

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4276

FISCAL
NOTE

By Delegate C. Pritt

[Introduced January 10, 2024; Referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §61-2A-1, §61-2A-2, and §61-2A-3, all relating to the transferred right of self-
 3 defense to a person who engages an active shooter on school grounds; providing a short
 4 title, legislative findings, the transferred right of self-defense; prohibiting cowardice by a
 5 school security guard; providing a special hero reward to be administered by the State
 6 Treasurer; providing construction pursuant to the Second Amendment and the Tenth
 7 Amendment of the United States Constitution.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2A. TRANSFERRED RIGHT OF SELF-DEFENSE ACTIVE SCHOOL

SHOOTER ACT.

§61-2A-1. Short title.

1 This article may be referred to as the "Transferred Right Of Self-Defense Active School
 2 Shooter Act (TROS DASSA)" or as Matthew McConaughey's Law.

§61-2A-2. Legislative findings.

1 The legislature finds that:

2 (1) Perhaps the greatest interest that this state has is to protect children from hostile acts
 3 committed by an active shooter on school grounds, which calls for special protections and
 4 incentives;

5 (2) The state recognizes the need to draw upon the Second Amendment of the United
 6 States Constitution in its favor to protect children from an active school shooter in a situation where
 7 time is likely of the essence;

8 (3) The Second Amendment of the United States Constitution reads, "A Well- Regulated
 9 Militia, being necessary to the security of a free state", the right of the people to keep and bear
 10 Arms, shall not be infringed;"

11 (4) The "Transferred Right Of Self-Defense Active School Shooter Act (TROS DASSA)" is

12 crafted to work within the Second Amendment framework and to incentivize a law-abiding firearm
13 owner to defend students and teachers who have been targeted by an active shooter on school
14 grounds before the arrival of law enforcement where time can often be of the essence;

15 (5) This state recognizes the urgent need to neutralize an active shooter on school grounds
16 and the dangers it can present to a person who is brave enough to engage an active shooter,
17 whether duty-bound to do so or otherwise;

18 (6) This state recognizes the need to prevent a person from interfering with an ongoing
19 investigation after the arrival of law enforcement even in a situation involving an active shooter on
20 school grounds with some exceptions;

21 (7) Neither civilized society nor this state can continue to permit willful acts of cowardice in
22 response to an active shooter on school grounds by a school security guard whose paramount job
23 and purpose is to provide safety;

24 (8) In response to a school shooting on May 24, 2022, in Uvalde Texas that claims the lives
25 of 19 students and two teachers, President Biden called upon lawmakers to "do something," and
26 enacting the "Transferred Right Of Self-Defense Active School Shooter Act (TROS DASSA)" is
27 doing something that will actually deter school shootings in a manner that accords with the realities
28 of human nature and our Constitutional framework, which includes the Second Amendment;

29 (9) On June 7, 2022, from the White House briefing room, Matthew McConaughey, the
30 actor, made an impassioned plea for safer schools, explaining that deterring school shootings
31 should be a bi-partisan issue and that to do so "we start by making laws that save innocent lives
32 and that don't infringe on our Second Amendment rights."

§61-2A-3. Active School Shooting; definitions; special reward.

1 (a) As used in this section:

2 "Active shooter" means a person who commits a hostile act or who demonstrates hostile
3 intent on school grounds with a firearm or some other device;

4 "A person" means any citizen or civilian, other than an active shooter, with the means,

5 including a firearm, and the opportunity to engage or neutralize an active shooter;

6 "Cowardice" means a school security guard who was duty-bound to protect children from
7 an active shooter who retreats without cause, fails to take meaningful steps to neutralize an active
8 shooter, or negligently refuses to engage an active shooter for self-serving reasons. The term also
9 means refusing to aid law enforcement as described in §61-5-14 of this code.

10 "Firearm" has the same meaning as in 18 U.S. Code § 921;

11 "Hostile act" means action committed by a person that could lead to the death or the
12 substantial likelihood of serious bodily injury;

13 "Hostile intent" means action by a person that demonstrates the intention or goal of
14 committing a hostile act;

15 "Proportional force" means the amount of force necessary to protect oneself and others
16 from a hostile act;

17 "School grounds" means any of the following:

18 (1) The area within three hundred feet of a school or its accompanying grounds;

19 (2) Any public property within 1,000 feet of a school or its accompanying grounds;

20 (3) Any school bus;

21 (4) A bus contracted to transport pupils to any school during the time when the contracted
22 vehicle is transporting pupils on behalf of the school;

23 (5) A school bus stop;

24 (6) Any bus stop where school children are awaiting, boarding or exiting a bus contracted
25 to transport pupils to any school.

26 "Security guard" means a resource officer, safety officer, or school employee whose
27 paramount contracted purpose, job, or duty is to protect students and teachers from hostile acts;

28 "Stand down" means to stop engaging;

29 "Transferred right of self-defense" means the common law right of self-defense is
30 transferred to a person who attempts to protect a student, teacher, or person from an active

31 shooter on school grounds.

32 (b) A person may engage an active shooter, who commits a hostile act or who
33 demonstrates hostile intent at a public or private school, kindergarten through college, with
34 proportional force to terminate or neutralize the active shooter with absolute impunity under the
35 transferred right of self-defense to protect students, teachers, and others.

36 (c) A person may engage an active shooter at a public or private school, kindergarten
37 through college, with necessary and proportional force to terminate or neutralize the active shooter
38 with absolute impunity before or after the arrival of law enforcement. After law enforcement arrives
39 on school grounds, a person engaging the active shooter shall stand down if ordered to do so by
40 law enforcement so as to not interfere with an ongoing investigation.

41 (d) A person who refuses to stand down in a situation described in subsection (c) of this
42 section, commits the offense of obstructing an officer under §61-5-17 of this code and is subject to
43 the penalties under that section.

44 (e) It shall be an absolute defense to a violation of subsection (d) of this section if the
45 preponderance of the evidence shows that the person who was ordered to stand down by law
46 enforcement would have put himself or others in greater danger if obeyed or the person who was
47 given the order was engaged in a continuing firefight with the active shooter at the time of its
48 issuance.

49 (f) A person who engages an active shooter as described in subsections (b) and (c) of this
50 section is not guilty of violating section §61-7-11a of this code for possessing a firearm on school
51 grounds or any other similar law that conflicts with this section.

52 (g) If a public or private school, kindergarten through college, employs a security guard,
53 and if the security guard is in close proximity when an active shooter commits a hostile act on
54 school grounds, and if the security guard responds with cowardice, the security guard is guilty of a
55 misdemeanor for refusing to aid law enforcement.

56 (h) If a person, security guard, or law enforcement officer neutralizes, terminates, or

57 subdues an active shooter on school grounds, they may submit an application with the State
58 Treasurer to claim a special reward. The State Treasurer may award up to \$50,000 to a person,
59 security guard, or law enforcement officer who played the greatest role in neutralizing an active
60 shooter on school grounds.

61 (i) If a person, security guard, or law enforcement officer is severely injured or killed in
62 attempting to neutralize an active shooter on school grounds, they or their surviving family
63 members can submit an application to the State Treasurer to receive a reward of up to \$50,000.
64 The State Treasurer may grant such a reward up to \$50,000 at its discretion.

65 (j) The State Treasurer shall prepare the application form described in subsections (h) and
66 (i) of this section. The State Treasurer, or designee, may conduct a hearing or an investigation in
67 making a determination as to the rewards described in subsections (h) and (i) of this section.

68 (k) This section is constructed to take advantage of the Second Amendment by
69 incentivizing a person who is a law-abiding firearm owner to engage to neutralize an active shooter
70 on school grounds before the arrival of law enforcement in a situation where time is often of the
71 essence.

72 (l) This section is constructed pursuant to the police powers conferred to this state and to
73 the people under the Tenth Amendment of the United States Constitution.

74 (m) This section is not constructed to diminish the transferred right of self-defense in other
75 instances but to underscore its special importance in a situation involving active shooters on
76 school grounds in situations where time is often of the essence and the stakes are high.

NOTE: The purpose of this bill is to create the transferred right of self-defense to a person who engages an active shooter on school grounds.

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