

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 659**

4 (By Senator Unger)

5 _____
6 [Originating in the Committee on the Judiciary;

7 reported February 24, 2012.]

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9
10 A BILL 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 vendors, contractors, subcontractors and
14 their employees conducting business with the state to submit
15 to a criminal background check under certain circumstances;
16 requiring vendors, contractors and subcontractors provided
17 employee names to comply with provisions of this section; and
18 requiring a clause in future contracts to give the state
19 powers to prohibit certain persons from certain activities
20 based on the results of the background check.

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

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

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

25 **§15-2D-3. Duties and powers of the director and officers.**

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

20 (b) Any officer of the division shall be certified as a law-
21 enforcement officer by the Governor's Committee on Crime,
22 Delinquency and Correction or may be conditionally employed as a
23 law-enforcement officer until certified in accordance with the
24 provisions of section five, article twenty-nine, chapter thirty of
25 this code.

26 (c) The director may:

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

6 (2) Contract for security and other services;

7 (3) Purchase equipment as necessary to maintain security at
8 the Capitol Complex and other state facilities as may be determined
9 by the Secretary of the Department of Military Affairs and Public
10 Safety;

11 (4) Establish and provide standard uniforms, arms, weapons and
12 other enforcement equipment authorized for use by members of the
13 division and shall provide for the periodic inspection of the
14 uniforms and equipment. All uniforms, arms, weapons and other
15 property furnished to members of the division by the State of West
16 Virginia is and remains the property of the state;

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

19 (6) Upon request by the superintendent of the West Virginia
20 State Police, provide security for the Speaker of the West Virginia
21 House of Delegates, the President of the West Virginia Senate, the
22 Governor or a justice of the West Virginia Supreme Court of
23 Appeals;

24 (7) Gather information from a broad base of employees at and
25 visitors to the Capitol Complex to determine their security needs
26 and develop a comprehensive plan to maintain and improve security

1 at the Capitol Complex based upon those needs; and

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

7 (d) The director shall:

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

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

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

26 (e) Require any vendor, contractor, subcontractor and their

1 respective employees who will be conducting business with the State
2 of West Virginia or any of its various entities and will be
3 physically present at any state facility or on state grounds or who
4 have access to sensitive or critical information submit to a
5 fingerprint-based state and federal background inquiry through the
6 state repository. The vender, contractor or subcontractor shall
7 submit a list of all persons working on the project for purposes of
8 verifying compliance with this section. Any contract entered into
9 by an agency or entity of state government with a vendor,
10 contractor or subcontractors shall contain a provision reserving
11 the right to prohibit any vendor, contractor, subcontractor or
12 specific employees thereof the ability to access sensitive or
13 critical information or to be present at any state facility or on
14 state grounds based upon results addressed from a criminal
15 background check.