

# WEST VIRGINIA CODE: §15A-3-10

## **§15A-3-10. Law-enforcement powers of employees; authority to carry firearms.**

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

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

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

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

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

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

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

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

(4) Apply for, obtain, and execute search warrants necessary for the completion of their duties and responsibilities.

(f) The Corrections Special Operations Team is continued and consists of the Corrections Emergency Response Team, the K9 unit, and the Crisis Negotiations team created under the former Division of Corrections. The Corrections Special Operations Team serves as the first responder necessary for the protection of life, liberty, and property. It has limited law-enforcement authority regarding matters occurring at jails, correctional centers, and juvenile centers, and arrest powers to apprehend escapees, absconders, and in all matters

arising on the grounds of a facility under the care and control of the commissioner: *Provided*, That at any time the Corrections Special Operations Team is apprehending an escapee or an absconder outside the confinement of the facility grounds, it does so with the assistance and cooperation of local law enforcement or the West Virginia State Police.

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

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

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

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

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

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

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

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

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

(3) Prohibit persons from carrying a firearm pursuant to the provisions of this subsection

while in an impaired state as defined in §17C-5-2 of this code.

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

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

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