

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 532

FISCAL
NOTE

BY SENATORS OJEDA, BEACH, FACEMIRE, PLYMALE,
RUCKER, SWOPE, UNGER, STOLLINGS, ROMANO, CLINE
AND MULLINS

[Introduced March 7, 2017; Referred
to the Committee on Government Organization; and
then to the Committee on Finance]

1 A BILL to amend and reenact §25-1-11c of the Code of West Virginia, 1931, as amended; to
 2 amend and reenact §31-20-27 of said code; and to amend and reenact §49-2-905 of said
 3 code, all relating to requiring correctional officers to be paid overtime for all hours worked
 4 beyond forty in a one-week work period.

Be it enacted by the Legislature of West Virginia:

1 That §25-1-11c of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; that §31-20-27 of said code be amended and reenacted; and that §49-2-905 of said
 3 code be amended and reenacted, all to read as follows:

CHAPTER 25. DIVISION OF CORRECTIONS.

ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

§25-1-11c. Hiring of other assistants and employees; duties of correctional employees; right to carry weapons; powers of correctional peace officers; overtime pay.

1 (a) The warden or administrator of the correctional institutions or units shall, in the manner
 2 provided in section eleven of this article, hire all assistants and employees required for the
 3 management of the correctional institutions or units, including a sufficient number of correctional
 4 employees to preserve order and enforce discipline among the inmates, to prevent escapes and
 5 to remove all persons convicted and sentenced to the custody of the Division of Corrections, from
 6 the place confined to a correctional institution, all of whom shall be under the control of the
 7 warden. The commissioner may issue a certificate authorizing any correctional employee who
 8 has successfully completed the division's training program for firearms certification, which shall
 9 be the equivalent of that required of deputy sheriffs, to carry firearms and concealed weapons
 10 while on duty. Any correctional employee authorized by the commissioner has the right, without
 11 a state license, to carry firearms and concealed weapons while on duty. Each correctional
 12 employee, authorized by the commissioner, shall carry with him or her a certificate authorizing
 13 him or her to carry a firearm or concealed weapon when performing his or her official duties as a
 14 correctional employee, bearing the official signature of the commissioner and warden or

15 administrator. The right is extended to a correctional employee during the time the employee
16 travels from place to place within the state for the purpose of removing prisoners from jails to a
17 correctional institution of the Division of Corrections, during the time the employee is pursuing
18 and apprehending escaped inmates and during any other time the employee is performing official
19 duties as a correctional employee. No correctional employee has the right to carry a firearm or
20 concealed weapon for any other purpose or during any other time, including when traveling to
21 and from the employee's residence and a correctional institution, unless the employee has
22 obtained a state license in the manner prescribed in article seven, chapter sixty-one of this code.

23 (b) All employees of the Division of Corrections are responsible for enforcing rules and
24 laws necessary for the control and management of correctional units and the maintenance of
25 public safety that is within the scope of responsibilities of the Division of Corrections.

26 (c) The Commissioner of Corrections may designate correctional employees as
27 correctional peace officers who have the authority:

28 (1) To detain persons for violations of state law committed on the property of any state
29 correctional institution;

30 (2) To conduct investigations regarding criminal activity occurring within a correctional
31 facility; and

32 (3) To execute criminal process or other process in furtherance of these duties.

33 (d) Beginning on and after July 1, 2017, correctional officers shall be paid overtime for all
34 hours worked over forty hours in each one-week work period.

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY

AUTHORITY.

§31-20-27. Employees of Regional Jail Authority; priority of hiring; civil service coverage,

overtime pay.

1 (a) Notwithstanding any provision of this code to the contrary, the authority, when hiring
2 employees to complete the approved staffing plan of a regional jail shall do so at a salary and
3 with benefits consistent with the approved plan of compensation of the Division of Personnel,
4 created under section five, article six, chapter twenty-nine of this code. All persons employed
5 under this subsection shall be placed in the civil service system as covered employees. On and
6 after January 1, 2008, the executive director, of the Regional Jail and Correctional Facility
7 Authority; all employees within the office of the executive director and all regional jail
8 administrators are exempt from coverage under the classified service.

9 (b) Persons employed under the provisions of this subsection shall be employed at a
10 salary and with benefits consistent with the approved plan of compensation of the Division of
11 Personnel, created under section five, article six, chapter twenty-nine of this code. All persons
12 employed under this subsection shall also be covered by the policies and procedures of the West
13 Virginia Public Employees Grievance Board created under section one, article three, chapter six-
14 c of this code.

15 (c) Notwithstanding the provisions of section ten, article six, chapter twenty-nine of this
16 code, and any rule promulgated thereunder, on and after July 1, 2007, any person applying for
17 employment with the Regional Jail and Correctional Facility Authority shall be hired based on
18 passage of the correctional officer examination without regard to his or her position on the
19 correctional officer register and shall be placed in the civil service system as covered employees:
20 *Provided*, That no such person shall be hired before an otherwise qualified person on a preference
21 register.

22 (d) Beginning on and after July 1, 2017, correctional officers shall be paid overtime for all
23 hours worked over forty hours in each one-week work period.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-905. Juvenile detention and corrections facility personnel, overtime pay.

1 (a) All persons employed at a juvenile detention or corrections facility shall be employed
2 at a salary and with benefits consistent with the approved plan of compensation of the Division of
3 Personnel, created under section five, article six, chapter twenty-nine of this code; all employees
4 will also be covered by the policies and procedures of the West Virginia Public Employees
5 Grievance Board, created under article two, chapter six-c of this code and the classified service
6 protection policies of the Division of Personnel.

7 (b) The Division of Juvenile Services of the Department of Military Affairs and Public Safety
8 is authorized to assign the necessary personnel and provide adequate space for the support and
9 operation of any facility operated by the Division of Juvenile Services of the Department of Military
10 Affairs and Public Safety providing for the detention of children as provided in this article, subject
11 to and not inconsistent with the appropriation and availability of funds.

12 (c) Beginning on and after July 1, 2017, correctional officers shall be paid overtime for all
13 hours worked over forty hours in each one-week work period.

NOTE: The purpose of this bill is to require that all correctional officers be paid overtime for all hours worked beyond 40 hours in each one-week work period.

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