

# H. B. 2708

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(BY DELEGATES SWARTZMILLER AND M. POLING)

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[Introduced January 21, 2011; referred to the  
Committee on the Judiciary.]

A BILL to amend and reenact §15-10-4 of the Code of West Virginia, 1931, as amended, relating to removing a twelve-month limitation for certain agreements between or among law-enforcement agencies to remain in effect; and permitting agreements between or among different law-enforcement agencies to remain in effect unless terminated.

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

That §15-10-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. COOPERATION BETWEEN  
LAW - E N F O R C E M E N T  
AGENCIES.**

**§15-10-4. Cooperation between law-enforcement agencies and other groups of state or local law-enforcement officers.**

1           (a) The head of any law-enforcement agency, the head of  
2 any campus police or the head of the rangers of the  
3 Hatfield-McCoy regional recreational authority, as those  
4 terms are defined in section three of this article, may  
5 temporarily provide assistance and cooperation to another  
6 agency of the state criminal justice system or to a federal  
7 law-enforcement agency in investigating crimes or possible  
8 criminal activity if requested to do so in writing by the head  
9 of another law-enforcement agency or federal  
10 law-enforcement agency. Such assistance may also be  
11 provided upon the request of the head of the law-enforcement  
12 agency or federal law-enforcement agency without first being  
13 reduced to writing in emergency situations involving the  
14 imminent risk of loss of life or serious bodily injury. The  
15 assistance may include, but is not limited to, entering into a  
16 multijurisdictional task force agreement to integrate federal,  
17 state, county and municipal law-enforcement agencies or  
18 other groups of state or local law-enforcement officers, or  
19 any combination thereof, for the purpose of enhancing  
20 interagency coordination, intelligence gathering, facilitating  
21 multijurisdictional investigations, providing criminal justice  
22 enforcement personnel of the law-enforcement agency to

23 work temporarily with personnel of another agency,  
24 including in an undercover capacity, and making available  
25 equipment, training, technical assistance and information  
26 systems for the more efficient investigation, apprehension  
27 and adjudication of persons who violate the criminal laws of  
28 this state or the United States, and to assist the victims of  
29 such crimes. When providing the assistance under ~~the~~  
30 ~~provisions of this article~~, a head of a law-enforcement agency  
31 shall comply with all applicable statutes, ordinances, rules,  
32 policies or guidelines officially adopted by the state or the  
33 governing body of the city or county by which he or she is  
34 employed, and any conditions or restrictions included  
35 therein.

36 (b) While temporarily assigned to work with another  
37 law-enforcement agency or agencies, criminal justice  
38 enforcement personnel and other state and local  
39 law-enforcement officers shall have the same jurisdiction,  
40 powers, privileges and immunities, including those relating  
41 to the defense of civil actions, as such criminal justice  
42 enforcement personnel would enjoy if actually employed by  
43 the agency to which they are assigned, in addition to any  
44 corresponding or varying jurisdiction, powers, privileges and

45 immunities conferred by virtue of their continued  
46 employment with the assisting agency.

47 (c) While assigned to another agency or to a  
48 multijurisdictional task force, criminal justice enforcement  
49 personnel and other state and local law-enforcement officers  
50 shall be subject to the lawful operational commands of the  
51 superior officers of the agency or task force to which they are  
52 assigned, but for personnel and administrative purposes,  
53 including compensation, they shall remain under the control  
54 of the assisting agency. These assigned personnel shall  
55 continue to be covered by all employee rights and benefits  
56 provided by the assisting agency, including workers'  
57 compensation, to the same extent as though such personnel  
58 were functioning within the normal scope of their duties.

59 (d) No request or agreement between the heads of  
60 law-enforcement agencies, the heads of campus police or the  
61 head of the rangers of the Hatfield-McCoy regional  
62 recreation authority, made or entered into pursuant to ~~the~~  
63 ~~provisions of this article shall remain in force and effect for~~  
64 ~~a period of more than twelve months unless renewed in~~  
65 ~~writing by the parties thereto nor shall any request or~~  
66 ~~agreement made or entered into pursuant to the provisions of~~

67 ~~this article have force~~ or effect until a copy of said request or  
68 agreement is filed with the office of the circuit clerk of the  
69 county or counties in which the law-enforcement agencies,  
70 the campus police, or the Hatfield-McCoy regional recreation  
71 authority rangers involved operate. Agreements made  
72 pursuant to this article shall remain in effect unless and until  
73 the agreement is changed or withdrawn by the head of one of  
74 the law-enforcement agencies. Upon filing, the requests or  
75 agreements may be sealed, subject to disclosure pursuant to  
76 an order of a circuit court directing disclosure for good cause.  
77 Nothing in this article shall be construed to limit the authority  
78 of the head of a law-enforcement agency, the head of campus  
79 police or the head of the rangers of the Hatfield-McCoy  
80 regional recreation authority to withdraw from any  
81 agreement at any time.

82 (e) Nothing contained in this article shall be construed so  
83 as to grant, increase, decrease or in any manner affect the  
84 civil service protection or the applicability of civil service  
85 laws as to any criminal justice enforcement personnel, or as  
86 to any state or local law-enforcement officer or agency  
87 operating under the authority of this article, nor shall this  
88 article in any way reduce or increase the jurisdiction or

89 authority of any criminal justice enforcement personnel, or  
90 of any state or local law-enforcement officer or agency,  
91 except as specifically provided herein.

92 (f) Nothing contained in this article shall be construed so  
93 as to authorize the permanent consolidation or merger or the  
94 elimination of operations of participating federal, state,  
95 county municipal law-enforcement agencies, or other groups  
96 of state and local law-enforcement officers, the head campus  
97 police or the head of the rangers of the Hatfield-McCoy  
98 regional recreation authority.

NOTE: The purpose of this bill is to remove a twelve-month limitation for certain agreements between or among law-enforcement agencies to remain in effect. The bill also permits agreements between or among different law-enforcement agencies to remain in effect unless terminated.

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