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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 3096

(By Delegates Craig, Howard, Leach, Morgan,
Smirl, Webb and Kominar)



Passed March 10, 2004

In Effect Ninety Days from Passage

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H. B. 3096

(BY DELEGATES CRAIG, HOWARD, LEACH, MORGAN,
SMIRL, WEBB AND KOMINAR)

[Passed March 10, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §15-10-3, §15-10-4 and §15-10-5 of the code of West Virginia, 1931, as amended, all relating to authorizing cooperation of campus police and rangers employed by the Hatfield-McCoy regional recreation authority with other law-enforcement agencies.

Be it enacted by the Legislature of West Virginia:

That §15-10-3, §15-10-4 and §15-10-5 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGEN- CIES.

§15-10-3. Definitions.

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

3 (1) “Criminal justice enforcement personnel” means those
4 persons within the state criminal justice system who are
5 actually employed as members of the division of public safety,
6 members of the division of protective services, state conserva-
7 tion officers, chiefs of police and police of incorporated
8 municipalities, and county sheriffs and their deputies, and
9 whose primary duties are the investigation of crime and the
10 apprehension of criminals.

11 (2) “Head of a law-enforcement agency” means the
12 superintendent of the division of public safety, the director of
13 the division of protective services, the chief conservation
14 officer of the division of natural resources, a chief of police of
15 an incorporated municipality or a county sheriff.

16 (3) “State or local law-enforcement officer” means any duly
17 authorized member of a law-enforcement agency who is
18 authorized to maintain public peace and order, prevent and
19 detect crime, make arrests and enforce the laws of the state or
20 any county or municipality thereof, other than parking ordi-
21 nances, and includes those persons employed as campus police
22 officers at state institutions of higher education in accordance
23 with the provisions of section five, article four, chapter eigh-
24 teen-b of this code, although those institutions may not be
25 considered law-enforcement agencies. The term also includes
26 those persons employed as rangers by the Hatfield-McCoy
27 regional recreation authority in accordance with the provisions
28 of section six, article fourteen, chapter twenty of this code,
29 although the authority may not be considered a law-enforce-
30 ment agency.

31 (4) “Head of campus police” means the superintendent or
32 administrative head of state or local law-enforcement officers

33 employed as campus police officers at state institutions of
34 higher education in accordance with the provisions of section
35 five, article four, chapter eighteen-b of this code.

36 (5) “Head of the rangers of the Hatfield-McCoy regional
37 recreation authority” means the superintendent or administra-
38 tive head of state or local law-enforcement officers employed
39 as rangers by the Hatfield-McCoy regional recreation authority
40 in accordance with the provisions of section six, article four-
41 teen, chapter twenty of this code.

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

1 (a) The head of any law-enforcement agency, the head of
2 any campus police or the head of the rangers of the Hatfield-
3 McCoy regional recreational authority, as those terms are
4 defined in section three of this article, may temporarily provide
5 assistance and cooperation to another agency of the state
6 criminal justice system or to a federal law-enforcement agency
7 in investigating crimes or possible criminal activity if requested
8 to do so in writing by the head of another law-enforcement
9 agency or federal law-enforcement agency. Such assistance
10 may also be provided upon the request of the head of the
11 law-enforcement agency or federal law-enforcement agency
12 without first being reduced to writing in emergency situations
13 involving the imminent risk of loss of life or serious bodily
14 injury. The assistance may include, but is not limited to,
15 entering into a multijurisdictional task force agreement to
16 integrate federal, state, county and municipal law-enforcement
17 agencies or other groups of state or local law-enforcement
18 officers, or any combination thereof, for the purpose of enhanc-
19 ing interagency coordination, intelligence gathering, facilitating
20 multijurisdictional investigations, providing criminal justice
21 enforcement personnel of the law-enforcement agency to work

22 temporarily with personnel of another agency, including in an
23 undercover capacity, and making available equipment, training,
24 technical assistance and information systems for the more
25 efficient investigation, apprehension and adjudication of
26 persons who violate the criminal laws of this state or the United
27 States, and to assist the victims of such crimes. When providing
28 the assistance under the provisions of this article, a head of a
29 law-enforcement agency shall comply with all applicable
30 statutes, ordinances, rules, policies or guidelines officially
31 adopted by the state or the governing body of the city or county
32 by which he or she is employed, and any conditions or restric-
33 tions included therein.

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

44 (c) While assigned to another agency or to a multijurisdic-
45 tional task force, criminal justice enforcement personnel and
46 other state and local law-enforcement officers shall be subject
47 to the lawful operational commands of the superior officers of
48 the agency or task force to which they are assigned, but for
49 personnel and administrative purposes, including compensation,
50 they shall remain under the control of the assisting agency.
51 These assigned personnel shall continue to be covered by all
52 employee rights and benefits provided by the assisting agency,
53 including workers' compensation, to the same extent as though
54 such personnel were functioning within the normal scope of
55 their duties.

56 (d) No request or agreement between the heads of law-
57 enforcement agencies, the heads of campus police or the head
58 of the rangers of the Hatfield-McCoy regional recreation
59 authority, made or entered into pursuant to the provisions of
60 this article shall remain in force and effect for a period of more
61 than twelve months unless renewed in writing by the parties
62 thereto nor shall any request or agreement made or entered into
63 pursuant to the provisions of this article have force or effect
64 until a copy of said request or agreement is filed with the office
65 of the circuit clerk of the county or counties in which the
66 law-enforcement agencies, the campus police, or the Hatfield-
67 McCoy regional recreation authority rangers involved operate.
68 Upon filing, the requests or agreements may be sealed, subject
69 to disclosure pursuant to an order of a circuit court directing
70 disclosure for good cause. Nothing in this article shall be
71 construed to limit the authority of the head of a law-enforce-
72 ment agency, the head of campus police or the head of the
73 rangers of the Hatfield-McCoy regional recreation authority to
74 withdraw from any agreement at any time.

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

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

89 the head of the rangers of the Hatfield-McCoy regional recre-
90 ation authority.

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

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

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

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

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

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

- 29 (1) Federal bureau of investigation special agents;
- 30 (2) Drug enforcement administration special agents;
- 31 (3) United States marshal's service marshals and deputy
32 marshals;
- 33 (4) United States postal service inspectors;
- 34 (5) Internal revenue service special agents;
- 35 (6) United States secret service special agents;
- 36 (7) Bureau of alcohol, tobacco, and firearms special agents;
- 37 (8) Police officers employed pursuant to 40 U.S.C. §§318
38 and 490 at the federal bureau of investigation's criminal justice
39 information services division facility located within this state;
40 and
- 41 (9) Law-enforcement commissioned rangers of the national
42 park service.
- 43 (c) Any person acting under the authority granted pursuant
44 to this section:
- 45 (1) Has the same authority and is subject to the same
46 exemptions and exceptions to this code as a state or local
47 law-enforcement officer;
- 48 (2) Is not an officer, employee, or agent of any state or local
49 law-enforcement agency;
- 50 (3) May not initiate or conduct an independent investigation
51 into an alleged violation of any provision of this code except to
52 the extent necessary to preserve evidence or testimony at risk
53 of loss immediately following an occurrence described in
54 subdivision (3), subsection (a) of this section;

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

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

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 25th
day of March, 2004.

Governor

PRESENTED TO THE
GOVERNOR

DATE 3/19/04

TIME 5:30pm