

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 285

By Senator Woelfel

[Introduced February 12, 2025; referred
to the Committee on Education; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §18-5-52, relating to the creation of the West Virginia Guardian Program;
3 setting out purpose of the program; allowing county school boards to contract with certain
4 persons to provide safety services as independent contractors; defining terms; setting out
5 the authority of independent contractors participating in the program; providing
6 requirements for participation of a person in the program; providing exclusions from
7 participation of a person in the program; setting forth a limitation of liability; providing
8 exemptions from purchasing requirements; and excluding independent contractor from
9 participation in state benefit programs.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-52. Public school West Virginia Guardian Program.

1 (a) Purpose. — County boards of education may contract with an independent contractor
2 who is an honorably discharged veteran, former state trooper, former municipal police officer,
3 former deputy sheriff, or former federal law-enforcement officer to provide West Virginia Guardian
4 services as that term is defined in this section. The purpose of the contract is to provide public
5 safety and/or security on public school grounds and buildings. Any county board of education may
6 contract with as many independent contractors as the county school board considers necessary.

7 (b) Definitions. — For purposes of this section, the following words have the following
8 meanings:

9 "Contract" means an agreement between a county board of education and an independent
10 contractor relating to the procurement of public safety or security services.

11 "County school board" means the same as that term is used in §18-5-1 et seq.

12 "Independent contractor" means the same as that term is used in §21-51-4.

13 "Public safety or security" means the protection of students, faculty, and staff of a public
14 school from violence, bullying, theft, substance abuse, the sale or use of illegal substances,

exposure to weapons, and threats on school grounds.

"Former deputy sheriff" means the same as that term is used in §7-14C-1, but who has retired from service.

"Former municipal police officer" means an individual previously employed as a member of a police department by a West Virginia municipality or municipal subdivision, and who has retired from service;

"Former state trooper" means a state police officer employed pursuant to the provisions of §15-2-1 et seq., and who has retired pursuant to the provisions of §15-2-27.

"Former federal law-enforcement officer" means a federal law-enforcement officer employed pursuant to the provisions of §15-10-5(b), who was classified as an 1811 Investigator, and who has retired from service.

"Honorably discharged veteran" means an honorably discharged veteran of the armed forces of the United States, reserve, or National Guard.

"West Virginia Guardian" means an independent contractor under contract to a county school board for the purposes of providing public safety and/or security on school grounds. Persons contracted to provide these services shall include an honorably discharged veteran, a former state trooper, a former municipal police officer, a former deputy sheriff, or a former federal law-enforcement officer. A West Virginia Guardian is considered an authorized individual for purposes of the Gun-Free School Zones Act of 1990, 18 U.S.C. §921 and §922.

(c) Authority. — Notwithstanding the provisions of §61-7-11a or any applicable rule, an independent contractor acting as a West Virginia Guardian may carry a concealed weapon upon meeting all the requirements of this section. A West Virginia Guardian is not law enforcement and may not arrest. They are to provide public safety and security to protect life and property as set forth in this section, including, but not limited to, detention of individuals as may be necessary pending the arrival of law enforcement.

(d) Requirements for participation. — Prior to entering into a contract with a West Virginia

Guardian, the county school board shall require an applicant to provide proof that he or she:

(1) Is a citizen of the United States and a resident of the state of West Virginia;

(2) Has received a high school diploma or a General Educational Development diploma known as a GED;

(3) Has met and passed all the requirements for a concealed carry permit as set forth in §61-7-4;

(4) Has completed and passed all the following training courses and examinations:

(A) The Law Enforcement Professional Standards program at the West Virginia State Police. The cost of this program shall be paid by the independent contractor;

(B) A fitness for duty examination that shall include a physical examination, vision examination, a psychiatric examination, and a pre-employment drug screen. The cost of these each shall be paid by the independent contractor; and

(C) A firearm and less than lethal use of force course. To maintain firearm proficiency, the independent contractor must complete yearly training in firearm and less than lethal use of force course.

(5) Has either been honorably discharged from the United States armed services or is retired from his or her employment as a state trooper, municipal police officer, deputy sheriff, or federal law-enforcement officer;

(6) Is current in any obligation, including taxes, to the state of West Virginia; and

(7) Any other requirements imposed by the county school board which may include, but are not limited to, a pre-employment written examination and a pre-employment polygraph exam. A county school board may also require an independent contractor to carry appropriate liability insurance at his or her expense.

(e) Exclusions from participation. — Any of the following shall preclude an independent contractor from participation as a West Virginia Guardian:

(1) A dishonorable or less than honorable discharge from the United States armed

67 services;

68 (2) Having not retired from service as a state trooper, municipal police officer, or deputy
69 sheriff;

70 (3) Having not retired from service as a federal law-enforcement officer;

71 (4) Credible evidence of illegal drug use by the independent contractor in the preceding
72 five-year period;

73 (5) A disqualifying criminal offense, which shall include, but is not limited to:

74 (A) Domestic violence as set forth in §61-2-28;

75 (B) Driving under the influence as set forth in §17C-5-2;

76 (C) Child abuse as set forth in §61-8D-1 *et seq.*; or

77 (D) Unlawful manufacture, delivery, or possession with intent to deliver any controlled
78 substance as set forth in §60A-4-1 *et seq.*; or

79 (E) Any other misdemeanor or felony conviction deemed exclusionary for contracting with
80 the independent contractor by the county school board.

81 (f) *Liability.* — A county school board may not be held civilly liable or be criminally
82 prosecuted for any action of a West Virginia Guardian acting within the scope of the duties for
83 which their services were contracted unless the county school board can be shown to be grossly
84 negligent or committed willful misconduct.

85 (g) *Miscellaneous.* —

86 (1) In contracting for the services set forth in this section, county school boards are not
87 subject to the purchasing requirements set forth in §5A-3-1 *et seq.*

88 (2) Nothing in this section requires a county board of education to contract with a West
89 Virginia Guardian. Participation by a county of board of education is voluntary and subject to the
90 availability of county funds. Any county board of education that opts to participate shall do so at its
91 own expense. The provisions of this section place no obligation for the state to appropriate money
92 for the purposes set forth in this section.

93 (3) As an independent contractor, a West Virginia Guardian is not eligible for participation
94 in the public employee insurance plan, workers' compensation, additional state retirement credited
95 to employment as a West Virginia Guardian, or any other state-sponsored or state-offered benefit
96 plan.

NOTE: The purpose of this bill is to create the West Virginia Guardian Program. The bill sets out the purpose of the program and allows county school boards to hire independent contractors to provide safety services in schools. The bill defines terms, sets out the authority of independent contractors, and provides requirements for participation in the program. The bill also provides for exclusions from participation in the program. The bill provides for a limitation of liability for county school boards, provides exemptions from purchasing requirements, and excludes independent contractors in the program from participation in state benefit programs.

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