WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 659
(SENIOR UNGER, ORIGINAL SPONSOR)

[Passed March 10, 2012; in effect ninety days from passage.]
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 659

(SENSATOR UNGER, original sponsor)

(Passed March 10, 2012; in effect ninety days from passage.)

AN ACT 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 certain employees of service providers with the state to submit to a criminal background check under certain circumstances; requiring certain service providers provide employee names to comply with provisions of this section; 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; defining "service provider"; requiring new employees working on capitol grounds to have employment eligibility confirmed through E-verify; and designating the Director of the Division of Protective Services as the person to whom criminal background check information is released.

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.

(a) The director is responsible for the control and supervision of the division. The director and any officer of the division specified by the director may carry designated weapons and have the same powers of arrest and law enforcement in Kanawha County as members of the West Virginia State Police as set forth in subsections (b) and (d), section twelve, article two of this chapter: Provided, That the director and designated members shall have such powers throughout the State of West Virginia in investigating and performing law-enforcement duties for offenses committed on the Capitol Complex or related to the division's security and protection duties at the Capitol Complex: Provided, however, That the director and designated members shall have said powers throughout the state relating to offenses and activities occurring on any property owned, leased or operated by the State of West Virginia when undertaken at the request of the agency occupying the property: Provided further, That nothing in this article shall be construed as to obligate the director or the division to provide or be responsible for providing security at state facilities outside the Capitol Complex.

(b) Any officer of the division shall be certified as a law-enforcement officer by the Governor's Committee on Crime, Delinquency and Correction or may be conditionally employed as a law-enforcement officer until certified in accordance with the provisions of section five, article twenty-nine, chapter thirty of this code.

(c) The director may:

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

(2) Contract for security and other services;
(3) Purchase equipment as necessary to maintain security at the Capitol Complex and other state facilities as may be determined by the Secretary of the Department of Military Affairs and Public Safety;

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

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

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

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

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

(d) The director shall:

(1) On or before July 1, 1999, propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code. The rules shall, at a minimum, establish ranks and the duties of officers within the membership of the division.
(2) On or before July 1, 1999, enter into an interagency agreement with the Secretary of the Department of Military Affairs and Public Safety and the Secretary of the Department of Administration, which delineates their respective rights and authorities under any contracts or subcontracts for security personnel. A copy of the interagency agreement shall be delivered to the Governor, the President of the West Virginia Senate and the Speaker of the West Virginia House of Delegates and a copy shall be filed in the office of the Secretary of State and shall be a public record.

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

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

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

(2) All current service providers shall, within ninety days of the amendment and reenactment of this section by the eightieth Legislature, ensure that all of its employees who are providing services on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information submit to a fingerprint-based state and federal background inquiry through the state repository.
(3) Any contract entered into, amended or renewed by an agency or entity of state government with a service provider shall contain a provision reserving the right to prohibit specific employees thereof from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

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

(5) In accordance with the provisions of Public Law 92-544 the criminal background check information will be released to the Director of the Division of Protective Services.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 12th Day of April, 2012.

Governor