

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2800

BY DELEGATES FRICH, BUTLER, LONGSTRETH,
WESTFALL, STORCH, WALTERS, AMBLER, HOUSEHOLDER
AND MILLER, C.

[Introduced March 6, 2017; Referred
to the Committee on Finance.]

1 A BILL to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, and to
 2 amend said code by adding thereto a new section, designation §15-2D-8, all relating
 3 generally to limiting access to state property and secured facilities to persons who have
 4 been screened and authorized through the Division of Protective Services; requiring
 5 service providers to have employees submit to federal and state background checks;
 6 requiring spending units to provide vendor and employee information within a reasonable,
 7 advance period; providing for the issuance and use of secure electronic keys for access
 8 to buildings or designated areas of the state properties; providing an application process
 9 for state agencies for employee access; authorizing the collection of fees; and requiring
 10 notification of the loss of electronic keys and termination of authorized access.

Be it enacted by the Legislature of West Virginia:

1 That §15-2D-3 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that said code be amended by adding thereto a new section, designated §15-2D-
 3 8, all to read as follows:

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 subsections (b) and (d), section twelve, article two of this
 5 chapter: *Provided*, That the director and designated members shall have such powers throughout
 6 the State of West Virginia in investigating and performing law-enforcement duties for offenses
 7 committed on the Capitol Complex or related to the division's security and protection duties at the
 8 Capitol Complex: *Provided, however*, That the director and designated members shall have said
 9 powers throughout the state relating to offenses and activities occurring on any property owned,
 10 leased or operated by the State of West Virginia when undertaken at the request of the agency

11 occupying the property: *Provided further*, That nothing in this article shall be construed as to
12 obligate the director or the division to provide or be responsible for providing security at state
13 facilities outside the Capitol Complex.

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

18 (c) The director may:

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

22 (2) Contract for security and other services;

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

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 at and visitors to the Capitol

37 Complex to determine their security needs and develop a comprehensive plan to maintain and
38 improve 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.

43 (d) The director shall:

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

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

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

56 (e) ~~Require~~ The Division of Protective Services shall require any service provider whose
57 employees are regularly employed on the grounds or in the buildings of the Capitol Complex or
58 who have access to sensitive or critical information submit to a fingerprint-based state and federal
59 background inquiry through the state repository, and require a new employee who is employed to
60 provide services on the grounds or in the building of the Capitol Complex to submit to an
61 employment eligibility check through E-verify.

62 (1) It shall be the duty of each spending unit or agency entering into a contract for services

63 involving the presence of the vendor's employees on the grounds of the Capitol Complex or
64 access by those employees to sensitive or critical information to notify the Division of Protective
65 Services sufficiently in advance of the contract start date in order to carry out these required
66 security checks. After the contract for such services has been approved, but before any such
67 employees are permitted to be on the grounds or in the buildings of the Capitol Complex or have
68 access to sensitive or critical information, the ~~service provider shall submit~~ spending unit or
69 agency shall ensure that the Division of Protective Services receives, in a reasonable and timely
70 period, a list of all persons who will be physically present and working at the Capitol Complex for
71 purposes of verifying compliance with this section.

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

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

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

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

**§15-2D-8. Secure electronic keys for access to state facilities; application for use; fees;
termination of authority.**

1 (a) At any state property or for any portion thereof for which the Division of Protective
2 Services is assigned to provide security services, the division may require public employees and
3 officials to use secure electronic key systems, such as proximity cards or RFID devices, for entry
4 and access to the property or portions thereof at designated times or in lieu of in-person, point-
5 of-entry security screening.

6 (b) Any agency requiring access for any of its employees to a secured property or area
7 may apply to the Division of Protective Services to obtain a secure, electronic key for each
8 designated employee. The requesting agency shall, at a minimum, provide identifying information
9 for each individual requiring access, contact information for the employee's supervisor and the
10 time periods for which the employee will have authorized access. The division is hereby
11 authorized to charge a fee of \$15 for each card issued, renewed or replaced for an employee. All
12 fees collected from secure electronic key applications shall be deposited in the "security
13 enforcement fund" established in section seven of this article.

14 (c) It shall be the duty of each employee's agency to notify the Division of Protective
15 Services promptly of the termination of an employee or the termination of any authority the
16 employee may have for access to any designated property or portions of property of the state. If
17 any secure electronic key is lost or stolen, the employee's agency shall immediately notify the
18 Division of Protective Services of the time and circumstances of the loss of the key device.

NOTE: The purpose of this bill is to codify procedures relating to access to state properties by state employees and by employees state service providers. It authorizes the Division of Protective Services to provide secure, electronic keys for access to certain areas of state property and authorizes the division to charge a fee for each key issued.

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