WEST virginia legislature

2021 regular session

Introduced

House Bill 2285

By Delegate Bates

[Introduced February 10, 2021; Referred  
to the Committee on the Judiciary then Finance]

A BILL to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to Capitol Complex security access; permitting the issuance of electronic keycards to certain individuals by the director of the Division of Protective Services; providing for the renewal thereof; setting expiration dates; requiring the development of forms for the application for electronic keycards by the director or his or her designee by eligible individuals; establishing application fee; allowing certain state employees to waive certain fees; providing for the deposit of application fees into a special revenue account; providing that privileges attaching to keycards are not transferable; and providing for revocation of keycards for violation of the conditions of issuance and at the discretion of the director.

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.

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

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

(c) The director may:

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

(2) Contract for security and other services;

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

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

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

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

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

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

(d) The director shall:

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

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

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

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

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

(ii) All current service providers shall, within 90 days of the amendment and reenactment of this section by the 80th Legislature, ensure that all of its employees who are providing services on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or critical information submit to a fingerprint-based state and federal background inquiry through the state repository.

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

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

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

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

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

(f) Any person may make application to be issued an electronic keycard providing entry through the exterior doors of Building 1 of the Capitol Complex by submitting a completed application, on a form to be prescribed by the director, with an application fee of $250: *Provided*, That for current full-time state employees the fee is waived, but the director shall charge a reasonable fee to cover the costs of a background check. Application fees paid pursuant to this subsection shall be deposited into the Security Enforcement Fund established in §15-2D-7 of this code. Upon completion of a background check, and upon the sole discretion of the director, if the director finds that the applicant does not pose a security threat to any person or the Capitol, then an electronic keycard may be issued. Possession of an electronic keycard shall entitle only the person to whom it is issued to enter any exterior door of Building 1 of the Capitol Complex without passage through security screening checkpoints. Each electronic keycard shall be issued for two years. Every person issued a card must comply with all rules and laws relating to entry to a government building. The director may establish additional requirements associated with the use and revocation of all issued cards and may de-activate any card without notice.

NOTE: The purpose of this bill is to allow persons who regularly do business at Building 1 of the State Capitol Complex, the opportunity to get an exterior door access security card, after being subject to a background check and paying a $250 fee, upon approval of the director of the Division of Protective Services.

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