

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **ENROLLED**

## **House Bill 4297**

BY DELEGATES BROOKS, CHIARELLI, HOTT, KELLY, KIRBY,

MALLOW, MAYNOR, E. PRITT, STEELE AND DEVAULT

[Passed March 9, 2024; 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 recognizing that certain designated correctional officers are law enforcement  
3 officers for purposes of the Law Enforcement Officers Safety Act, 18 U.S.C. §926B;  
4 establishing requirements for eligibility; setting forth training requirements; stating the  
5 intent of the Legislature; and declaring that the Commissioner of Corrections has  
6 discretion as to eligibility and operation of the program.

*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.**

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

9 (b) The commissioner is a law-enforcement official, and may, and permit and allow or  
10 disallow his or her designated employees to use, publicly provided carriage to travel from their  
11 residences to their workplace and return: *Provided*, That the usage is subject to the supervision  
12 of the commissioner and is directly connected with and required by the nature and in the  
13 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  
15 for 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 may make arrests of persons already charged with a violation of law who surrender  
19 themselves to the correctional officer, arrest persons already in the custody of the division for  
20 violations of law occurring in the officer's presence, detain or arrest persons for violations of state  
21 law committed on the property of any facility under the jurisdiction of the commissioner, and  
22 conduct investigations, pursue, and apprehend escapees from the custody of a facility of the  
23 division.

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

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

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

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

31 (4) Apply for, obtain, and execute search warrants necessary for the completion of their  
32 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  
49 firearms while in the performance of his or her official duties, which shall include travel to and

50 from work sites. To maintain certification, a correctional employee must successfully complete an  
51 annual firearms qualification course equivalent to that required of certified law-enforcement  
52 officers as established by the law enforcement professional standards program. The certificate  
53 shall be on a form prescribed by the commissioner and shall bear his or her official signature.

54 (h) In recognition of the duties of their employment supervising the confinement and  
55 transportation of inmates, and their arrest powers referenced in this section which constitute law  
56 enforcement, correctional officers with the power to arrest and who have been authorized to carry  
57 firearms by the Commissioner are determined to be qualified law-enforcement officers as that  
58 term is used in 18 U.S.C. § 926B.

59 (i) Any state designated correctional officer may carry a concealed firearm for self-defense  
60 purposes pursuant to the provisions of 18 U.S.C. § 926B, if the following criteria are met:

61 (1) The Commissioner of Corrections has a written policy authorizing correctional officers  
62 to carry a concealed firearm for self-defense purposes;

63 (2) There is in place a requirement that the designated correctional officers annually  
64 qualify in the use of a firearm with standards for qualification which are equal to, or exceed, those  
65 required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

66 (3) The Commissioner issues a photographic identification and certification card which  
67 identify the designated correctional officers as qualified law-enforcement employees pursuant to  
68 the provisions of this subsection.

69 (j) Any policy instituted pursuant to this section shall include provisions which:

70 (1) Preclude or remove a person from participation in the concealed firearm program;

71 (2) Preclude from participation persons prohibited by federal or state law from possessing  
72 or receiving a firearm and;

73 (3) Prohibit persons from carrying a firearm pursuant to the provisions of this subsection  
74 while in an impaired state as defined in §17C-5-2 of this code.

75           (k) Any designated correctional officer who participates in a program authorized by the  
76 provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining  
77 a suitable firearm and ammunition.

78           (l) It is the intent of the Legislature in enacting the amendments to this section during the  
79 2024 regular session of the Legislature to authorize designated correctional officers wishing to do  
80 so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §  
81 926B.

82           (m) The privileges authorized by the amendments to this section enacted during the 2024  
83 regular session of the Legislature are wholly within the discretion of the Commission.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect ninety days from passage.

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*Speaker of the House of Delegates*

.....  
*President of the Senate*

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The within is ..... this the.....  
Day of ....., 2024.

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*Governor*