

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4851

FISCAL
NOTE

By Delegates Statler, Ellington, and Toney

[Introduced January 17, 2024; Referred to the
Committee on Education then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §18-5-52; to amend and reenact §30-29-1 and §30-29-3 of said code; and to
 3 amend and reenact §61-7-11a of said code, all relating to creating school security officers;
 4 authorizing certain schools to employ school security officers; setting forth firearms
 5 qualifications for school security officers; setting forth powers, duties, and equipment of
 6 school security officers; providing certain exceptions; providing definitions; providing
 7 training requirements for school security officers; and authorizing certain school security
 8 officers to carry firearms on certain school grounds.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-52. School security officers.

1 (a) Local school boards, public charter schools, and private or religious schools may
 2 employ school security officers, as defined in §30-29-1 of this code, for the purposes set forth
 3 therein.

4 (b) School security officers may carry a firearm in the performance of their duties if:

5 (1) Within 10 years immediately prior to being hired by the local school board or private or
 6 religious school he or she:

7 (A) Was a law-enforcement officer as defined in §30-29-1 of this code in the state; or

8 (B) Was employed by a law-enforcement agency of the United States or any state or
 9 political subdivision thereof and his or her duties were substantially similar to those of a law-
 10 enforcement officer as defined in §30-29-1 of this code;

11 (2) He or she retired or resigned from their position as a law-enforcement officer in good
 12 standing;

13 (3) He or she meets the training and qualifications described in §30-29-12 of this code;

14 (4) He or she has provided proof of completion of a training course that includes training in
15 active shooter emergency response, emergency evacuation procedure, and threat assessment to
16 the Division of Protective Services School Safety Unit pursuant to subdivision §30-29-3 of this
17 code;

18 (5) The local school board or private or religious school solicits input from the chief law-
19 enforcement officer of the locality regarding the qualifications of the school security officer and
20 receives verification from such chief law-enforcement officer that the school security officer is not
21 prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and

22 (6) The local school board, public charter school, or private or religious school grants him
23 or her the authority to carry a firearm in the performance of his duties.

24 (c) School security officers may not arrest another person but may notify the appropriate
25 law-enforcement agency and detain another person committing an act which constitutes a breach
26 of the peace in a reasonable manner and for a reasonable period. The detention shall not
27 constitute an arrest nor shall it render the local school board, public charter school, private or
28 religious school, or school security officer liable to the person detained: *Provided*, That the
29 detention may be no longer than the time required for the earliest of either (1) the determination
30 that no offense constituting a breach of the peace has been committed; or (2) the surrender of the
31 person detained to a certified law-enforcement officer.

32 (d) The local school board, public charter school, or private or religious school shall be
33 responsible for the costs of providing the necessary equipment for school security officers to
34 adequately perform their duties.

35 (e) For purposes of this section, a "crime involving a breach of the peace" means:

36 (1) A felony;

37 (2) A crime involving physical injury or a threat of physical injury to another person; or

38 (3) Any act committed where the school security officer has reason to believe that a person
39 is likely to cause serious harm to himself, herself, or to others.

40 (f) A local school board and public charter school shall, and a private or religious school
 41 may, cooperate with the School Safety Unit established in §15-2D-3 of this code to the fullest
 42 extent practicable to assist the unit in fulfilling its duties, including, but not limited to, providing data
 43 on all safety and security measures for school facilities.

44 (g) Nothing in this section shall be construed as limiting or superseding the provisions of
 45 §61-7-11a of this code authorizing a private school to allow possession of a firearm or other deadly
 46 weapon in or on the grounds of any private primary or secondary school, if such institution has
 47 adopted a written policy allowing for possession of firearms or other deadly weapons in the facility
 48 or on the grounds of the facility.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION

§30-29-1.

Definitions.

1 For the purposes of this article, unless a different meaning clearly appears in the context:

2 (1) "Approved law-enforcement training academy" means any training facility which is
 3 approved and authorized to conduct law-enforcement training as provided in this article;

4 (2) "Chief executive" means the Superintendent of the State Police; the chief Natural
 5 Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia
 6 County; any administrative deputy appointed by the chief Natural Resources police officer of the
 7 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement
 8 agency;

9 (3) "County" means the 55 major political subdivisions of the state;

10 (4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or
 11 above;

12 (5) "Governor's Committee on Crime, Delinquency, and Correction" or "Governor's
 13 committee" means the Governor's Committee on Crime, Delinquency, and Correction established

14 as a state planning agency pursuant to §15-9-1 of this code;

15 (6) "Law-enforcement officer" means any duly authorized member of a law-enforcement
16 agency who is authorized to maintain public peace and order, prevent and detect crime, make
17 arrests, and enforce the laws of the state or any county or municipality thereof, other than parking
18 ordinances, and includes those persons employed as campus police officers at state institutions of
19 higher education in accordance with the provisions of §18B-4-5 of this code, persons employed as
20 hospital police officers in accordance with the provisions of §16-5B-19 of this code, and persons
21 employed by the Public Service Commission as motor carrier inspectors and weight-enforcement
22 officers charged with enforcing commercial motor vehicle safety and weight restriction laws,
23 although those institutions and agencies may not be considered law-enforcement agencies. The
24 term also includes those persons employed as county litter control officers charged with enforcing
25 litter laws who have been trained and certified as law-enforcement officers and whose certification
26 is currently active. The term also includes those persons employed as rangers by resort area
27 districts in accordance with the provisions of §7-25-23 of this code, although no resort area district
28 may be considered a law-enforcement agency: *Provided*, That the subject rangers shall pay the
29 tuition and costs of training. As used in this article, the term "law-enforcement officer" does not
30 apply to the chief executive of any West Virginia law-enforcement agency, or to any watchman or
31 special natural resources police officer, or to any litter control officer who is authorized and trained
32 under the provisions of §7-1-3ff(d) of this code but is not trained and currently certified as a law-
33 enforcement officer;

34 (7) "Law-enforcement official" means the duly appointed chief administrator of a
35 designated law-enforcement agency or a duly authorized designee;

36 (8) "Municipality" means any incorporated town or city whose boundaries lie within the
37 geographic boundaries of the state;

38 (9) "Pre-certified law-enforcement officer" means a person employed or offered
39 employment by a West Virginia law-enforcement agency prior to his or her initial certification by

40 the subcommittee. This term does not include a person employed or offered employment by a
41 West Virginia law-enforcement agency whose certification status is inactive, suspended, or has
42 been revoked;

43 (10) "School security officer" means an individual who is employed by a local school board,
44 public charter school, or private or religious school for the singular purpose of maintaining order
45 and discipline, preventing crime, investigating violations of the policies of the school board, public
46 charter school, or private or religious school, and reasonably detaining students committing an
47 offense that constitutes a breach of the peace on school property, school buses, or at school-
48 sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all
49 students, faculty, staff, and visitors in the assigned school.

50 ~~(10)~~(11) "Subcommittee" or "law-enforcement professional standards subcommittee"
51 means the subcommittee of the Governor's Committee on Crime, Delinquency, and Correction
52 created by §30-29-2 of this code; and

53 ~~(11)~~(12) "West Virginia law-enforcement agency" means any duly authorized state, county,
54 or municipal organization employing one or more persons whose responsibility is the enforcement
55 of laws of the state or any county or municipality thereof: Provided, That neither the Public Service
56 Commission, nor any state institution of higher education, nor any hospital, nor any resort area
57 district is a law-enforcement agency.

§30-29-3. Duties of the subcommittee.

1 (a) The subcommittee shall, by or pursuant to rules proposed for legislative approval in
2 accordance with §29A-3-1 *et seq.* of this code:

3 (1) Provide funding for the establishment and support of law-enforcement training
4 academies in the state;

5 (2) Establish standards governing the establishment and operation of the law-enforcement
6 training academies, including regional locations throughout the state, in order to provide access to
7 each law-enforcement agency in the state in accordance with available funds;

- 8 (3) Establish minimum law-enforcement instructor qualifications;
- 9 (4) Certify qualified law-enforcement instructors;
- 10 (5) Maintain a list of approved law-enforcement instructors;
- 11 (6) Promulgate standards governing the training, firearms qualification, and initial and
12 ongoing professional certification of law-enforcement officers and the entry-level, law-
13 enforcement training curricula. These standards shall require satisfactory completion of a
14 minimum of 800 classroom hours as promulgated by legislative rule and shall provide that the
15 required classroom hours shall be accumulated on the basis of a full-time curricula;
- 16 (7) Establish standards governing in-service, law-enforcement officer training curricula and
17 in-service supervisory level training curricula;
- 18 (8) Certify organized criminal enterprise investigation techniques with a qualified anti-racial
19 profiling training course or module;
- 20 (9) Establish standards governing mandatory training to effectively investigate organized
21 criminal enterprises as defined in §61-13-1 *et seq.* of this code while preventing racial profiling, as
22 defined in §30-29-10 of this code, for entry-level training curricula and for law-enforcement officers
23 who have not received such training as certified by the subcommittee as required in this section;
- 24 (10) Establish procedures for implementation of a course in investigation of organized
25 criminal enterprises which includes an anti-racial training module to be available on the Internet or
26 otherwise to all law-enforcement officers. The procedures shall include the frequency with which a
27 law-enforcement officer shall receive training in investigation of organized criminal enterprises and
28 anti-racial profiling and a time frame for which all law-enforcement officers must receive such
29 training: *Provided*, That all law-enforcement officers in this state shall receive such training no later
30 than July 1, 2012. In order to implement and carry out the intent of this section, the subcommittee
31 may promulgate emergency rules pursuant to §29A-3-15 of this code;
- 32 (11) Certify or decertify or reactivate law-enforcement officers, as provided in §30-29-5 and
33 §30-29-11 of this code;

34 (12) Establish standards and procedures for the reporting of complaints and certain
35 disciplinary matters concerning law-enforcement officers and for reviewing the certification of law-
36 enforcement officers. These standards and procedures shall provide for preservation of records
37 and access to records by law-enforcement agencies and conditions as to how the information in
38 those records is to be used regarding an officer's law-enforcement employment by another law-
39 enforcement agency:

40 (A) The subcommittee shall establish and manage a database that is available to all law-
41 enforcement agencies in the state concerning the status of any person's certification.

42 (B) Personnel or personal information not resulting in a criminal conviction is exempt from
43 disclosure pursuant to the provisions of chapter 29B of this code;

44 (13) Seek supplemental funding for law-enforcement training academies from sources
45 other than the fees collected pursuant to §30-29-4 of this code;

46 (14) Any responsibilities and duties as the Legislature may, from time to time, see fit to
47 direct to the subcommittee;

48 (15) Establish standards and procedures for initial and ongoing training for law-
49 enforcement officers responsible for investigating sexual assault cases involving adult victims.

50 This training shall include instruction on:

51 (A) The neurobiology of trauma;

52 (B) Trauma-informed interviewing; and

53 (C) Investigative techniques;

54 (16) Submit, on or before September 30 of each year, to the Governor, the Speaker of the
55 House of Delegates, the President of the Senate, and, upon request, to any individual member of
56 the Legislature, a report on its activities during the previous year, and an accounting of funds paid
57 into and disbursed from the special revenue account established pursuant to §30-29-4 of this
58 code;

59 (17) Develop and promulgate rules for state, county, and municipal law-enforcement

60 officers, law-enforcement agencies, and communications and emergency operations centers that
61 dispatch law-enforcement officers with regard to the identification, investigation, reporting, and
62 prosecution of suspected child abuse and neglect: *Provided*, That such rules and procedures must
63 be consistent with the priority criteria prescribed by generally applicable department procedures;
64 and

65 (18) Make recommendations to the Governor's Committee on Crime, Delinquency, and
66 Correction for legislation related to the subcommittee's duties and responsibilities, or for research
67 or studies by the Division of Administrative Services on topics related to the subcommittee's duties
68 and responsibilities;

69 (19) Promulgate standards governing the training, firearms qualification, and initial and
70 ongoing professional certification of a tactical medical professional, as defined in §30-43-1 of this
71 code, on or before January 1, 2024. This training program shall include awarding a certificate
72 upon successful completion of the program that qualifies the tactical medical professional to carry
73 a firearm while on duty; and

74 (20) Establish, in consultation with the Division of Protective Services School Safety Unit,
75 compulsory minimum standards for employment, job-entry, in-service training curricula, and
76 certification requirements for school security officers, including school security officers described
77 in §18-5-52 of this code, which training and certification shall be administered and provided in the
78 manner approved by the subcommittee: Provided, That initial training shall be conducted at an
79 approved law-enforcement training academy. Such training standards shall be specific to the role
80 and responsibility of school security officers and shall include (i) relevant state and federal laws; (ii)
81 school and personal liability issues; (iii) security awareness in the school environment; (iv)
82 mediation and conflict resolution, including de-escalation techniques such as a physical
83 alternative to restraint; (v) disaster and emergency response; (vi) awareness of systemic and
84 individual racism, cultural diversity, and implicit bias; (vii) working with students with disabilities,
85 autism spectrum disorders, mental health needs, substance use disorders, and past traumatic

86 experiences; and (viii) student behavioral dynamics, including child and adolescent development
87 and brain research. The Division of Protective Services School Safety Unit may establish an
88 advisory committee consisting of local school board, public charter school, and private or religious
89 school representatives and school security personnel to assist in the development of the
90 standards and certification requirements in this subdivision. The Division of Protective Services
91 School Safety Unit shall require any school security officer who carries a firearm in the
92 performance of his duties to provide proof that he or she has completed both basic and in-service
93 training courses provided by a federal, state, or local law-enforcement agency that includes
94 training in active shooter emergency response, emergency evacuation procedure, and threat
95 assessment.

96 (b) In addition to the duties authorized and established by this section, the subcommittee
97 may:

98 (1) Establish training to effectively investigate human trafficking offenses as defined in §61-
99 2-1 *et seq.* of this code for entry-level training curricula and for law-enforcement officers who have
100 not received such training as certified by the committee as required by this section; and

101 (2) Establish procedures for the implementation of a course in investigation of human
102 trafficking offenses. The course may include methods of identifying and investigating human
103 trafficking and methods for assisting trafficking victims. In order to implement and carry out the
104 intent of this subdivision, the committee may promulgate emergency rules pursuant to §29A-3-15
105 of this code.

106 (c) Notwithstanding any provision of this code to the contrary, the subcommittee may deny
107 an application for the establishment of a new law-enforcement training academy if it is determined
108 by the subcommittee that no actual need exists for the establishment of additional law-
109 enforcement training academies to meet the needs of existing law-enforcement agencies in the
110 state.

21 enforcement agency;

22 (B) Any probation officer appointed pursuant to §62-12-5 of this code or state juvenile
23 probation officer appointed pursuant to §49-4-719 of this code, in the performance of his or her
24 duties;

25 (C) Any home confinement supervisor employed by a county commission pursuant to §61-
26 11B-7a of this code in the performance of his or her duties;

27 (D) A state parole officer appointed pursuant to §15A-7-5 of this code, while in
28 performance of his or her official duties;

29 (E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a
30 qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as
31 amended, pursuant to 18 U.S.C. § 926C(c), carries that firearm in a concealed manner, and has
32 on his or her person official identification in accordance with that act;

33 (F) A person, other than a student of a primary and secondary facility, specifically
34 authorized by the board of education of the county or principal of the school where the property is
35 located to conduct programs with valid educational purposes;

36 (G) A person who, as otherwise permitted by the provisions of this article, possesses an
37 unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly
38 weapon in a locked motor vehicle;

39 (H) Programs or raffles conducted with the approval of the county board of education or
40 school which include the display of unloaded firearms;

41 (I) The official mascot of West Virginia University, commonly known as the Mountaineer,
42 acting in his or her official capacity;

43 (J) The official mascot of Parkersburg South High School, commonly known as the Patriot,
44 acting in his or her official capacity; or

45 (K) Any person, 21 years old or older, who has a valid concealed handgun permit. That
46 person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or

47 other areas of vehicular ingress or egress to a public school: *Provided*, That:

48 (i) When he or she is occupying the vehicle, the person stores the handgun out of view
49 from persons outside the vehicle; ~~or~~

50 (ii) When he or she is not occupying the vehicle, the person stores the handgun out of view
51 from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other
52 interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle; or

53 (L) A school security officer as defined in §30-29-1 of this code authorized to carry a firearm
54 and who meets the requirements set forth in §30-29-3 and §18-5-52 of this code.

55 (3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall
56 be imprisoned in a state correctional facility for a definite term of years of not less than two years
57 nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

58 (c) A school principal subject to the authority of the State Board of Education who
59 discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

60 (1) The State Superintendent of Schools. The State Board of Education shall keep and
61 maintain these reports and may prescribe rules establishing policy and procedures for making and
62 delivering the reports as required by this subsection; and

63 (2) The appropriate local office of the State Police, county sheriff, or municipal police
64 agency.

65 (d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a
66 court which adjudicates a person who is 14 years of age or older as delinquent for a violation of
67 §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or
68 instruction permit issued to the person for a period of time as the court considers appropriate, not
69 to extend beyond the person's 19th birthday. If the person has not been issued a driver's license or
70 instruction permit by this state, a court may order the Division of Motor Vehicles to deny the
71 person's application for a license or permit for a period of time as the court considers appropriate,
72 not to extend beyond the person's 19th birthday. A suspension ordered by the court pursuant to

73 this subsection is effective upon the date of entry of the order. Where the court orders the
74 suspension of a driver's license or instruction permit pursuant to this subsection, the court shall
75 confiscate any driver's license or instruction permit in the adjudicated person's possession and
76 forward it to the Division of Motor Vehicles.

77 (e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code,
78 and if the person does not act to appeal the conviction within the time periods described in §61-7-
79 11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall
80 be revoked in accordance with the provisions of this section.

81 (2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1)
82 of this code shall forward to the commissioner a transcript of the judgment of conviction. If the
83 conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the
84 transcript when the person convicted has not requested an appeal within 20 days of the
85 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk
86 shall forward a transcript of the judgment of conviction when the person convicted has not filed a
87 notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was
88 entered.

89 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner
90 determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the
91 commissioner shall make and enter an order revoking the person's license or privilege to operate
92 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled
93 in a secondary school, for a period of one year or until the person's 20th birthday, whichever is the
94 greater period. The order shall contain the reasons for the revocation and the revocation period.
95 The order of suspension shall advise the person that because of the receipt of the court's
96 transcript, a presumption exists that the person named in the order of suspension is the same
97 person named in the transcript. The commissioner may grant an administrative hearing which
98 substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a

99 preliminary showing that a possibility exists that the person named in the notice of conviction is not
100 the same person whose license is being suspended. The request for hearing shall be made within
101 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for
102 the person requesting the hearing to present evidence that he or she is not the person named in
103 the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the
104 license suspension pending the commissioner's order resulting from the hearing.

105 (4) For the purposes of this subsection, a person is convicted when he or she enters a plea
106 of guilty or is found guilty by a court or jury.

107 (f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age
108 who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to
109 believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately
110 report his or her knowledge or belief to the appropriate school or law-enforcement officials.

111 (2) A person violating this subsection is guilty of a misdemeanor and, upon conviction
112 thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or
113 both fined and confined.

114 (g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the
115 premises of a court of law, including family courts.

116 (2) This subsection does not apply to:

117 (A) A law-enforcement officer acting in his or her official capacity; and

118 (B) A person exempted from the provisions of this subsection by order of record entered by
119 a court with jurisdiction over the premises or offices.

120 (3) A person violating this subsection is guilty of a misdemeanor and, upon conviction
121 thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or
122 both fined and confined.

123 (h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the
124 premises of a court of law, including family courts, with the intent to commit a crime.

125 (2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall
126 be imprisoned in a state correctional facility for a definite term of years of not less than two years
127 nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

128 (i) Nothing in this section may be construed to be in conflict with the provisions of federal
129 law.

NOTE: The purpose of this bill is to authorize local school boards, public charter schools, and private or religious schools to employ school security officers.

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