

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 279**

BY SENATOR OJEDA

[Introduced January 15, 2018; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §25-1-11c of the Code of West Virginia, 1931, as amended; to  
 2 amend and reenact §31-20-27 of said code; and to amend and reenact §49-2-905 of said  
 3 code, all relating to requiring correctional officers to be paid overtime for all hours worked  
 4 beyond forty hours in a one-week work period.

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

**CHAPTER 25. DIVISION OF CORRECTIONS.**

**ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.**

**§25-1-11c. Hiring of other assistants and employees; duties of correctional employees;  
 right to carry weapons; powers of correctional peace officers; overtime pay.**

1 (a) The warden or administrator of the correctional institutions or units shall, in the manner  
 2 provided in section eleven of this article, hire all assistants and employees required for the  
 3 management of the correctional institutions or units, including a sufficient number of correctional  
 4 employees to preserve order and enforce discipline among the inmates, to prevent escapes and  
 5 to remove all persons convicted and sentenced to the custody of the Division of Corrections, from  
 6 the place confined to a correctional institution, all of whom shall be under the control of the  
 7 warden. The commissioner may issue a certificate authorizing any correctional employee who  
 8 has successfully completed the division's training program for firearms certification, which shall  
 9 be the equivalent of that required of deputy sheriffs, to carry firearms and concealed weapons  
 10 while on duty. Any correctional employee authorized by the commissioner has the right, without  
 11 a state license, to carry firearms and concealed weapons while on duty. Each correctional  
 12 employee, authorized by the commissioner, shall carry with him or her a certificate authorizing  
 13 him or her to carry a firearm or concealed weapon when performing his or her official duties as a  
 14 correctional employee, bearing the official signature of the commissioner and warden or  
 15 administrator. The right is extended to a correctional employee during the time the employee  
 16 travels from place to place within the state for the purpose of removing prisoners from jails to a

17 correctional institution of the Division of Corrections, during the time the employee is pursuing  
18 and apprehending escaped inmates and during any other time the employee is performing official  
19 duties as a correctional employee. No correctional employee has the right to carry a firearm or  
20 concealed weapon for any other purpose or during any other time, including when traveling to  
21 and from the employee's residence and a correctional institution, unless the employee has  
22 obtained a state license in the manner prescribed in §61-7-1 *et seq.* of this code.

23 (b) All employees of the Division of Corrections are responsible for enforcing rules and  
24 laws necessary for the control and management of correctional units and the maintenance of  
25 public safety that is within the scope of responsibilities of the Division of Corrections.

26 (c) The Commissioner of Corrections may designate correctional employees as  
27 correctional peace officers who have the authority:

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

30 (2) To conduct investigations regarding criminal activity occurring within a correctional  
31 facility; and

32 (3) To execute criminal process or other process in furtherance of these duties.

33 (d) After June 30, 2018, correctional officers shall be paid overtime for all hours worked  
34 over forty hours in each one-week work period.

## CHAPTER 31. CORPORATIONS.

### ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

#### §31-20-27. Employees of Regional Jail Authority; priority of hiring; civil service coverage; overtime pay.

1 (a) Notwithstanding any provision of this code to the contrary, the authority, when hiring  
2 employees to complete the approved staffing plan of a regional jail shall do so at a salary and

3 with benefits consistent with the approved plan of compensation of the Division of Personnel,  
4 created under §29-6-5 of this code. All persons employed under this subsection shall be placed  
5 in the civil service system as covered employees. On and after January 1, 2008, the executive  
6 director, of the Regional Jail and Correctional Facility Authority, all employees within the office of  
7 the executive director, and all regional jail administrators are exempt from coverage under the  
8 classified service.

9 (b) Persons employed under the provisions of this subsection shall be employed at a  
10 salary and with benefits consistent with the approved plan of compensation of the Division of  
11 Personnel, created under §29-6-5 of this code. All persons employed under this subsection shall  
12 also be covered by the policies and procedures of the West Virginia Public Employees Grievance  
13 Board created under §6C-3-1 of this code.

14 (c) Notwithstanding the provisions of §29-6-10, and any rule promulgated thereunder, on  
15 and after July 1, 2007, any person applying for employment with the Regional Jail and  
16 Correctional Facility Authority shall be hired based on passage of the correctional officer  
17 examination without regard to his or her position on the correctional officer register and shall be  
18 placed in the civil service system as covered employees: *Provided*, That no such person shall be  
19 hired before an otherwise qualified person on a preference register.

20 (d) After June 30, 2018, correctional officers shall be paid overtime for all hours worked  
21 over forty hours in each one-week work period.

## CHAPTER 49. CHILD WELFARE.

### ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

#### **49-2-905. Juvenile detention and corrections facility personnel; overtime pay.**

1 (a) All persons employed at a juvenile detention or corrections facility shall be employed  
2 at a salary and with benefits consistent with the approved plan of compensation of the Division of  
3 Personnel, created under §29-6-5 of this code; all employees will also be covered by the policies

4 and procedures of the West Virginia Public Employees Grievance Board, created under §6C-2-1  
5 *et seq.* of this code and the classified service protection policies of the Division of Personnel.

6 (b) The Division of Juvenile Services of the Department of Military Affairs and Public Safety  
7 is authorized to assign the necessary personnel and provide adequate space for the support and  
8 operation of any facility operated by the Division of Juvenile Services of the Department of Military  
9 Affairs and Public Safety providing for the detention of children as provided in this article, subject  
10 to and not inconsistent with the appropriation and availability of funds.

11 (c) Beginning on and after July 1, 2017, correctional officers shall be paid overtime for all  
12 hours worked over forty hours in each one-week work period.

NOTE: The purpose of this bill is to require that all correctional officers be paid overtime for all hours worked beyond 40 hours in each one-week work period.

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