

SB 170

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



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SENATE BILL NO. 170

(By Senator BAILEY, ET AL)



PASSED MARCH 13, 1999

In Effect NINETY DAYS FROM Passage

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Senate Bill No. 170

(SENATORS BAILEY, WALKER AND PLYMALE, *original sponsors*)

[Passed March 13, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact article two-d, chapter fifteen of said code; and to amend and reenact section three, article ten of said chapter, all relating to providing safety and security at the capitol complex and other state facilities; setting forth legislative findings; establishing division of protective services; purpose and continuation of the division; providing for a director of the division and establishing qualifications therefor; establishing powers and duties of director and members; legislative rules; interagency agreement; status

report; oath of office; applicability of article; and authorizing division to cooperate with other law-enforcement agencies.

Be it enacted by the Legislature of West Virginia:

That article two-d, chapter fifteen of said code be amended and reenacted; and that section three, article ten of said chapter be amended and reenacted, all to read as follows:

ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.

§15-2D-1. Legislative findings.

1 The Legislature finds and declares that citizens, state
2 employees and visitors who park, attend functions,
3 conduct business or work at the capitol complex and other
4 state facilities should be safe and secure. The Legislature
5 further finds and declares that it is in the public interest to
6 establish a division within the department of military
7 affairs and public safety for the purpose of providing
8 safety and security to individuals who visit, conduct
9 business or work at the capitol complex and other state
10 facilities.

§15-2D-2. Division established; purpose; continuation; appointment and qualifications of director.

1 (a) The state facilities protection division within the
2 department of military affairs and public safety shall
3 hereafter be designated the division of protective services.
4 The purpose of the division is to provide safety and
5 security at the capitol complex and other state facilities.
6 Pursuant to the provisions of article ten, chapter four of
7 this code, the division shall continue to exist until the first
8 day of July, two thousand two.

9 (b) The governor shall appoint, with the advice and
10 consent of the Senate, the director of the division whose
11 qualifications shall include at least ten years of service as
12 a law-enforcement officer with at least three years in a
13 supervisory law-enforcement position, the successful
14 completion of supervisory and management training, and
15 the professional training required for police officers at the
16 West Virginia state police academy or an equivalent
17 professional law-enforcement training at another state,
18 federal or United States military institution.

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

1 (a) The director is responsible for the control and super-
2 vision of the division. The director and any member of the
3 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.

8 (b) The director may:

9 (1) Employ necessary personnel, all of whom shall be
10 classified exempt, assign them the duties necessary for the
11 efficient management and operation of the division, and
12 specify members who may carry, without license, weapons
13 designated by the director;

14 (2) Contract for security and other services;

15 (3) Purchase equipment as necessary to maintain security
16 at the capitol complex and other state facilities as may be
17 determined by the secretary of the department of military
18 affairs and public safety;

19 (4) Establish and provide standard uniforms, arms,
20 weapons and other enforcement equipment authorized for
21 use by members of the division and shall provide for the
22 periodic inspection of the uniforms and equipment. All
23 uniforms, arms, weapons and other property furnished to
24 members of the division by the state of West Virginia is
25 and remains the property of the state.

26 (5) Appoint security officers to provide security on
27 premises owned or leased by the state of West Virginia;

28 (6) Upon request by the superintendent of the West
29 Virginia state police, provide security for the speaker of
30 the West Virginia House of Delegates, the president of the
31 West Virginia Senate, the governor, or a justice of the West
32 Virginia supreme court of appeals;

33 (7) Gather information from a broad base of employees
34 at and visitors to the capitol complex to determine their
35 security needs and develop a comprehensive plan to

36 maintain and improve security at the capitol complex
37 based upon those needs; and

38 (8) Assess safety and security needs and make recom-
39 mendations for safety and security at any proposed or
40 existing state facility as determined by the secretary of the
41 department of military affairs and public safety, upon
42 request of the secretary of the department to which the
43 facility is or will be assigned.

44 (c) The director shall:

45 (1) On or before the first day of July, one thousand nine
46 hundred ninety-nine, propose legislative rules for promul-
47 gation in accordance with the provisions of article three,
48 chapter twenty-nine-a of this code. The rules shall, at a
49 minimum:

50 (A) Establish qualification, training and certification
51 requirements for members of the division, which shall
52 include the basic academy training standards established
53 by the governor's committee on crime, delinquency and
54 prevention;

55 (B) Establish ranks and the duties of officers within the
56 membership of the division; and

57 (C) Establish a personnel policy and grievance proce-
58 dure.

59 (2) On or before the first day of July, one thousand nine
60 hundred ninety-nine, enter into an interagency agreement
61 with the secretary of the department of military affairs
62 and public safety and the secretary of the department of
63 administration, which delineates their respective rights
64 and authorities under any contracts or subcontracts for
65 security personnel. A copy of the interagency agreement
66 shall be delivered to the governor, the president of the
67 West Virginia Senate and the speaker of the West Virginia
68 House of Delegates, and a copy shall be filed in the office
69 of the secretary of state and shall be a public record.

70 (3) Deliver a monthly status report to the speaker of the
71 West Virginia House of Delegates and the president of the
72 West Virginia Senate.

§15-2D-4. Oath of office.

1 (a) The director and each member of the division shall
2 take and subscribe to an oath of office in conformity with
3 article four, section five of the Constitution of the state of
4 West Virginia.

5 (b) Any member serving on the effective date of this
6 article shall take and subscribe to the oath within thirty
7 days of the effective date of this section. Any member
8 hired subsequent to the effective date of this section shall
9 take and subscribe to the oath before entering upon the
10 discharge of his or her duties. All oaths shall be filed and
11 preserved in the office of the division of protective ser-
12 vices.

§15-2D-5. Application of article.

1 (a) The provisions of this article shall not apply to the
2 West Virginia Senate, the West Virginia House of Dele-
3 gates, the West Virginia Legislature or the West Virginia
4 supreme court of appeals, or to any part of the capitol
5 complex under the supervision or control of the West
6 Virginia Senate, the West Virginia House of Delegates, the
7 West Virginia Legislature or the West Virginia supreme
8 court of appeals, unless agreed to by the president of the
9 West Virginia Senate, the speaker of the West Virginia
10 House of Delegates, or jointly by the president of the West
11 Virginia Senate and speaker of the West Virginia House of
12 Delegates, or by order of the West Virginia supreme court
13 of appeals, and then only to the extent that the president
14 of the West Virginia Senate, the speaker of the West
15 Virginia House of Delegates or the West Virginia supreme
16 court of appeals agrees to such application, and then only
17 to that part of the capitol complex under the supervision
18 or control of the respective houses of the Legislature,
19 individually or jointly, or of the court.

20 (b) The provisions of this article shall not limit or
21 eliminate the jurisdiction of law-enforcement agencies at
22 any state facility or the duty of law-enforcement agencies
23 to respond to calls at any state facility.

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-3. Definitions.

1 In this article, unless a different meaning plainly is
2 required:

3 (1) "Criminal justice enforcement personnel" means
4 those persons within the state criminal justice system who
5 are actually employed as members of the division of public
6 safety, members of the division of protective services, state
7 conservation officers, chiefs of police and police of incor-
8 porated municipalities, and county sheriffs and their
9 deputies, and whose primary duties are the investigation
10 of crime and the apprehension of criminals.

11 (2) "Head of a law-enforcement agency" means the
12 superintendent of the division of public safety, the director
13 of the division of protective services, the chief conserva-
14 tion officer of the division of natural resources, a chief of
15 police of an incorporated municipality or a county sheriff.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Paul Lebonore
.....
Chairman Senate Committee

Joe F. Smith
.....
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Darrell G. Helms
.....
Clerk of the Senate

Buzon Jr. Guy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within..... *approved* this the *3/5* ..

Day of..... *March*, 1999

[Signature]
.....
Governor