

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **House Bill 2965**

**FISCAL  
NOTE**

BY DELEGATE BATES

[Introduced March 13, 2017; Referred  
to the Committee on the Judiciary then Finance.]

1 A BILL amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended; relating to  
 2 Capitol Complex security access; permitting the issuance of electronic keycards to certain  
 3 individuals by the Director of the Division of Protective Services; providing for the renewal  
 4 thereof; setting expiration dates; requiring the development of forms for the application for  
 5 electronic keycards by the director or his or her designee by eligible individuals;  
 6 establishing application fee; allowing certain state employees to waive certain fees;  
 7 providing for the deposit of application fees into a special revenue account; providing that  
 8 privileges attaching to keycards are not transferable; and providing for revocation of  
 9 keycards for violation of the conditions of issuance and at the discretion of the director.

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

61           (1) After the contract for such services has been approved, but before any such employees  
62 are permitted to be on the grounds or in the buildings of the Capitol Complex or have access to  
63 sensitive or critical information, the service provider shall submit a list of all persons who will be  
64 physically present and working at the Capitol Complex for purposes of verifying compliance with

65 this section.

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

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

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

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

81 (f) Any person may make application to be issued an electronic keycard providing entry  
82 through the exterior doors of Building 1 of the Capitol Complex by submitting a completed  
83 application, on a form to be prescribed by the director, with an application fee of \$250: *Provided,*  
84 That for current full-time state employees the fee is waived, but the director shall charge a  
85 reasonable fee to cover the costs of a background check. Application fees paid pursuant to this  
86 subsection shall be deposited into the Security Enforcement Fund established in section seven,  
87 article two-d, chapter fifteen of this code. Upon completion of a background check, and upon the  
88 sole discretion of the director, if the director finds that the applicant does not pose a security threat  
89 to any person or the Capitol, then an electronic keycard may be issued. Possession of an  
90 electronic keycard shall entitle only the person to whom it is issued to enter any exterior door of

91 Building 1 of the Capitol Complex without passage through security screening checkpoints. Each  
92 electronic keycard shall be issued for two years. Every person issued a card must comply with  
93 all rules and laws relating to entry to a government building. The director can establish additional  
94 requirements associated with the use and revocation of all issued cards and may de-active any  
95 card without notice.

NOTE: The purpose of this bill is to allow persons who regularly do business at Building 1 of the State Capitol Complex, the opportunity to get an exterior door access security card, after being subject to a background check and paying a \$250 fee, upon approval of the Director of the Division of Protective Services.

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