

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 2164

**FISCAL
NOTE**

By Delegates Statler, Ellington, Pinson, Hornby, Pritt,

D. Cannon, and Heckert

[Originating on February 25, 2025 in the Committee
on Education, then to Committee on the Judiciary.]

1 A BILL to amend and reenact §15-2D-3 and §61-7-11a of the Code of West Virginia, 1931, as
2 amended; and by adding thereto a new section, designated §18-5-52, all relating to
3 creating school safety officers; requiring the director of the Division of Protective Services
4 to establish standards for school safety officers and issue a certificate; providing
5 definitions; authorizing local school boards, public charter schools, and private or religious
6 schools to employ school safety officers; providing standards for a school safety officer to
7 carry a firearm on school grounds; requiring a background check; specifying the detention
8 powers of a school safety officer and limitations on detention powers; requiring data
9 sharing with the Division of Protective Services; specifying payment for equipment;
10 requiring insurance for schools employing a school safety officer; clarifying that the
11 prohibitions on carry a firearm in a school zone do not apply to certified school safety
12 officers; providing that all school safety officers are subject to the Law Enforcement
13 Officers Safety Act ("LEOSA"); clarifying the liability and responsibility of school safety
14 officers; and providing for annual training in conjunction with the local county sheriffs'
15 department.

Be it enacted by the Legislature of West Virginia:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.

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

1 (a) The director is responsible for the control and supervision of the division. The director
2 and any officer of the division may carry designated weapons and have the same powers of arrest
3 and law enforcement in Kanawha County as members of the West Virginia State Police as set
4 forth in §15-2-12(b) and §15-2-12(d) of this code. The director and any officer of the division shall
5 also have such powers throughout the State of West Virginia in investigating and performing law-
6 enforcement duties for offenses committed on the Capitol Complex or related to the division's

7 security and protection duties at the Capitol Complex and throughout the state relating to offenses
8 and activities occurring on any property owned, leased, or operated by the State of West Virginia
9 when undertaken at the request of the agency occupying the property: *Provided*, That nothing in
10 this article shall be construed as to obligate the director or the division to provide, or be responsible
11 for providing, security at state facilities outside the Capitol Complex.

12 (b)(1) The director shall establish a School Safety Unit within the Division of Protective
13 Services. Officers shall be assigned to the School Safety Unit at the discretion of the director.
14 The officers assigned to the School Safety Unit shall primarily be charged to make school safety
15 inspections and to make recommendations to appropriate county school superintendents,
16 principals, or other school administrators, regarding school safety. The officers assigned to the
17 School Safety Unit shall also be authorized to respond to and investigate all school safety matters,
18 in consultation with county boards of education: *Provided*, That any officer of the School Safety
19 Unit shall have statewide jurisdiction and powers of general law enforcement and arrest for
20 violations of law committed in their presence.

21 (2) The director, in consultation with the Law Enforcement Professional Standards
22 Subcommittee of the Governor's Committee on Crime, Delinquency and Correction, shall
23 establish minimum recommendations for training for employment, job-entry, and in-service
24 training curricula, and provide written certification, for school safety officers as described in §18-5-
25 52, which training and certification shall be administered and provided in the manner approved by
26 the director. Such training standards may include:

27 (A) Relevant state and federal laws;

28 (B) School and personal liability issues;

29 (C) Security awareness in the school environment;

30 (D) Mediation and conflict resolution, including de-escalation techniques such as a
31 physical alternative to restraint;

32 (E) Disaster and emergency response;

33 (F) Working with students with disabilities, autism spectrum disorders, mental health
34 needs, substance use disorders, and past traumatic experiences; and

35 (G) Student behavioral dynamics, including child and adolescent development and brain
36 research. The Division of Protective Services School Safety Unit may establish an advisory
37 committee consisting of local school board, public charter school, and private or religious school
38 representatives and school security personnel to assist in the development of the standards and
39 certification requirements in this subdivision.

40 (3) For purposes of this section, "school safety officer" means an individual who is
41 employed by a local school board, public charter school, or private or religious school for the
42 singular purpose of maintaining order and discipline, preventing crime, investigating violations of
43 the policies of the school board, public charter school, or private or religious school, and
44 reasonably detaining any individual committing an offense that constitutes a breach of the peace,
45 as defined in §18-5-52, on school property, school buses, or at school-sponsored events, and who
46 is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and
47 visitors in the assigned school.

48 (c) Any officer of the division shall be certified as a law-enforcement officer by the
49 Governor's Committee on Crime, Delinquency, and Correction or may be conditionally employed
50 as a law-enforcement officer until certified in accordance with the provisions of §30-29-5 of this
51 code.

52 (d) The director may:

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

56 (2) Contract for security and other services;

(3) Purchase equipment as necessary to maintain security at the Capitol Complex and other state facilities. The provisions of §5A-3-3 of this code do not apply to purchases made pursuant to this subdivision;

(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) Consistent with the provisions in §15-2D-5 of this code, provide security for the Speaker of the House of Delegates, the President of the Senate, the Governor, or a justice of the 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;

(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 Homeland Security, upon request of the secretary of the department to which the facility is or will be assigned: *Provided*, That records of such assessments, and any other records determined by the Secretary of the Department of Homeland Security to compromise the safety and security at any proposed or existing state facility, including primary and secondary schools, are not public records and are not subject to disclosure in response to a Freedom of Information Act request under §29B-1-1 *et seq.* of this code; and

(9) Enter into an interagency agreement with the Secretary of the Department of Homeland Security 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 Senate, and the Speaker of the House of Delegates, and a copy shall be filed in the office of the Secretary of State and shall be a public record.

(e) The director shall:

(1) Propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code. The rules shall, at a minimum, establish ranks and the duties of officers within the membership of the division.

(2) Consistent with subsection (b) of this section, provide services to all public primary and secondary schools in furtherance of the purposes of the School Safety Unit: *Provided*, That the director may provide services to any private primary and secondary schools in the state upon request.

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

(4) 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, to have its employees 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.

(i) 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.

(ii) All current service providers shall, within 90 days of the amendment and reenactment of this section by the 80th 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.

(iii) 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.

(iv) 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 make up the Capitol Complex or who have access to sensitive or critical information.

(v) 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.

(5) Be required to provide his or her approval prior to the installation of any and all electronic security systems purchased by any state agency which are designed to connect to the division's command center.

(f) Effective July 1, 2017, the Director of Security and security officers of the Department of Arts, Culture, and History shall be made part of, and be under the supervision and direction of, the Division of Protective Services. Security for all Capitol Complex properties of the Department of Arts, Culture, and History shall be the responsibility of the Division of Protective Services.

CHAPTER 18. EDUCATION.

ARTICLE	5.	COUNTY	BOARD	OF	EDUCATION.
<u>§18-5-52.</u>		<u>School</u>	<u>safety</u>		<u>officers.</u>

1 (a) Local school boards, public charter schools, and private or religious schools may
2 employ school safety officers, as defined in §15-2D-3, for the purposes set forth therein.

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

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

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

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

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

12 (3) He or she maintains the requirements of and status as an honorably separated or
13 qualified retired law-enforcement officer within the meaning of the Law Enforcement Officers
14 Safety Act of 2004, as amended, pursuant to 18 U.S.C. § 926C;

15 (4) He or she obtains and maintains any certification and training required by the Division
16 of Protective Services School Safety Unit pursuant to subdivision §15-2D-3;

17 (5) Undergoes a background check at his or her expense as required by the Division of
18 Public Services to verify that the prospective school safety officer is not prohibited by state or
19 federal law from possessing, purchasing, or transporting a firearm, has been determined by the
20 Director of the Division of Protective Services to be appropriate and capable of discharging the
21 duties as a school safety officer as set forth in a written certification, and has provided the written
22 certification of the Director of the Division of Protective Services to the local school board, public
23 charter school, or private or religious school; and

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

(c) School safety officers may not arrest another person but may notify the appropriate law-enforcement agency and detain another person committing an act which constitutes a breach of the peace in a reasonable manner and for a reasonable period. The detention shall not constitute an arrest nor shall it render the local school board, public charter school, private or religious school, or school safety officer liable to the person detained: *Provided*, That the detention may be no longer than the time required for the earliest of either (1) the determination that no offense constituting a breach of the peace has been committed; or (2) the surrender of the person detained to a certified law-enforcement officer. School safety officers may not interrogate or question a detained minor without the knowledge and consent of the minor's parent, except in the instance of a perceived immediate danger to the health, safety, and welfare of others within the facility, when the parents are not present and/or when the minor attempts self-harm, the questioning is limited to the immediate danger, and the questioning will likely lead to the alleviation or elimination of the immediate danger, and if the person detained is a student and is under the age of 21, their parent or guardian is notified of the detention.

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

(e) For purposes of this section:

(1) "Breach of the peace" means:

(A) A felony;

(B) Any action or potential crime involving physical injury or a threat of physical injury to another person;

(C) Any action or potential crime involving destruction of school property or property located on the school premises; or

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

(2) "School safety officer" has the same meaning as that term is defined in §15-2D-3.

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

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

(h) A local school board, public charter school, or a private or religious school employing a school safety officer shall maintain insurance coverage which:

(1) Shall include adequate insurance for liability, property loss, and the personal injury of students and other personnel; and

(2) May include coverage from the Board of Risk and Insurance Management pursuant to §29-12-5a, if applicable.

(i) Eight hours of the mandatory 16 hours of in-service training for law enforcement officers may be credited when an individual is employed as a school safety officer pursuant to this section.

(j) All school safety officers hired are subject to the Law Enforcement Officers Safety Act ("LEOSA") based on §61-7-11a of this code, subsection (b)(3) of this section, and subject to the provisions of §18 USC 926(C)c.

(k) The liability and responsibility of a school safety officer shall be that of the respective county board of education where that officer is working, regardless of whether that officer is contracted by a third party.

(l) All school safety officers shall train annually with the local county sheriffs' department in the county that the safety officer is working in.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(l) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

20 (A) A law-enforcement officer employed by a federal, state, county, or municipal law-
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 safety officer as defined in §15-2D-3 authorized to carry a firearm and who
54 meets the requirements set forth in §15-2D-3 and §18-5-52.

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 safety 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.