

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2362

By Delegate Kelly

[Introduced February 13, 2025 ; 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 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 are not subject to
 5 the certification requirements set forth in §30-29-1 et seq.: Provided, however, That the
 6 commissioner may consult with the Law Enforcement Professional Standards Subcommittee of
 7 the Governor's Committee on Crime, Delinquency and Correction when designing his or her law-
 8 enforcement officer training course specifically for correctional officers.

9 (b) The commissioner is a law-enforcement official, and ~~may~~ 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 ~~may~~ 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 ~~may~~ have the authority:

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

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

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

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

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

43 the West Virginia State Police.

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

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

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

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

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

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

69 the provisions of this subsection.

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

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

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

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

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

79 (l) It is the intent of the Legislature in enacting the amendments to this section during the
80 2024 regular session of the Legislature to authorize designated correctional officers wishing to do
81 so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §
82 926B.

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

85 (n) The provisions of §30-29-12 shall apply to all correctional officers employed by the
86 division who obtain and maintain his or her certificate issued pursuant to subsection (g) of this
87 section.

NOTE: The purpose of this bill is to recognize the law-enforcement powers of correctional officers employed by the Division of Corrections and Rehabilitation; provide that such officers are not subject to certain certification requirements; authorize the commissioner to consult with the Law Enforcement Professional Standards Subcommittee with regard to training; clarify powers of arrest; and clarify application of the federal Law Enforcement Officers Safety act to eligible employees.

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