

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2695**

BY DELEGATES HOLLEN, BOGGS, FAST, HARSHBARGER,

MILLER, CRISS, KELLY, D. AND PUSHKIN

[Introduced January 28, 2019; Referred  
to the Committee on Veterans' Affairs and Homeland  
Security then the Judiciary.]

1 A BILL to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating  
 2 to exempting from the Purchasing Division purchases made by the Director of the Division  
 3 of Protective Services for equipment to maintain security at state facilities.

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

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

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

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

13 (b) Any officer of the division shall be certified as a law-enforcement officer by the  
 14 Governor’s Committee on Crime, Delinquency, and Correction or may be conditionally employed  
 15 as a law-enforcement officer until certified in accordance with the provisions of §30-29-5 of this  
 16 code.

17 (c) The director may:

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

21 (2) Contract for security and other services;

22 (3) Purchase equipment as necessary to maintain security at the Capitol Complex and  
23 other state facilities as may be determined by the Secretary of the Department of Military Affairs  
24 and Public Safety except that the provisions of §5A-3-3 of this code do not apply to purchases  
25 made pursuant to this subdivision;

26 (4) Establish and provide standard uniforms, arms, weapons and other enforcement  
27 equipment authorized for use by members of the division and shall provide for the periodic  
28 inspection of the uniforms and equipment. All uniforms, arms, weapons, and other property  
29 furnished to members of the division by the State of West Virginia is and remains the property of  
30 the state;

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

33 (6) Upon request by the Superintendent of the West Virginia State Police, provide security  
34 for the Speaker of the West Virginia House of Delegates, the President of the West Virginia  
35 Senate, the Governor or a Justice of the West Virginia Supreme Court of Appeals;

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

39 (8) Assess safety and security needs and make recommendations for safety and security  
40 at any proposed or existing state facility as determined by the Secretary of the Department of  
41 Military Affairs and Public Safety, upon request of the secretary of the department to which the  
42 facility is or will be assigned: *Provided*, That records of such assessments, and any other records  
43 determined by the Secretary of the Department of Military Affairs and Public Safety to compromise  
44 the safety and security at any proposed or existing state facility, are not public records and are  
45 not subject to disclosure in response to a Freedom of Information Act request under §29B-1-1 *et*  
46 *seq.* of this code.

47 (d) The director shall:

48 (1) On or before July 1, 1999, propose legislative rules for promulgation in accordance  
49 with the provisions of §29A-3-1 of this code. The rules shall, at a minimum, establish ranks and  
50 the duties of officers within the membership of the division.

51 (2) On or before July 1, 1999, enter into an interagency agreement with the Secretary of  
52 the Department of Military Affairs and Public Safety and the Secretary of the Department of  
53 Administration, which delineates their respective rights and authorities under any contracts or  
54 subcontracts for security personnel. A copy of the interagency agreement shall be delivered to  
55 the Governor, the President of the West Virginia Senate and the Speaker of the West Virginia  
56 House of Delegates and a copy shall be filed in the office of the Secretary of State and shall be a  
57 public record.

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

60 (4) Require any service provider whose employees are regularly employed on the  
61 grounds or in the buildings of the Capitol Complex, or who have access to sensitive or critical  
62 information, to have its employees submit to a fingerprint-based state and federal background  
63 inquiry through the state repository, and require a new employee who is employed to provide  
64 services on the grounds or in the building of the Capitol Complex to submit to an employment  
65 eligibility check through E-verify.

66 (i) After the contract for such services has been approved, but before any such employees  
67 are permitted to be on the grounds or in the buildings of the Capitol Complex or have access to  
68 sensitive or critical information, the service provider shall submit a list of all persons who will be  
69 physically present and working at the Capitol Complex for purposes of verifying compliance with  
70 this section.

71 (ii) All current service providers shall, within 90 days of the amendment and reenactment  
72 of this section by the 18th Legislature, ensure that all of its employees who are providing services

73 on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or  
74 critical information submit to a fingerprint-based state and federal background inquiry through the  
75 state repository.

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

80 (iv) For purposes of this section, the term "service provider" means any person or  
81 company that provides employees to a state agency or entity of state government to work on the  
82 grounds or in the buildings that make-up the Capitol Complex or who have access to sensitive or  
83 critical information.

84 (v) In accordance with the provisions of Public Law 92-544 the criminal background check  
85 information will be released to the Director of the Division of Protective Services; and

86 (5) Be required to provide his or her approval prior to the installation of any and all  
87 electronic security systems purchased by any state agency which are designed to connect to the  
88 division's command center.

89 (e) Effective July 1, 2017, the Director of Security and security officers of the Division of  
90 Culture and History shall be made part of, and be under the supervision and direction of' the  
91 Division of Protective Services. Security for all Capitol Complex properties of the Division of  
92 Culture and History shall be the responsibility of the Division of Protective Services.

NOTE: The purpose of this bill is to exempt from the State Purchasing Division purchases made by the Division of Protective Services for security equipment to maintain security in state buildings.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.