WEST VIRGINIA CODE CHAPTER 15 ARTICLE 10

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§15-10-1. Short title.

This article shall be known as the "West Virginia Law-Enforcement Mutual Assistance Act".

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§15-10-2. Legislative findings.

The Legislature hereby finds and declares that the commission of various crimes against the peace and dignity of the State of West Virginia quite often crosses county and municipal boundaries, affecting the citizenry of this state and making difficult the tasks of detecting and preventing crime by law-enforcement agencies due to restrictions imposed by municipal and county boundaries; that many county and municipal law-enforcement agencies do not, by themselves, have sufficient resources in personnel, equipment and particular areas of expertise to adequately prevent or detect those crimes or criminal activities which cross such county and municipal boundaries; that it is in the best interest of the citizens of this state for law-enforcement agencies to share resources and to provide mutual assistance to each other; and that, therefore, the Legislature finds and declares that the various law-enforcement agencies within the state should be permitted and empowered to share resources and provide mutual assistance for the prevention and detection of crime.

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§15-10-3. Definitions.

For purposes of this article only, and unless a different meaning plainly is required:

"Criminal justice enforcement personnel" means those persons:

(1) Within the state criminal justice system who are actually employed as members of the State Police, members of the Division of Protective Services, natural resources police officers, chiefs of police, police of incorporated municipalities, and county sheriffs and their deputies whose primary duties are investigating crime and apprehending criminals; and

(2) Within an adjoining state's criminal justice system who are actually employed as members of a law-enforcement agency and whose primary duties are investigating crime and apprehending criminals.

"Head of a law-enforcement agency" means the Superintendent of the State Police, the Director of the Division of Protective Services, the chief natural resources police officer of the Division of Natural Resources, a chief of police of an incorporated municipality, a county sheriff, or the Director of the Division of Forestry.

"Head of campus police" means the superintendent or administrative head of state or local law-enforcement officers employed as campus police officers at any state institutions of higher education in accordance with the provisions of §18B-4-5 of this code.

"Law-enforcement agency" means an agency of the United States, a state, or a political subdivision of a state, authorized by law to enforce, engage in, or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law to include the State Police, Division of Protective Services, the Natural Resources Police of the Division of Natural Resources, a police department of an incorporated municipality, the Office of the Sheriff of any West Virginia county, or the Division of Forestry.

"State or local law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests, and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and includes persons employed as campus police officers at state institutions of higher education in accordance with the provisions of §18B-4-5 of this code, although those institutions may not be considered law-enforcement agencies.

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§15-10-4. Cooperation between law-enforcement agencies and other groups of state or local law-enforcement officers.

(a) The head of any law-enforcement agency, or the head of any campus police, as those terms are defined in §15-10-3 of this code, may temporarily provide assistance and cooperation to another law-enforcement agency of the state or to a federal law-enforcement agency in investigating crimes or possible criminal activity if requested to do so in writing by the head of another law-enforcement agency of the state or federal law-enforcement agency. The head of any law-enforcement agency of this state, or the head of any campus police, as those terms are defined in §15-10-3 of this code, may temporarily receive assistance and cooperation from a law-enforcement agency of an adjoining state in investigating crimes or possible criminal activity if requested to do so in writing and in accordance with the provisions of this section. Such assistance may also be provided upon the request of the head of the law-enforcement agency or federal law-enforcement agency without first being reduced to writing in emergency situations involving the imminent risk of loss of life or serious bodily injury. The assistance may include, but is not limited to, entering into a multijurisdictional task force agreement to integrate federal, state, county and municipal law-enforcement agencies or other groups of state or local law-enforcement officers, or any combination thereof, for the purpose of enhancing interagency coordination, intelligence gathering, facilitating multijurisdictional investigations, providing criminal justice enforcement personnel of the law-enforcement agency to work temporarily with personnel of another agency, including in an undercover capacity, and making available equipment, training, technical assistance and information systems for the more efficient investigation, apprehension and adjudication of persons who violate the criminal laws of this state or the United States and to assist the victims of such crimes. When providing the assistance under this article, a head of a law-enforcement agency shall comply with all applicable statutes, ordinances, rules, policies, or guidelines officially adopted by the state or the governing body of the city or county by which he or she is employed and any conditions or restrictions included therein.

(b) While temporarily assigned to work with another law-enforcement agency or agencies, criminal justice enforcement personnel and other state and local law-enforcement officers shall have the same jurisdiction, powers, privileges and immunities, including those relating to the defense of civil actions, as such criminal justice enforcement personnel would enjoy if actually employed by the agency to which they are assigned, in addition to any corresponding or varying jurisdiction, powers, privileges and immunities conferred by virtue of their continued employment with the assisting agency.

(c) While assigned to another agency or to a multijurisdictional task force, criminal justice enforcement personnel and other state and local law-enforcement officers shall be subject to the lawful operational commands of the superior officers of the agency or task force to which they are assigned, but for personnel and administrative purposes, including compensation, they shall remain under the control of the assisting agency. These assigned personnel shall continue to be covered by all employee rights and benefits provided by the assisting agency,

including workers' compensation, to the same extent as though such personnel were functioning within the normal scope of their duties.

(d) No request or agreement between the heads of law-enforcement agencies, or the heads of campus police, made or entered into pursuant to this article shall remain in force or effect until a copy of said request or agreement is filed with the office of the circuit clerk of the county or counties in which the law-enforcement agencies, or the campus police, involved operate. Agreements made pursuant to this article shall remain in effect unless and until the agreement is changed or withdrawn in writing by the head of one of the law-enforcement agencies. Upon filing, the requests or agreements may be sealed, subject to disclosure pursuant to an order of a circuit court directing disclosure for good cause. Nothing in this article shall be construed to limit the authority of the head of a law-enforcement agency or the head of campus police to withdraw from any agreement at any time.

(e) Nothing contained in this article shall be construed so as to grant, increase, decrease or in any manner affect the civil service protection or the applicability of civil service laws as to any criminal justice enforcement personnel, or as to any state or local law-enforcement officer or agency operating under the authority of this article, nor shall this article in any way reduce or increase the jurisdiction or authority of any criminal justice enforcement personnel, or of any state or local law-enforcement officer or agency, except as specifically provided herein.

(f) Nothing contained in this article shall be construed so as to authorize the permanent consolidation or merger or the elimination of operations of participating federal, state, county, and municipal law-enforcement agencies, or other groups of state and local law-enforcement officers, or campus police.

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§15-10-5. Federal officers' peace-keeping authority.

(a) Notwithstanding any provision of this code to the contrary, any person who is employed by the United States government as a federal law-enforcement officer and is listed in subsection (b) of this section has the same authority to enforce the laws of this state, except state or local traffic laws or parking ordinances, as that authority granted to state or local law-enforcement officers, if one or more of the following circumstances exist:

(1) The federal law-enforcement officer is requested to provide temporary assistance by the head of a state or local law-enforcement agency or the designee of the head of the agency and that request is within the state or local law-enforcement agency's scope of authority and jurisdiction and is in writing: *Provided*, That the request does not need to be in writing if an emergency situation exists involving the imminent risk of loss of life or serious bodily injury;

(2) The federal law-enforcement officer is requested by a state or local law-enforcement officer to provide the officer temporary assistance when the state or local law-enforcement officer is acting within the scope of the officer's authority and jurisdiction and where exigent circumstances exist; or

(3) A felony is committed in the federal law-enforcement officer's presence or under circumstances indicating a felony has just occurred.

(b) This section applies to the following persons who are employed as full-time federal law-enforcement officers by the United States government and who are authorized to carry firearms while performing their duties:

(1) Federal Bureau of Investigation special agents;

(2) Drug Enforcement Administration special agents;

(3) United States Marshals Service marshals and deputy marshals;

(4) United States Postal Service inspectors;

(5) Internal Revenue Service special agents;

(6) United States Secret Service special agents;

(7) Bureau of Alcohol, Tobacco, and Firearms special agents;

(8) Police officers employed at the Federal Bureau of Investigation's criminal justice information services division facility located within this state;

(9) Department of Veterans Affairs Police and Department of Veterans Affairs special investigators;

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(10) Office of Inspector General special agents;

(11) Federal Air Marshals with the Federal Air Marshal Service;

(12) United States Fish and Wildlife Service special agents and law enforcement;

(13) Diplomatic Security Service special agents;

(14) Coast Guard special agents;

(15) Customs and Border Protection law-enforcement agents and officers;

(16) Department of Defense special agents;

(17) Federal Protective Service officers;

(18) Federal Bureau of Prisons officers;

(19) Immigration and Customs Enforcement special agents and law enforcement; and

(20) Military law-enforcement personnel, including military criminal investigative organizations, of any component of the armed forces of the United States or National Guard of this state or another, whose military personnel are conducting law-enforcement missions, corrections missions, or other similar operations.

(c) Notwithstanding any provision of this code to the contrary, law-enforcement commissioned rangers of the National Park Service have the powers of arrest, search, and seizure as to any offense under the laws of this state committed within the boundaries of a national park, national recreation area, or on other real property included in the National Park System.

(d) Notwithstanding any provision of this code to the contrary, law-enforcement officers and special agents commissioned by the United States Forest Service have the powers of arrest, search, and seizure as to any offense under the laws of this state committed within the boundaries of national forests or on other real property managed or overseen by the United States Forestry Service and while acting in the scope of their official duties on such federally managed lands.

(e) Any person acting under the authority granted pursuant to this section:

(1) Has the same authority and is subject to the same exemptions and exceptions to this code as a state or local law-enforcement officer;

(2) Is not an officer, employee, or agent of any state or local law-enforcement agency;

(3) May not initiate or conduct an independent investigation into an alleged violation of any provision of this code except to the extent necessary to preserve evidence or testimony at

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risk of loss immediately following an occurrence described in subdivision (3), subsection (a) of this section: *Provided*, That law-enforcement commissioned rangers of the National Park Service and law-enforcement officers and special agents commissioned by the United States Forest Service may undertake an independent investigation pursuant to the authority described in subsections (c) and (d) of this section: *Provided, however*, That nothing in this section shall be construed to permit law-enforcement officers of the National Park Service, or the United States Forest Service, to initiate or conduct investigations unrelated to activities occurring on federal lands managed or overseen by the National Park Service or the United States Forest Service;

(4) Is subject to 28 U.S.C. § 1346, the Federal Tort Claims Act; and

(5) Has the same immunities from liability as a state or local law-enforcement officer.

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§15-10-6. Transportation of out-of-state prisoners; authority of foreign law-enforcement officers.

(a) Duly authorized law enforcement officers of the United States, the District of Columbia and other states or political subdivisions thereof who are transporting prisoners through this state, delivering prisoners to this state or taking custody of a person in this state for transport to another jurisdiction are deemed to have lawful custody of said prisoner while in this state.

(b) Given that duly authorized officers of other jurisdictions often have a need to travel through or to this state with prisoners for short durations of time, such as for medical treatment, the purpose of this section is to clarify the authority and jurisdiction of those officers of the United States, the District of Columbia and other states while having custody of a prisoner during the time they are in West Virginia.

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§15-10-7. Cooperation with military authorities.

(a) The head of a law-enforcement agency or head of a campus police department, as those positions are defined in §15-10-3 of this code, may assign law-enforcement personnel under his or her command, or a prosecuting attorney of any county within the state, may assign an assistant prosecutor within their office to provide assistance, cooperation, and information to the National Guard of this state or any service component of the armed forces of the United States Department of Defense located in this state upon the written request of the Adjutant General or commanding officer of the unit or facility.

(b) A law-enforcement agency, campus police department, or prosecuting attorney shall, within a reasonable time after receiving a written request made by the Adjutant General or commanding officer of a National Guard unit located within the state, disclose all records and information pertaining to the following in which an alleged offender or victim is a member of the National Guard of this state or any service component of the armed forces of the United States located in this state:

(1) Alleged violations of the federal and state Codes of Military Justice;

(2) Alleged violations of the criminal laws of the United States and the State of West Virginia;

(3) Investigations and other actions related to reports of sexual assault or sexual harassment, to include any cases of reprisal or retaliation;

(4) Violations of military directives, regulations, or instruction; and

(5) Notwithstanding the provisions of §61-8B-19 of this code, alleged violations of the offenses enumerated in §61-8A-1 *et seq*., §61-8B-1 *et seq*., §61-8C-1 *et seq*., or §61-14-1 *et seq*. of this code, or for the offenses included in §61-8D-3a, §61-8D-5, and §61-8D-6 of this code.

(c) The purpose of this section is to support the military by providing it objective, qualified law-enforcement services.

(d) The purpose of the amendments made to this section during the regular session of the Legislature, 2024, are to ensure force readiness of the National Guard and the armed forces by providing objective, relevant, and timely information related to military personnel; protecting members who may be the victims of a crime; and ensuring command awareness of members who may be subject to a criminal investigation.

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§15-10-8. Statewide cold case task force.

(a) This section establishes a statewide multi-jurisdictional cold case task force within the State Police. The executive board of the cold case task force shall consist of the Superintendent of the State Police, the President of the West Virginia Chiefs of Police Association, and the President of the West Virginia Sheriffs' Association. Meetings of the executive board are not subject to the provisions of §6-9A-1 *et seq*. of this code.

(b) The purpose of the cold case task force is the investigation and prosecution of offenders in cold cases, as that term is defined in §15A-12-9 of this code: *Provided*, That nothing in this section shall be construed as authorizing the cold case task force to supersede the ongoing investigations of any other law-enforcement agency.

(c) The executive board shall provide recommendations on procedures to effectuate the purposes of this section, including, but not limited to, the number of law-enforcement officers assigned to the cold case task force.

(d) Subject to available funds, the Task Force Director shall be the head of the cold case task force and shall be selected by the Superintendent of the State of Police from the membership of the State Police. The remaining membership of the cold case task force shall be designated by the Superintendent of the State Police, subject to available funds, and may include retired state police as volunteers or part-time employees, subject to available funds.

(e) The Task Force Director shall:

(1) Supervise the members of the State Police assigned to the cold case task force;

(2) Request assistance and cooperation of any West Virginia law-enforcement agency pursuant to the provisions of §15-10-4 of this code to assist the cold case task force’s establishment or operation if necessary: *Provided*, That the Task Force Director may provide the opportunity to participate in the cold case task force to any law-enforcement officer from the agency originally investigating the cold case, as directed by the administrator from the agency originally investigating the cold case;

(3) Coordinate and cooperate with any other federal or state law-enforcement agencies;

(4) Establish policies and procedures for the operation of the cold case task force and ensure compliance;

(5) Manage and coordinate the day-to-day operations of the cold case task force established under the provisions of this section; and

(6) Perform other duties as may be required to effectuate the purposes of this section.

(f) The Cold Case Task Force Fund is created within the Treasury. The fund shall be administered by the Superintendent of the State Police and shall consist of all moneys made

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available for the operations of the cold case task force from any source, including, but not limited to, all fees, gifts, grants, bequests, or transfers from any source, any moneys that may be appropriated and designated for the cold case task force by the Legislature and all interest or other return earned from investment of the fund. Expenditures from the fund shall be for the operations of the cold case task force and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq*. of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq*. of this code: *Provided*, That for the fiscal year ending June 30, 2027, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature.

(g) The Director of the West Virginia Fusion Center shall cooperate with the executive board to the fullest extent practicable to provide information necessary to accomplish the mission of the cold case task force and shall make available any information contained in the cold case database established in §15A-12-9 of this code.

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