

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4275

BY DELEGATES SHOTT, HANSHAW, AND COWLES

[Introduced February 2, 2018; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §15-2D-2 and §15-2D-3 of the Code of West Virginia, 1931, as
2 amended, relating to the law-enforcement authority of the director and officers of the
3 division of protective services; exempting certain safety and security information from
4 disclosure under the West Virginia Freedom of Information Act; and clarifying that
5 agencies installing electronic security systems designed to connect with the division's
6 command center must be approved prior to installation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.

§15-2D-2. Division established; purpose; appointment and qualifications of director.

1 (a) The state facilities protection division within the Department of Military Affairs and
2 Public Safety shall hereafter be designated the Division of Protective Services. The purpose of
3 the division is to provide safety and security at the capitol complex and other state facilities:
4 Provided, That nothing in this section shall be construed as limiting the law-enforcement authority
5 of the division set forth in §15-2d-3 of this code.

6 (b) The Governor shall appoint, with the advice and consent of the Senate, the director of
7 the division whose qualifications shall include at least 10 years of service as a law-enforcement
8 officer with at least three years in a supervisory law-enforcement position, the successful
9 completion of supervisory and management training, and the professional training required for
10 police officers at the West Virginia state police academy or an equivalent professional law-
11 enforcement training at another state, federal or United States Military institution.

§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. ~~Provided, That the~~
5 The director and designated members officers shall also have such powers throughout the State

6 of West Virginia in investigating and performing law-enforcement duties for offenses committed
7 on the Capitol Complex or related to the division's security and protection duties at the Capitol
8 Complex ~~Provided, however, That the director and designated members shall have said powers~~
9 and 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~~ §30-29-5 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: 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 ~~(e)~~(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 ~~(4)~~(i) 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 a list of all persons
69 who will be physically present and working at the Capitol Complex for purposes of verifying
70 compliance with this section.

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

76 ~~(3)~~(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 ~~(4)~~(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 ~~(5)~~ (v) In accordance with the provisions of Public Law 92-544 the criminal background
85 check 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)~~ (f) Effective July 1, 2017, the Director of Security and security officers of the Division
90 of 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 clarify the law enforcement authority of the director and officers of the division of protective services, to exempt certain safety and security information from disclosure under the West Virginia Freedom of Information Act; and to clarify that agencies installing electronic security systems designed to connect with the division's command center must be approved prior to installation.

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