

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Enrolled**

## **Senate Bill 358**

BY SENATORS WELD, CLEMENTS, CLINE, AND SWOPE

[Passed February 21, 2019; in effect 90 days from passage]



1 AN ACT 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  
12 Capitol 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. The provisions of §5A-3-3 of this code do not apply to purchases made  
25 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 House of Delegates, the President of the Senate, the Governor, or a justice  
35 of the 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 *et seq.* of this code. The rules shall, at a minimum, establish ranks  
50 and 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 Senate, and the Speaker of the House of Delegates, and a  
56 copy shall be filed in the office of the Secretary of State and shall be a public record.

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

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

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

70 (ii) All current service providers shall, within 90 days of the amendment and reenactment  
71 of this section by the 80th Legislature, ensure that all of its employees who are providing services  
72 on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or

73 critical information submit to a fingerprint-based state and federal background inquiry through the  
74 state repository.

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

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2019.

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*Governor*