

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 366

FISCAL
NOTE

BY SENATORS BLAIR, MARONEY, AND CLINE

[Introduced January 21, 2019; Referred
to the Committee on Government Organization; and then
to the Committee on Finance]

1 A BILL to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating
2 generally to the Division of Protective Services; authorizing the Director of the Division of
3 Protective Services to issue electronic key cards to qualified applicants for entry into the
4 State Capitol without the necessity of entering the building and undergoing in-person, point
5 of entry security screening; requiring the submission of an application for a key card and
6 a nonrefundable fee therefor; affording the director the discretion to issue, revoke, or
7 deactivate a key card for good cause shown; requiring the depositing of application fees
8 in the Common Facilities Maintenance Fund; requiring the proposing of legislative rules;
9 and authorizing the promulgation of emergency rules.

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 Capitol
12 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;

25 (4) Establish and provide standard uniforms, arms, weapons, and other enforcement
26 equipment authorized for use by members of the division and shall provide for the periodic
27 inspection of the uniforms and equipment. All uniforms, arms, weapons, and other property
28 furnished to members of the division by the State of West Virginia is and remains the property of
29 the state;

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

32 (6) Upon request by the Superintendent of the West Virginia State Police, provide security
33 for the Speaker of the West Virginia House of Delegates, the President of the West Virginia
34 Senate, the Governor or a Justice of the West Virginia Supreme Court of Appeals;

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

38 (8) Assess safety and security needs and make recommendations for safety and security
39 at any proposed or existing state facility as determined by the Secretary of the Department of
40 Military Affairs and Public Safety, upon request of the secretary of the department to which the

41 facility is or will be assigned: *Provided*, That records of such assessments, and any other records
42 determined by the Secretary of the Department of Military Affairs and Public Safety to compromise
43 the safety and security at any proposed or existing state facility, are not public records and are
44 not subject to disclosure in response to a Freedom of Information Act request under §29B-1-1 *et*
45 *seq.* of this code.

46 (d) The director shall:

47 (1) On or before July 1, 1999, propose legislative rules for promulgation in accordance
48 with the provisions of §29A-3-1 *et seq.* of this code. The rules shall, at a minimum, establish ranks
49 and the duties of officers within the membership of the division.

50 (2) On or before July 1, 1999, enter into an interagency agreement with the Secretary of
51 the Department of Military Affairs and Public Safety and the Secretary of the Department of
52 Administration, which delineates their respective rights and authorities under any contracts or
53 subcontracts for security personnel. A copy of the interagency agreement shall be delivered to
54 the Governor, the President of the West Virginia Senate and the Speaker of the West Virginia
55 House of Delegates and a copy shall be filed in the office of the Secretary of State and shall be a
56 public record.

57 (3) Deliver a monthly status report to the Speaker of the West Virginia House of Delegates
58 and the President of the West Virginia 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 18th 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; and

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 Division of
89 Culture and History shall be made part of, and be under the supervision and direction of the
90 Division of Protective Services. Security for all Capitol Complex properties of the Division of
91 Culture and History shall be the responsibility of the Division of Protective Services.

92 (f) The director is hereby authorized to issue electronic key cards affording entry into

93 Building 1 of the State Capitol Complex in lieu of in-person point of entry security screening
94 consistent with the provisions of this subsection.

95 (1) Any person wishing to obtain an electronic key card as authorized by this subsection
96 shall submit a written application on a form designated by the director and pay a nonrefundable
97 application fee of \$250 and undergo a fingerprint-based criminal background check.

98 (2) An electronic key card issued pursuant to this subsection shall be valid for a period of
99 two years, subject to the provisions of subdivision (4) of this subsection.

100 (3) The authorization for entry into Building 1 of the State Capitol Complex by use of an
101 electronic key card is limited solely to the person to whom the key card is issued.

102 (4) The director shall have sole discretion to issue, revoke or deactivate a person's
103 electronic key card based upon his or her determination that a person does or does not pose a
104 threat to persons or property in Building 1 and a person's adherence to the rules applicable to
105 keycard use.

106 (5) Application fees collected pursuant to this subsection shall be deposited in a special
107 account in the State Treasury to be known as the State Capitol Common Facilities Maintenance
108 Fund. Expenditures from the fund shall be for the purposes set forth in this subdivision and are
109 not authorized from collections but are to be made only in accordance with appropriation by the
110 Legislature and in accordance with the provisions of §12-3-1 et seq. of this code and upon
111 fulfillment of the provisions of §11B-2-1 et seq. of this code: *Provided*, That for the fiscal year
112 ending June 30, 2020, expenditures are authorized from collections rather than pursuant to
113 appropriation by the Legislature. The purpose of the fund shall be to provide upkeep,
114 maintenance, renovation, and restructure of restroom facilities within the State Capitol.

115 (6) The director shall propose legislative rules and may promulgate emergency rules
116 pursuant to Chapter 29 of this code to effectuate the purposes of this subsection.

NOTE: The purpose of this bill is to authorize the Director of the Division of Protective

Services to issue electronic key cards to qualified applicants for entry into the State Capitol without the necessity of entering the building without undergoing in-person, point of entry security screening; to require the submission of an application for a key card and a nonrefundable fee; to afford the director the discretion to issue, revoke or deactivate a key card for good cause shown; to require the depositing of application fees in the Common Facilities Maintenance Fund and requiring the proposing of legislative rules and authorizing the promulgation of emergency rules.

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