

ENGROSSED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 659

(By Senator Unger)

[Originating in the Committee on the Judiciary;
reported February 24, 2012.]

A BILL to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to powers and duties of the Director of the Division of Protective Services; requiring the director to require vendors, contractors, subcontractors and their employees conducting business with the state to submit to a criminal background check under certain circumstances; requiring vendors, contractors and subcontractors provided employee names to comply with provisions of this section; and requiring a clause in future contracts to give the state powers to prohibit certain persons from certain activities based on the results of the background check.

Be it enacted by the Legislature of West Virginia:

That §15-2D-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted 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
2 supervision of the division. The director and any officer of
3 the division specified by the director may carry designated
4 weapons and have the same powers of arrest and law
5 enforcement in Kanawha County as members of the West
6 Virginia State Police as set forth in subsections (b) and (d),
7 section twelve, article two of this chapter: *Provided*, That the
8 director and designated members shall have such powers
9 throughout the State of West Virginia in investigating and
10 performing law-enforcement duties for offenses committed
11 on the Capitol Complex or related to the division's security
12 and protection duties at the Capitol Complex: *Provided*,
13 *however*, That the director and designated members shall
14 have said powers throughout the state relating to offenses
15 and activities occurring on any property owned, leased or
16 operated by the State of West Virginia when undertaken at
17 the request of the agency occupying the property: *Provided*

18 *further*, That nothing in this article shall be construed as to
19 obligate the director or the division to provide or be respon-
20 sible for providing security at state facilities outside the
21 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 em-
25 ployed as a law-enforcement officer until certified in
26 accordance with the provisions of section five, article
27 twenty-nine, chapter thirty of this code.

28 (c) The director may:

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

34 (2) Contract for security and other services;

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

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

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

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

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

58 (8) Assess safety and security needs and make recommen-
59 dations for safety and security at any proposed or existing
60 state facility as determined by the Secretary of the Depart-

61 ment of Military Affairs and Public Safety, upon request of
62 the secretary of the department to which the facility is or
63 will be assigned.

64 (d) The director shall:

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

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

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

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

88 (1) After the contract for such services has been ap-
89 proved, but before any such employees are permitted to be on
90 the grounds or in the buildings of the Capitol complex or
91 have access to sensitive or critical information, the service
92 provider shall submit a list of all persons who will be
93 physically present and working at the Capitol complex for
94 purposes of verifying compliance with this section.

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

102 (3) Any contract entered into, amended or renewed by an
103 agency or entity of state government with a service provider
104 shall contain a provision reserving the right to prohibit

105 specific employees thereof from accessing sensitive or critical
106 information or to be present at the Capitol complex based
107 upon results addressed from a criminal background check.

108 (4) For purposes of this section, the term “service
109 provider” means any person or company that provides
110 employees to a state agency or entity of state government to
111 work on the grounds or in the buildings that makeup the
112 Capitol complex or who have access to sensitive or critical
113 information.

114 (5) In accordance with the provisions of Public Law 92-
115 544 the criminal background check information will be
116 released to the Director of the Division of Protective Ser-
117 vices.