

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2155**

BY DELEGATE BATES

[Introduced January 9, 2019; Referred  
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended; relating  
2 to Capitol Complex security access; permitting the issuance of electronic keycards to  
3 certain individuals by the Director of the Division of Protective Services; providing for the  
4 renewal thereof; setting expiration dates; requiring the development of forms for the  
5 application for electronic keycards by the director or his or her designee by eligible  
6 individuals; establishing application fee; allowing certain state employees to waive certain  
7 fees; providing for the deposit of application fees into a special revenue account; providing  
8 that 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:*

## **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 of this code. The rules shall, at a minimum, establish ranks and  
49 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 eightieth Legislature, ensure that all of its employees who are providing  
72 services on the grounds or in the buildings of the Capitol Complex or who have access to sensitive  
73 or critical information submit to a fingerprint-based state and federal background inquiry through  
74 the 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) Any person may make application to be issued an electronic keycard providing entry

93 through the exterior doors of Building 1 of the Capitol Complex by submitting a completed  
94 application, on a form to be prescribed by the director, with an application fee of \$250: *Provided,*  
95 That for current full-time state employees the fee is waived, but the director shall charge a  
96 reasonable fee to cover the costs of a background check. Application fees paid pursuant to this  
97 subsection shall be deposited into the Security Enforcement Fund established in §15-2D-7 of this  
98 code. Upon completion of a background check, and upon the sole discretion of the director, if the  
99 director finds that the applicant does not pose a security threat to any person or the Capitol, then  
100 an electronic keycard may be issued. Possession of an electronic keycard shall entitle only the  
101 person to whom it is issued to enter any exterior door of Building 1 of the Capitol Complex without  
102 passage through security screening checkpoints. Each electronic keycard shall be issued for two  
103 years. Every person issued a card must comply with all rules and laws relating to entry to a  
104 government building. The director may establish additional requirements associated with the use  
105 and revocation of all issued cards and may de-active any 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.