

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 659**

5 (By Senator Unger)

6 _____
7 [Originating in the Committee on the Judiciary;
8 reported February 24, 2012.]
9 _____

10
11 A BILL to amend and reenact §15-2D-3 of the Code of West Virginia,
12 1931, as amended, relating to powers and duties of the
13 Director of the Division of Protective Services; requiring the
14 director to require certain employees of service providers
15 with the state to submit to a criminal background check under
16 certain circumstances; requiring certain service providers
17 provide employee names to comply with provisions of this
18 section; requiring a clause in future contracts to give the
19 state powers to prohibit certain persons from certain
20 activities based on the results of the background check;
21 defining "service provider"; and designating the Director of
22 the Division of Protective Services as the person to whom
23 criminal background check information is released.

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

25 That §15-2D-3 of the Code of West Virginia, 1931, as amended,
26 be amended and reenacted to read as follows:

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

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

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

22 (b) Any officer of the division shall be certified as a law-
23 enforcement officer by the Governor's Committee on Crime,
24 Delinquency and Correction or may be conditionally employed as a
25 law-enforcement officer until certified in accordance with the

1 provisions of section five, article twenty-nine, chapter thirty of
2 this code.

3 (c) The director may:

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

9 (2) Contract for security and other services;

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

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

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

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

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

5 (8) Assess safety and security needs and make recommendations
6 for safety and security at any proposed or existing state facility
7 as determined by the Secretary of the Department of Military
8 Affairs and Public Safety, upon request of the secretary of the
9 department to which the facility is or will be assigned.

10 (d) The director shall:

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

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

26 (3) Deliver a monthly status report to the Speaker of the West

1 Virginia House of Delegates and the President of the West Virginia
2 Senate.

3 (e) Require any service provider whose employees are regularly
4 employed on the grounds or in the buildings of the Capitol complex
5 or who have access to sensitive or critical information submit to
6 a fingerprint-based state and federal background inquiry through
7 the state repository.

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

15 (2) All current service providers shall, within ninety days of
16 the amendment and reenactment of this section by the eightieth
17 Legislature, ensure that all of its employees who are providing
18 services on the grounds or in the buildings of the Capitol complex
19 or who have access to sensitive or critical information submit to
20 a fingerprint-based state and federal background inquiry through
21 the state repository.

22 (3) Any contract entered into, amended or renewed by an agency
23 or entity of state government with a service provider shall contain
24 a provision reserving the right to prohibit specific employees
25 thereof from accessing sensitive or critical information or to be
26 present at the Capitol complex based upon results addressed from a

1 criminal background check.

2 (4) For purposes of this section, the term "service provider"
3 means any person or company that provides employees to a state
4 agency or entity of state government to work on the grounds or in
5 the buildings that makeup the Capitol complex or who have access to
6 sensitive or critical information.

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