

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

## **House Bill 2462**

BY DELEGATES HOLLEN, CANESTRARO, KELLY, D. AND

FOSTER, FAST, HARSHBARGER AND MANDT

[Introduced January 16, 2019; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended, relating  
 2 to the training, qualification, certification and authorization for carry of firearms by  
 3 correctional employees; providing that after successful completion of designated firearms  
 4 training, the commissioner may issue a certificate to carry division issued firearms to  
 5 correctional employees; establishing that authorized correctional employees may carry  
 6 division-issued firearms during performance of official duties and when traveling to and  
 7 from work; establishing the commissioner's firearm training program must be equivalent  
 8 to the firearms training requirements for deputy sheriffs; requiring that the correctional  
 9 employee must successfully complete an annual designated firearms course as  
 10 established by legislative rule to maintain the certificate; and, providing the certificate  
 11 bearing the 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 hereby authorized and empowered to make arrests of persons already charged with

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

37 (g) The commissioner may issue a certificate authorizing any correctional employee who  
38 has successfully completed the division's training program for firearms certification, which is

39 approved by the commissioner and equivalent to the training requirements applicable to deputy  
40 sheriffs for the use and handling of firearms. Notwithstanding any provision of this code to the  
41 contrary, any correctional employee so authorized by the commissioner may carry division-issued  
42 firearms while in the performance of his or her official duties, including travel to and from work  
43 sites. The correctional employee must successfully complete an annual firearms qualification  
44 course equivalent to that required of certified law-enforcement officers as established by  
45 legislative rule to maintain the certificate. The certificate shall be in a form prescribed by the  
46 commissioner and shall bear his or her official signature.

NOTE: The purpose of this bill is to authorize the Commissioner of the Division of Corrections and Rehabilitation to authorize correctional employees to carry firearms and to establish certification and training requirements.

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