

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

House Bill 4297

By Delegates Brooks, Chiarelli, Hott, Kelly, Kirby,
Mallow, Maynor, E. Pritt, Steele and DeVault

[Introduced January 10, 2024; Referred
to the Committee on Jails and Prisons
then 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 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 *Provided further,* That nothing in this subsection shall be construed as expanding the scope of the
10 law-enforcement powers granted to a correctional officer, correctional peace officer, or Corrections
11 Special Operations Team officer by the provisions of this section.

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

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

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

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

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

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

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

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

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

43 Special Operations Team is apprehending an escapee or an absconder outside the confinement
44 of the facility grounds, it does so with the assistance and cooperation of local law enforcement or
45 the West Virginia State Police.

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

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