

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 659**

5 (SENATOR UNGER, *original sponsor*)

6 _____
7 [Passed March 10, 2012; in effect ninety days from passage.]
8 _____
9

10 AN ACT to amend and reenact §15-2D-3 of the Code of West Virginia,
11 1931, as amended, relating to powers and duties of the
12 Director of the Division of Protective Services; requiring the
13 director to require certain employees of service providers
14 with the state to submit to a criminal background check under
15 certain circumstances; requiring certain service providers
16 provide employee names to comply with provisions of this
17 section; requiring a clause in future contracts to give the
18 state powers to prohibit certain persons from certain
19 activities based on the results of the background check;
20 defining "service provider"; requiring new employees working
21 on capitol grounds to have employment eligibility confirmed
22 through E-verify; and designating the Director of the Division
23 of Protective Services as the person to whom criminal
24 background check information is released.

25 *Be it enacted by the Legislature of West Virginia:*

1 That §15-2D-3 of the Code of West Virginia, 1931, as amended,
2 be amended and reenacted to read as follows:

3 **ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.**

4 **§15-2D-3. Duties and powers of the director and officers.**

5 (a) The director is responsible for the control and
6 supervision of the division. The director and any officer of the
7 division specified by the director may carry designated weapons and
8 have the same powers of arrest and law enforcement in Kanawha
9 County as members of the West Virginia State Police as set forth in
10 subsections (b) and (d), section twelve, article two of this
11 chapter: *Provided*, That the director and designated members shall
12 have such powers throughout the State of West Virginia in
13 investigating and performing law-enforcement duties for offenses
14 committed on the Capitol Complex or related to the division's
15 security and protection duties at the Capitol Complex: *Provided*,
16 *however*, That the director and designated members shall have said
17 powers throughout the state relating to offenses and activities
18 occurring on any property owned, leased or operated by the State of
19 West Virginia when undertaken at the request of the agency
20 occupying the property: *Provided further*, That nothing in this
21 article shall be construed as to obligate the director or the
22 division to provide or be responsible for providing security at
23 state facilities outside the Capitol Complex.

24 (b) Any officer of the division shall be certified as a law-
25 enforcement officer by the Governor's Committee on Crime,

1 Delinquency and Correction or may be conditionally employed as a
2 law-enforcement officer until certified in accordance with the
3 provisions of section five, article twenty-nine, chapter thirty of
4 this code.

5 (c) The director may:

6 (1) Employ necessary personnel, all of whom shall be
7 classified exempt, assign them the duties necessary for the
8 efficient management and operation of the division and specify
9 members who may carry, without license, weapons designated by the
10 director;

11 (2) Contract for security and other services;

12 (3) Purchase equipment as necessary to maintain security at
13 the Capitol Complex and other state facilities as may be determined
14 by the Secretary of the Department of Military Affairs and Public
15 Safety;

16 (4) Establish and provide standard uniforms, arms, weapons and
17 other enforcement equipment authorized for use by members of the
18 division and shall provide for the periodic inspection of the
19 uniforms and equipment. All uniforms, arms, weapons and other
20 property furnished to members of the division by the State of West
21 Virginia is and remains the property of the state;

22 (5) Appoint security officers to provide security on premises
23 owned or leased by the State of West Virginia;

24 (6) Upon request by the Superintendent of the West Virginia
25 State Police, provide security for the Speaker of the West Virginia
26 House of Delegates, the President of the West Virginia Senate, the

1 Governor or a justice of the West Virginia Supreme Court of
2 Appeals;

3 (7) Gather information from a broad base of employees at and
4 visitors to the Capitol Complex to determine their security needs
5 and develop a comprehensive plan to maintain and improve security
6 at the Capitol Complex based upon those needs; and

7 (8) Assess safety and security needs and make recommendations
8 for safety and security at any proposed or existing state facility
9 as determined by the Secretary of the Department of Military
10 Affairs and Public Safety, upon request of the secretary of the
11 department to which the facility is or will be assigned.

12 (d) The director shall:

13 (1) On or before July 1, 1999, propose legislative rules for
14 promulgation in accordance with the provisions of article three,
15 chapter twenty-nine-a of this code. The rules shall, at a minimum,
16 establish ranks and the duties of officers within the membership of
17 the division.

18 (2) On or before July 1, 1999, enter into an interagency
19 agreement with the Secretary of the Department of Military Affairs
20 and Public Safety and the Secretary of the Department of
21 Administration, which delineates their respective rights and
22 authorities under any contracts or subcontracts for security
23 personnel. A copy of the interagency agreement shall be delivered
24 to the Governor, the President of the West Virginia Senate and the
25 Speaker of the West Virginia House of Delegates and a copy shall be
26 filed in the office of the Secretary of State and shall be a public

1 record.

2 (3) Deliver a monthly status report to the Speaker of the West
3 Virginia House of Delegates and the President of the West Virginia
4 Senate.

5 (e) Require any service provider whose employees are regularly
6 employed on the grounds or in the buildings of the Capitol Complex
7 or who have access to sensitive or critical information submit to
8 a fingerprint-based state and federal background inquiry through
9 the state repository, and require a new employee who is employed to
10 provide services on the grounds or in the building of the Capitol
11 Complex to submit to an employment eligibility check through E-
12 verify.

13 (1) After the contract for such services has been approved,
14 but before any such employees are permitted to be on the grounds or
15 in the buildings of the Capitol Complex or have access to sensitive
16 or critical information, the service provider shall submit a list
17 of all persons who will be physically present and working at the
18 Capitol Complex for purposes of verifying compliance with this
19 section.

20 (2) All current service providers shall, within ninety days of
21 the amendment and reenactment of this section by the eightieth
22 Legislature, ensure that all of its employees who are providing
23 services on the grounds or in the buildings of the Capitol Complex
24 or who have access to sensitive or critical information submit to
25 a fingerprint-based state and federal background inquiry through
26 the state repository.

1 (3) Any contract entered into, amended or renewed by an agency
2 or entity of state government with a service provider shall contain
3 a provision reserving the right to prohibit specific employees
4 thereof from accessing sensitive or critical information or to be
5 present at the Capitol Complex based upon results addressed from a
6 criminal background check.

7 (4) For purposes of this section, the term "service provider"
8 means any person or company that provides employees to a state
9 agency or entity of state government to work on the grounds or in
10 the buildings that make up the Capitol Complex or who have access
11 to sensitive or critical information.

12 (5) In accordance with the provisions of Public Law 92-544 the
13 criminal background check information will be released to the
14 Director of the Division of Protective Services.