

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 3363

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

[Originating in the Committee on the Judiciary;

Reported on February 22, 2023]

1 A BILL to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended; relating
2 to recognizing the law-enforcement powers of correctional officers employed by the
3 Division of Corrections and Rehabilitation; providing that such officers are not subject to
4 certain certification requirements; authorizing the commissioner to consult with the Law
5 Enforcement Professional Standards Subcommittee with regard to training; clarifying
6 powers of arrest; and clarifying application of the federal Law Enforcement Officers Safety
7 act to eligible employees.

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 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: Provided, That~~
3 ~~such law-enforcement officers who have successfully completed the appropriate training program~~
4 ~~for correctional officers established by the commissioner pursuant to §15A-3-4 of this code are not~~
5 ~~subject to the certification requirements set forth in §30-29-1 et seq. of this code: *Provided,*~~
6 ~~however, That the commissioner may consult with the Law Enforcement Professional Standards~~
7 ~~Subcommittee of the Governor's Committee on Crime, Delinquency and Correction when~~
8 ~~designing his or her law-enforcement officer training course specifically for correctional officers.~~

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

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

17 (d) Persons employed by the Division of Corrections and Rehabilitation as correctional
18 officers are authorized and empowered to make arrests of persons already charged with a
19 violation of law who surrender themselves to the correctional officer, to arrest persons already in
20 the custody of the division for violations of law occurring in the officer's presence, to detain or
21 arrest persons for violations of state law committed on the property of any facility under the
22 jurisdiction of the commissioner, and to conduct investigations, pursue, and apprehend escapees
23 from the custody of a facility of the division.

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

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

28 (2) To conduct investigations regarding criminal activity occurring within a correctional
29 facility;

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

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

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

43 (g) Notwithstanding any provision of this code to the contrary, the commissioner may issue
44 a certificate authorizing any correctional employee who has successfully completed the division's
45 training program for firearms certification to carry a firearm in the performance of his or her official
46 duties. The training program shall be approved by the commissioner and be equivalent to the
47 training requirements applicable to deputy sheriffs for the use and handling of firearms. Any
48 correctional employee authorized to do so by the commissioner may carry division-issued firearms
49 while in the performance of his or her official duties, which shall include travel to and from work
50 sites. To maintain certification, a correctional employee must successfully complete an annual
51 firearms qualification course equivalent to that required of certified law-enforcement officers as
52 established by the law enforcement professional standards program. The certificate shall be on a
53 form prescribed by the commissioner and shall bear his or her official signature.

54 (h) The provisions of §30-29-12 of this code shall apply to all correctional officers employed
55 by the division who obtain and maintain his or her certificate issued pursuant to subsection (g) of
56 this section.