

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**ENROLLED**

## **House Bill 2462**

BY DELEGATES HOLLEN, CANESTRARO, KELLY, D.,

FOSTER, FAST, HARSHBARGER AND MANDT

[Passed February 11, 2019; in effect ninety days from passage.]



1 AN ACT to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended,  
2 relating to authorizing the carrying of firearms by correctional employees; providing that  
3 after successful completion of designated firearms training, the commissioner may issue  
4 a certificate to carry division-issued firearms to correctional employees; establishing that  
5 authorized correctional employees may carry division-issued firearms during performance  
6 of official duties and when traveling to and from work; establishing the commissioner's  
7 firearm training program must be equivalent to the firearms training requirements for  
8 deputy sheriffs; requiring that the correctional employee must successfully complete an  
9 annual designated firearms course as established by the law enforcement professional  
10 standards program to maintain the certificate; and providing the certificate bearing the  
11 commissioner's signature shall be in a form prescribed by the commissioner.

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

**ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.**

**§15A-3-10. Law-enforcement powers of employees; authority to carry firearms.**

1 (a) Other than as outlined in this section, a correctional officer employed by the division is  
2 not a law-enforcement officer as that term is defined in §30-29-1 of this code.

3 (b) The commissioner is a law-enforcement official, and has the authority to use, and  
4 permit and allow or disallow his or her designated employees to use, publicly provided carriage  
5 to travel from their residences to their workplace and return: *Provided*, That the usage is subject  
6 to the supervision of the commissioner and is directly connected with and required by the nature  
7 and in the performance of the official's or designated employee's duties and responsibilities.

8 (c) All employees of the division are responsible for enforcing rules and laws necessary  
9 for the control and management of correctional units and the maintenance of public safety that is  
10 within the scope of responsibilities of the division.

11 (d) Persons employed by the Division of Corrections and Rehabilitation as correctional  
12 officers are authorized and empowered to make arrests of persons already charged with a

13 violation of law who surrender themselves to the correctional officer, to arrest persons already in  
14 the custody of the division for violations of law occurring in the officer's presence, to detain  
15 persons for violations of state law committed on the property of any facility under the jurisdiction  
16 of the commissioner, and to conduct investigations, pursue, and apprehend escapees from the  
17 custody of a facility of the division.

18 (e) The commissioner may designate correctional employees as correctional peace  
19 officers who have the authority:

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

22 (2) To conduct investigations regarding criminal activity occurring within a correctional  
23 facility;

24 (3) To execute criminal process or other process in furtherance of these duties; and

25 (4) To apply for, obtain, and execute search warrants necessary for the completion of his  
26 or her duties and responsibilities.

27 (f) The Corrections Special Operations Team is continued and consists of the Corrections  
28 Emergency Response Team, the K9 unit, and the Crisis Negotiations team created under the  
29 former Division of Corrections. The Corrections Special Operations Team serves as the first  
30 responder necessary for the protection of life, liberty, and property. It has limited law-enforcement  
31 authority regarding matters occurring at jails, correctional centers, and juvenile centers, and arrest  
32 powers to apprehend escapees, absconders, and in all matters arising on the grounds of a facility  
33 under the care and control of the commissioner: *Provided*, That at any time the Corrections  
34 Special Operations Team is apprehending an escapee or an absconder outside the confinement  
35 of the facility grounds, it does so with the assistance and cooperation of local law enforcement or  
36 the West Virginia State Police.

37 (g) Notwithstanding any provision of this code to the contrary, the commissioner may issue  
38 a certificate authorizing any correctional employee who has successfully completed the division's

39 training program for firearms certification to carry a firearm in the performance of his or her official  
40 duties. The training program shall be approved by the commissioner and be equivalent to the  
41 training requirements applicable to deputy sheriffs for the use and handling of firearms. Any  
42 correctional employee authorized to do so by the commissioner may carry division-issued  
43 firearms while in the performance of his or her official duties, which shall include travel to and  
44 from work sites. To maintain certification, a correctional employee must successfully complete an  
45 annual firearms qualification course equivalent to that required of certified law-enforcement  
46 officers as established by the law enforcement professional standards program. The certificate  
47 shall be on a form prescribed by the commissioner and shall bear his or her official signature.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2019.

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*Governor*