

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3363**

By Delegates Brooks, Foster, Kump, Hott, Ward,  
Honaker, Street, Dean, Bridges, Barnhart, and Kelly

[Introduced February 10, 2023; Referred to the  
Committee on Jails and Prisons then the Judiciary]

1 A BILL to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §30-29-1 of this code, relating to recognizing the law-enforcement  
 3 powers of correctional officers employed by the Division of Corrections and Rehabilitation.

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

**CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY.**

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

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

1 (a) ~~Other than as~~ As outlined in this section, a correctional officer employed by the division  
 2 is ~~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 to  
 5 travel from their residences to their workplace and return: *Provided*, That the usage is subject to  
 6 the supervision of the commissioner and is directly connected with and required by the nature and  
 7 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 for  
 9 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 or  
 15 arrest persons for violations of state law committed on the property of any facility under the  
 16 jurisdiction of the commissioner, and to conduct investigations, pursue, and apprehend escapees  
 17 from the 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 or  
26 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 firearms  
43 while in the performance of his or her official duties, which shall include travel to and from work  
44 sites. To maintain certification, a correctional employee must successfully complete an annual

45 firearms qualification course equivalent to that required of certified law-enforcement officers as  
46 established by the law enforcement professional standards program. The certificate shall be on a  
47 form prescribed by the commissioner and shall bear his or her official signature.

## **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

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

#### **§30-29-1. Definitions.**

1 For the purposes of this article, unless a different meaning clearly appears in the context:

2 (1) "Approved law-enforcement training academy" means any training facility which is  
3 approved and authorized to conduct law-enforcement training as provided in this article;

4 (2) "Chief executive" means the Superintendent of the State Police; the chief Natural  
5 Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia  
6 county; any administrative deputy appointed by the chief natural resources police officer of the  
7 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement  
8 agency;

9 (3) "County" means the 55 major political subdivisions of the state;

10 (4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or  
11 above;

12 (5) "Governor's Committee on Crime, Delinquency, and Correction" or "Governor's  
13 committee" means the Governor's Committee on Crime, Delinquency, and Correction established  
14 as a state planning agency pursuant to §15-9-1 of this code;

15 (6) "Law-enforcement officer" means any duly authorized member of a law-enforcement  
16 agency who is authorized to maintain public peace and order, prevent and detect crime, make  
17 arrests, and enforce the laws of the state or any county or municipality thereof, other than parking  
18 ordinances, and includes those persons employed as campus police officers at state institutions of  
19 higher education in accordance with the provisions of §18B-4-5 of this code, persons employed as

20 hospital police officers in accordance with the provisions of §16-5B-19 of this code, and persons  
21 employed by the Public Service Commission as motor carrier inspectors and weight-enforcement  
22 officers charged with enforcing commercial motor vehicle safety and weight restriction laws,  
23 although those institutions and agencies may not be considered law-enforcement agencies. The  
24 term also includes those persons employed as county litter control officers charged with enforcing  
25 litter laws: *Provided*, That those persons have been trained and certified as law-enforcement  
26 officers and that certification is currently active. The term also includes those persons employed as  
27 rangers by resort area districts in accordance with the provisions of §7-25-23 of this code,  
28 although no resort area district may be considered a law-enforcement agency: *Provided, however*,  
29 That the subject rangers shall pay the tuition and costs of training: *Provided, further, That the term*  
30 "law-enforcement officer" also includes those persons employed as correctional officers with the  
31 Division of Corrections and Rehabilitation in accordance with the provisions of §15A-3-10 of this  
32 code. As used in this article, the term "law-enforcement officer" does not apply to the chief  
33 executive of any West Virginia law-enforcement agency, nor to any watchman or special natural  
34 resources police officer;

35 (7) "Law-enforcement official" means the duly appointed chief administrator of a  
36 designated law-enforcement agency or a duly authorized designee;

37 (8) "Municipality" means any incorporated town or city whose boundaries lie within the  
38 geographic boundaries of the state;

39 (9) "Pre-certified law-enforcement officer" means a person employed or offered  
40 employment by a West Virginia law-enforcement agency prior to his or her initial certification by  
41 the subcommittee. This term does not include a person employed or offered employment by a  
42 West Virginia law-enforcement agency whose certification status is inactive, suspended, or has  
43 been revoked;

44 (10) "Subcommittee" or "law-enforcement professional standards subcommittee" means  
45 the subcommittee of the Governor's Committee on Crime, Delinquency, and Correction created by

46 §30-29-2 of this code; and

47 (11) "West Virginia law-enforcement agency" means any duly authorized state, county, or  
48 municipal organization employing one or more persons whose responsibility is the enforcement of  
49 laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service  
50 Commission nor any state institution of higher education, nor any hospital, nor any resort area  
51 district is a law-enforcement agency.

NOTE: The purpose of this bill is to bring state code into compliance with the Federal Law Enforcement Officers Safety Act (LEOSA) provision.

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