WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3096

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

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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 AGENCIES.

§15-10-3. Definitions.
For purposes of this article only, and unless a different meaning plainly is required:

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

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

(3) “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 those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of section five, article four, chapter eighteen-b of this code, although those institutions may not be considered law-enforcement agencies. The term also includes those persons employed as rangers by the Hatfield-McCoy regional recreation authority in accordance with the provisions of section six, article fourteen, chapter twenty of this code, although the authority may not be considered a law-enforcement agency.

(4) “Head of campus police” means the superintendent or administrative head of state or local law-enforcement officers
employed as campus police officers at state institutions of higher education in accordance with the provisions of section five, article four, chapter eighteen-b of this code.

(5) "Head of the rangers of the Hatfield-McCoy regional recreation authority" means the superintendent or administrative head of state or local law-enforcement officers employed as rangers by the Hatfield-McCoy regional recreation authority in accordance with the provisions of section six, article fourteen, chapter twenty of this code.

§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, the head of any campus police or the head of the rangers of the Hatfield-McCoy regional recreational authority, as those terms are defined in section three of this article, may temporarily provide assistance and cooperation to another agency of the state criminal justice system 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 or federal law-enforcement agency. 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 the provisions of 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, the heads of campus police or the head of the rangers of the Hatfield-McCoy regional recreation authority, made or entered into pursuant to the provisions of this article shall remain in force and effect for a period of more than twelve months unless renewed in writing by the parties thereto nor shall any request or agreement made or entered into pursuant to the provisions of this article have 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, the campus police, or the Hatfield-McCoy regional recreation authority rangers involved operate. 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, the head of campus police or the head of the rangers of the Hatfield-McCoy regional recreation authority 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 municipal law-enforcement agencies, or other groups of state and local law-enforcement officers, the head campus police or
§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 marshal’s 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 pursuant to 40 U.S.C. §§318 and 490 at the federal bureau of investigation’s criminal justice information services division facility located within this state; and

(9) Law-enforcement commissioned rangers of the national park service.

(c) 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 risk of loss immediately following an occurrence described in subdivision (3), subsection (a) of this section;
(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.
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