasing or receiving a handgun  
23 shall cause this authority to terminate immediately ~~without a~~  
24 ~~hearing or other recourse and without any action on the part of~~

1 ~~the superintendent.~~ The superintendent shall promulgate a  
2 legislative rule in accordance with the provisions of chapter  
3 twenty-nine-a of this code, which rule shall prescribe  
4 requirements necessary for the issuance and continuance of the  
5 authority herein granted and the procedure for appealing a  
6 denial or revocation of a certificate of authorization to carry  
7 concealed handguns issued under this subsection. For the  
8 purposes of participation in concealed handgun license  
9 reciprocity with other states pursuant to §61-7-6(7), a valid  
10 certificate of authorization issued pursuant to this subsection  
11 shall constitute a concealed handgun license issued by this  
12 state.

13 (c) In addition to any certificate of authorization under  
14 subsection (b) of this section, the superintendent shall make  
15 available to all eligible retired or medically discharged  
16 members of the state police a program for certification to carry  
17 a concealed firearm nationwide under 18 U.S.C. § 926C if that  
18 retired or medically discharged member is a qualified retired  
19 law-enforcement officer as defined therein. Until 18 U.S.C. §  
20 926C is amended to increase renewal interval for a certification  
21 as a qualified retired law-enforcement officer to equal or  
22 exceed the renewal interval for certificates of authorization  
23 under subsection (b) of this section, a retired or medically  
24 discharged member of the state police who qualifies for both a

1 certificate of authorization under subsection (b) of this  
2 section and certification as a qualified retired law-enforcement  
3 officer under 18 U.S.C. § 926C shall be entitled to both and the  
4 corresponding rights, benefits, privileges and immunities  
5 appertaining to each.

6 (d) Before issuing or renewing any certificate of  
7 authorization under subsection (b) of this section or a  
8 certification as a qualified retired law enforcement officer  
9 under subsection (c) of this section, the superintendent shall  
10 conduct an investigation which shall verify that the retired or  
11 medically discharged member of the state police is not  
12 prohibited by federal law or §61-7-7 from possessing,  
13 transporting or receiving any firearm. This investigation shall  
14 conform to the requirements of 18 U.S.C. § 922(t)(3)(A), 27  
15 C.F.R. § 478.102(d)(1) or other applicable federal law for  
16 qualifying certificates of authorization issued under subsection  
17 (b) of this section or certifications issued under subsection  
18 (c) of this section as an alternative to the national instant  
19 criminal background check system or other similar required  
20 background check for a resident of this state to purchase a  
21 firearm through a licensed firearms dealer within this state,  
22 including a background check conducted through the national  
23 instant criminal background check system.

1       (e) Each certificate of authority under subsection (b) of  
2 this section or certification under subsection (c) of this  
3 section, issued on or after the effective date of this  
4 subsection, shall be no larger than three and three-eighths  
5 inches wide by two and one-eighth inches long, shall be made of  
6 a hard, laminated material suitable for carrying in a wallet,  
7 similar to a driver's license, and shall contain the retired or  
8 medically discharged member's name, address, signature and full-  
9 face color photograph, the superintendent's signature, the dates  
10 of issue and expiration, the words "qualified retired law  
11 enforcement officer under 18 U.S.C. § 926C" in conspicuous type  
12 in the case of a certification under subsection (c) of this  
13 section and such other information as the superintendent shall  
14 deem appropriate. Any denial, revocation or termination of a  
15 retired or medically discharged member's certificate of  
16 authority under subsection (b) of this section or certification  
17 as a qualified retired law-enforcement officer under subsection  
18 (c) of this section shall be subject to article five, chapter  
19 twenty-nine-a of this code.

20       (f) A certificate of authority under subsection (b) off  
21 this section and certification as a qualified retired law  
22 enforcement officer under subsection (c) of this section shall  
23 be cumulative and supplemental to one another and to any license  
24 to carry concealed weapons under §61-7-4 or other authorization

1 under the laws of this state to carry concealed weapons.  
2 Subsections (b) through (f) of this section are supplemental and  
3 additional to existing rights to bear arms, and nothing in  
4 subsections (b) through (f) of this section shall impair or  
5 diminish such rights.

6 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

7 **ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

8 **§30-29-11. Law-enforcement officers to receive certification to**  
9 **carry concealed firearms under federal Law Enforcement**  
10 **Officers Safety Act of 2004.**

11 (a) Every qualified law-enforcement officer employed by a  
12 West Virginia law-enforcement agency shall receive the training  
13 and certification required to be considered a qualified law  
14 enforcement officer under 18 U.S.C. §926B to carry a concealed  
15 firearm nationwide as provided therein. It shall be the duty of  
16 each law-enforcement official to provide to each qualified law-  
17 enforcement officer under his command the identification  
18 prescribed therein. No officer shall be charged any fees or  
19 costs for receiving such certification. This subsection shall  
20 not be construed to require nor prohibit a law-enforcement  
21 agency from permitting, requiring or prohibiting a law-  
22 enforcement officer to carry his or her service weapon off-duty.

23 (b) Every West Virginia law-enforcement agency shall, at  
24 least once annually, notify each honorably retired law-

1 enforcement officer who retired from that agency of the  
2 provisions of 18 U.S.C. §926C that permit a qualified retired  
3 law enforcement officer to carry a concealed firearm nationwide.  
4 Such agency shall permit a retired officer who meets the  
5 eligibility requirements of said law to receive the training and  
6 certification required for the retired officer to qualify as a  
7 qualified retired law enforcement officer as provided in 18  
8 U.S.C. §926C. Each qualifying retired officer shall be offered  
9 the required annual recertification as provided therein. Each  
10 retired officer who qualifies under this subsection shall be  
11 issued a photo identification that shall be no larger than three  
12 and three-eighths inches wide by two and one-eighth inches long,  
13 shall be made of a hard, laminated material suitable for  
14 carrying in a wallet, similar to a driver's license, and shall  
15 contain the qualified retired law enforcement officer's name,  
16 address, signature and full-face color photograph, the signature  
17 of the chief law-enforcement official of the issuing agency, the  
18 dates of issue and expiration, the words "Qualified retired law  
19 enforcement officer under 18 U.S.C. § 926C" in conspicuous type  
20 and such other information as the chief law-enforcement official  
21 of the issuing agency shall deem appropriate. Before issuing or  
22 renewing any certification as a qualified retired law  
23 enforcement officer under this subsection, the certifying agency  
24 shall conduct an investigation which shall verify that the

1 retired officer is not prohibited by federal law or §61-7-7 from  
2 possessing, transporting or receiving any firearm. This  
3 investigation shall conform to the requirements of 18 U.S.C. §  
4 922(t)(3)(A), 27 C.F.R. § 478.102(d)(1) or other applicable  
5 federal law for qualifying certifications issued under this  
6 subsection as an alternative to the national instant criminal  
7 background check system or other similar required background  
8 check for a resident of this state to purchase a firearm through  
9 a licensed firearms dealer within this state, including a  
10 background check conducted through the national instant criminal  
11 background check system.

12 (c) A certification as a qualified law enforcement officer  
13 or qualified retired law enforcement officer under this section  
14 shall be cumulative and supplemental to any license to carry  
15 concealed weapons under §61-7-4 or other authorization under the  
16 laws of this state to carry concealed weapons. This section is  
17 supplemental and additional to existing rights to bear arms, and  
18 nothing in this section shall impair or diminish such rights.

19 **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

20 **ARTICLE 7. DANGEROUS WEAPONS.**

21 **§61-7-4a. Certification to carry concealed firearm by qualified**  
22 **retired law enforcement officers.**

23 (a) Not later than July 1, 2008, the superintendent of the  
24 state police shall establish a program for certifying qualified

1 retired law enforcement officers who reside in this state to  
2 carry concealed firearms under the provisions of 18 U.S.C. §  
3 926C. The superintendent shall propose legislative rules to  
4 implement this program and shall initially promulgate these  
5 rules on an emergency basis.

6 (b) The rules promulgated pursuant to subsection (a) of  
7 this section shall:

8 (1) Make all necessary provisions to ensure that all  
9 qualified retired law enforcement officers who are certified by  
10 the program shall be entitled to the rights, benefits,  
11 privileges and immunities of 18 U.S.C. § 926C, on a uniform,  
12 nondiscretionary basis;

13 (2) Provide that the required testing or other  
14 qualification shall be offered at least once quarterly in:

15 (A) Each county of this state in which a state police troop  
16 headquarters is located;

17 (B) Each county of this state in which a Class I or II city  
18 is located or, in the case of a Class I or II city that is  
19 contained in more than one county, the county in which a  
20 majority of the population of that city resides, if that county  
21 is not a county described in paragraph (A) of this subdivision  
22 and is not contiguous to a county described in paragraph (A) of  
23 this subdivision; and

1 (C) Any other counties of this state designated by the  
2 superintendent;

3 (3) Provide that the opportunities for qualification and  
4 certification shall be advertised by publication in the state  
5 register;

6 (4) Provide that the certificate issued to a qualified law  
7 enforcement officer under this program shall be no larger than  
8 three and three-eighths inches wide by two and one-eighth inches  
9 long and shall be made of a hard, laminated material suitable  
10 for carrying in a wallet, similar to a driver's license, and  
11 shall contain the words "qualified retired law enforcement  
12 officer under 18 U.S.C. § 926C" in conspicuous type;

13 (5) Provide that all documents a qualified retired law  
14 enforcement officer is required to file with the superintendent  
15 under this section may be filed by mailing them to the  
16 headquarters of the state police, by delivering them in person  
17 to the headquarters of the state police or any troop  
18 headquarters or detachment or by any other method the  
19 superintendent may permit; and

20 (6) Provide that the provisions of article five, chapter  
21 twenty-nine-a of this code shall apply to any denial, suspension  
22 or revocation of any certification under the program.

23 (c) The names, addresses and other personally-identifying  
24 information of any qualified retired law enforcement officer who

1 applies for or has been issued a certificate of qualification  
2 under this section or otherwise participates in a program under  
3 this section shall not be a public record and may only be copied  
4 or inspected only by:

5 (1) The qualified retired law enforcement officer;

6 (2) The duly qualified conservator or guardian of the  
7 qualified retired law enforcement officer;

8 (3) The duly qualified executor or administrator of the  
9 estate of the qualified retired law enforcement officer, if  
10 deceased, or, in the event no executor or administrator has  
11 qualified, the next of kin of the deceased qualified retired law  
12 enforcement officer;

13 (4) An attorney, attorney-in-fact or other agent or  
14 representative acting pursuant to a written power of attorney or  
15 other written authorization signed by the qualified retired law  
16 enforcement officer; or

17 (5) A duly authorized representative of a law-enforcement  
18 agency for any official purpose or any other agency or  
19 instrumentality of federal, state or local government seeking  
20 the record in the ordinary course of performing its official  
21 duties.

22 (d) Before issuing or renewing any certificate under this  
23 section, the superintendent shall conduct an investigation which  
24 shall verify that the applicant is a qualified law enforcement

1 officer and is not prohibited by federal law or section seven of  
2 this article from possessing, transporting or receiving any  
3 firearm. This investigation shall conform to the requirements of  
4 18 U.S.C. § 922(t)(3)(A), 27 C.F.R. § 478.102(d)(1) or other  
5 applicable federal law for qualifying certificates issued under  
6 this section as an alternative to the national instant criminal  
7 background check system or other similar required background  
8 check for a resident of this state to purchase a firearm through  
9 a licensed firearms dealer within this state, including a  
10 background check conducted through the national instant criminal  
11 background check system.

12 (e) The superintendent of the state police and any employee  
13 or agent thereof shall be immune from civil liability as the  
14 result of the performance of his duties under this section and  
15 the rules adopted pursuant to this section.

16 (f) In this section, the definitions specified in 18 U.S.C.  
17 § 926C shall apply.

18 (g) A certification as a qualified retired law enforcement  
19 officer under this section shall be cumulative and supplemental  
20 to any license to carry concealed weapons under §61-7-4 or other  
21 authorization under the laws of this state to carry concealed  
22 weapons. This section is supplemental and additional to existing  
23 rights to bear arms, and nothing in this section shall impair or  
24 diminish such rights.

bill to require current and retired LEOs to be offered the training required for nationwide concealed carry under federal law

NOTE: The purpose of this bill is to require all law-enforcement agencies in this state to certify qualified law-enforcement officers to carry concealed firearms nationwide as provided by the federal Law Enforcement Officers Safety Act of 2004 and require law-enforcement agencies to provide qualified retired law-enforcement officers the opportunity to be certified to carry concealed firearms nationwide, as provided in said Act.

Strike-throughs indicate language which would be eliminated; underscoring indicates new language which would be added. §30-29-11 and §61-7-4a are new; therefore, strike-throughs and underscoring have been omitted.

This bill was proposed by Jim Mullins <[jmullins@wvcdl.org](mailto:jmullins@wvcdl.org)>