

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENROLLED

Committee Substitute

for

Committee Substitute

for

House Bill 2164

BY DELEGATES STATLER, ELLINGTON, PINSON, HORNBY,

PRITT, D. CANNON, HECKERT, HOLSTEIN, AND

FUNKHOUSER

[Passed April 12, 2025; in effect 90 days from
passage (July 11, 2025)]

1 AN ACT 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 three new sections, designated §18-5-52, §18-5-53, and
3 §18-5-54, relating to creating school safety officers; requiring the director of the Division
4 of Protective Services to establish standards for school safety officers and issue a
5 certificate; providing definitions; authorizing local school boards, public charter schools,
6 and private or religious schools to employ school safety officers; providing standards for a
7 school safety officer to carry a firearm on school grounds; requiring a background check;
8 specifying the detention powers of a school safety officer and limitations on detention
9 powers; requiring data sharing with the Division of Protective Services; specifying payment
10 for equipment; requiring insurance for schools employing a school safety officer; clarifying
11 that the prohibitions on carry a firearm in a school zone do not apply to certified school
12 safety 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; providing for annual training in conjunction with the local county sheriffs'
15 department; allowing county boards of education to contract with an independent
16 contractor, known as a West Virginia guardian, who is a former state trooper, former
17 deputy sheriff, former state fire marshal, former Department of Natural Resources police
18 officer, former municipal police officer, or former federal law-enforcement officer to provide
19 public safety and/or security on school grounds to protect life and property; specifying the
20 authority of independent contractors participating in the program and an apparel
21 requirement; requiring the West Virginia guardian to apply for a permit from the county
22 sheriff of the county in which the guardian will provide services; mandating the county
23 sheriff to require an applicant to provide proof of meeting certain requirements; allowing
24 county board to impose additional requirements; requiring permit application fee to be
25 deposited into a guardian program fund; stating that meeting all of certain requirements
26 does not guarantee a contract will be extended to the applicant; specifying instances in

27 which an independent contractor is precluded from participation as a West Virginia
28 guardian; providing certain liability insurance requirements; exempting West Virginia
29 guardian contract from certain purchasing requirements; clarifying that county board
30 participation is voluntary and subject to the availability of county funds; providing for
31 exclusions from state benefit programs; and clarifying that an off duty law-enforcement
32 officer is not prohibited from carrying a firearm on certain school grounds; allowing county
33 boards, public charter schools, or private or religious schools to contract with a private
34 security guard firm to provide school safety officer services; specifying the authority of the
35 private security guard firm or its employees participating a a school safety officer;
36 mandating the county board, public charter school, or private or religious school to require
37 an applicant to provide proof of meeting certain requirements; allowing county board,
38 public charter school, or private or religious school impose additional requirements;
39 specifying instances in which a private security guard or it employees is precluded from
40 participation as a school safety officer; providing certain liability insurance requirements;
41 exempting contract from certain purchasing requirements; providing for exclusions from
42 state benefit programs; clarifying that an employee of a private security guard firm acting
43 as a school safety officer is not prohibited from carrying a firearm on certain school
44 grounds; and permitting air rifles and rimfire rifles on certain school grounds for the
45 purposes of shooting teams to the extent permitted by law

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
11 responsible 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-
25 5-52, which training and certification shall be administered and provided in the manner approved
26 by the director. Such training standards may include:

27 (A) Relevant state and federal laws;

28 (B) School and personal liability issues;

(C) Security awareness in the school environment;

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

(E) Disaster and emergency response;

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

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

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

(c) 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 §30-29-5 of this code.

(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;

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

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

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

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

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

73 (8) Assess safety and security needs and make recommendations for safety and security
74 at any proposed or existing state facility as determined by the Secretary of the Department of
75 Homeland Security, upon request of the secretary of the department to which the facility is or will
76 be assigned: *Provided*, That records of such assessments, and any other records determined by
77 the Secretary of the Department of Homeland Security to compromise the safety and security at
78 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

105 sensitive or critical information, the service provider shall submit a list of all persons who will be
106 physically present and working at the Capitol Complex for purposes of verifying compliance with
107 this section.

108 (ii) All current service providers shall, within 90 days of the amendment and reenactment
109 of this section by the 80th Legislature, ensure that all of its employees who are providing services
110 on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or
111 critical information submit to a fingerprint-based state and federal background inquiry through the
112 state repository.

113 (iii) Any contract entered into, amended, or renewed by an agency or entity of state
114 government with a service provider shall contain a provision reserving the right to prohibit specific
115 employees thereof from accessing sensitive or critical information or to be present at the Capitol
116 Complex based upon results addressed from a criminal background check.

117 (iv) For purposes of this section, the term "service provider" means any person or company
118 that provides employees to a state agency or entity of state government to work on the grounds
119 or in the buildings that make up the Capitol Complex or who have access to sensitive or critical
120 information.

121 (v) In accordance with the provisions of Public Law 92-544 the criminal background check
122 information will be released to the Director of the Division of Protective Services.

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

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

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-52. School safety officers.

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, or contract with private security services
3 as set forth in §18-5-53 for the purposes set forth therein.

4 (b) School safety 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 in the state with ten years of
8 aggregate years as a law enforcement officer; or

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

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

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

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

19 (5) Undergoes a background check at his or her expense as required by the Division of
20 Protective Services to verify that the prospective school safety officer is not prohibited by state or
21 federal law from possessing, purchasing, or transporting a firearm, has been determined by the
22 Director of the Division of Protective Services to be appropriate and capable of discharging the

duties as a school safety officer as set forth in a written certification, and has provided the written certification of the Director of the Division of Protective Services to the local school board, public charter school, or private or religious school; and

(6) The local school board, public charter school, or private or religious school grants him 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;

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

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

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

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

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

59 (g) Nothing in this section shall be construed as limiting or superseding the provisions of
60 §61-7-11a authorizing a private school to allow possession of a firearm or other deadly weapon
61 in or on the grounds of any private primary or secondary school, if such institution has adopted a
62 written policy allowing for possession of firearms or other deadly weapons in the facility or on the
63 grounds of the facility.

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

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

68 (2) May include coverage from the Board of Risk and Insurance Management pursuant to
69 §29-12-5a, if applicable.

70 (i) Eight hours of the mandatory 16 hours of in-service training for law enforcement officers
71 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, subdivision (b)(3) of this section, and subject to the provisions of §18 USC 926C(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 in which the safety officer is working.

§18-5-53. Contracting with private security as a school safety officer.

(a) *Purpose.* — County boards of education, public charter schools, and private or religious schools may contract with a private security guard firm licensed pursuant to the provisions of §30-18-1 *et seq.* of this code to provide the services of a school safety officer as set forth in §18-5-52 of this code.

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

"Contract" means an agreement between a county board and a private security provider.

"County board" means the same as that term is defined in §18-1-1 and used in §18-5-1 *et seq.* of this code.

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

"Security guard firm" has the same meaning as that term is defined in §30-18-1 of this code.

(c) *Authority.* — Notwithstanding the provisions of §61-7-11a or any applicable rule, an employee of a private security guard firm who has contracted with a county school board, public charter schools, or private or religious school may carry weapons upon meeting all the requirements of this section. An employee of a private security guard firm contracting with a

county board, public charter school, or private or religious school is not law enforcement and has no authority to arrest. They are to provide services as a school safety officer as set forth in §18-5-52 of this code.

(d) *Requirements for participation.* — Prior to entering into a contract with a county board, public charter school, or private or religious school, a private security guard firm shall be licensed pursuant to the provisions of §30-18-1 *et seq.* of this code and is current in any obligation, including taxes, to the State of West Virginia. The county board, public charter school, or private or religious school shall require an applicant to provide proof that any employee of the private security guard firm intended to be used as a school safety officer:

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

(2) Has received a high school diploma or a high school equivalency diploma;

(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/or examinations:

(A) The Law Enforcement Professional Standards program. The cost of this program is to be paid by the independent contractor;

(B) A fitness for duty examination which shall include a physical examination, vision examination, psychiatric examination, and a pre-employment drug screen within one year of beginning a contract with a county board, public charter school, or a private or religious school and upon initiating a new contract following the expiration of all contract extension options. The cost of these each shall be paid by the private security guard firm;

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

(D) Training on crisis de-escalation techniques, disaster and emergency response, bomb threats, performing their duties in the presence of students with disabilities including, but not limited to, students with autism spectrum disorders, and cardiopulmonary resuscitation; and

(6) Any other requirements imposed by the county board, public charter school, or private or religious school which may include, but are not limited to, a pre-employment written examination and a pre-employment polygraph exam. A county board, public charter school, or private or religious school may also require a private security guard firm to carry appropriate liability insurance at his or her expense.

(e) *Exclusions from participation.* — Any of the following shall preclude an employee of private security guard firm from participation as a school safety officer:

(1) There is credible evidence of illegal drug use by the employee of the private security guard firm in the preceding five-year period; or

(3) A disqualifying criminal offense. These shall include, but are not limited to:

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

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

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

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

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

(f) *Insurance coverage.* —

A county board, public school, or private or religious school contracting for the services of a private security guard firm shall maintain adequate insurance for liability, property loss, and the personal injury of students and other personnel to the extent permitted by the Board of Risk and Insurance Management pursuant to §29-12-5a in addition to any appropriate liability insurance coverage required by subdivision (d)(6) of this section.

(g) *Miscellaneous.* —

(1) In contracting for the services set forth in this section, county boards or public charter school is may not be subject to purchasing requirements set forth in §5A-3-1 *et seq.*

(2) Nothing in this section entitles any employee of a private security guard firm for participation in the public employee insurance plan, workers' compensation, additional state retirement credited to employment as a West Virginia Guardian, or any other state-sponsored or -offered state benefit plan.

(4) Notwithstanding any other provision of this code or federal law to the contrary, nothing in this section shall be construed to create an employer-and-employee relationship between a county school board, public charter school, or a private or public school.

§18-5-54. Public school West Virginia Guardian Program.

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

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

"Contract" means an agreement between a county board and an independent contractor who has been certified by the county sheriff relating to the procurement of public safety or security services.

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

"Independent contractor" means the same as that term is used in §21-5I-4.

"Public safety or security" means the protection of students, faculty, and staff of a public school from violence, 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 the same as that term is used in §8-22A-2 and includes officers who were members pursuant to the provisions of §8-22A-16, but who are retired from service.

"Former natural resources police officer" means the same as that term is used in §20-18-2, but who is retired from service.

"Former state fire marshal" means the same as that term is used in §15A-10-1 *et seq.*, but who is retired from service.

"Former state trooper" means a state police officer employed pursuant to the provisions of §15-2-1 *et seq.*, or §15-2A-1 *et seq.* and who has retired pursuant to the provisions of §15-2-27 or §15-2A-6 of this code.

"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 a Criminal Investigation Series 1811 investigator, and who has retired from service.

"West Virginia Guardian" means an independent contractor certified by the county sheriff as meeting the qualifications set forth in this section and who is under contract to a county board for the purposes of providing public safety and/or security on school grounds. Persons contracted to provide these services shall include a retired state trooper, a retired state fire marshal, a retired Department of Natural Resources police officer, a former municipal police officer, a retired federal law-enforcement officer, or a retired deputy sheriff. 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.

41 (c) *Authority.* — Notwithstanding the provisions of §61-7-11a or any applicable rule, an
42 independent contractor acting as a West Virginia Guardian may carry weapons upon meeting all
43 the requirements of this section. A West Virginia Guardian is not law enforcement and has no
44 authority to arrest. They are to provide public safety and/or security to protect life and property as
45 set forth in this section. Guardians shall wear apparel that makes them readily identifiable as a
46 Guardian while performing the duties as set forth in in this section.

47 (d) *Requirements for participation.* — Prior to entering into a contract with a West Virginia
48 Guardian, the Guardian shall apply for a permit from the county sheriff of the county in which the
49 Guardian will provide services to the county board and, at that time, pay a fee of \$50. The county
50 sheriff shall require an applicant to provide proof that he or she:

51 (1) Is a citizen of the United States and the State of West Virginia;

52 (2) Has received a high school diploma or a high school equivalency diploma;

53 (3) Has met and passed all the requirements for a concealed carry permit as set forth in
54 §61-7-4;

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

56 (A) The Law Enforcement Professional Standards program. The cost of this program is to
57 be paid by the independent contractor;

58 (B) A fitness for duty examination which shall include a physical examination, vision
59 examination, psychiatric examination, and a pre-employment drug screen within one year of
60 beginning a contract with a county board and upon initiating a new contract following
61 the expiration of all contract extension options. The cost of these each shall be paid by the
62 independent contractor;

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

(D) Training on crisis de-escalation techniques, disaster and emergency response, bomb threats, performing their duties in the presence of students with disabilities including, but not limited to, students with autism spectrum disorders, and cardiopulmonary resuscitation.

(5) Is retired from his or her employment as a state trooper, a deputy sheriff, a municipal officer, a Division of Natural Resources police officer, a State Fire Marshal, or federal law enforcement;

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

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

The permit application fee received by the sheriff shall be deposited by the sheriff into a guardian program fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this fund are to be expended by the sheriff to pay the costs associated with issuing Guardian permits. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

Meeting all of the requirements as set forth in this subsection does not guarantee a contract will be extended to the applicant. The county sheriff may, in his or her reasonable judgment, decline to certify to a county board a person as eligible for participation as a guardian.

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

(1) Having not retired from either service to the State of West Virginia as a state trooper, a municipal police officer, a Department of Natural Resources police officer, a former State Fire Marshal, or a deputy sheriff or service as a federal law-enforcement officer;

(2) There is credible evidence of illegal drug use by the independent contractor in the preceding five-year period; or

(3) A disqualifying criminal offense. These shall include, but are not limited to:

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

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

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

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

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

(f) *Insurance coverage.* —

A county board contracting for the services of a West Virginia Guardian shall maintain adequate insurance for liability, property loss, and the personal injury of students and other personnel to the extent permitted by the Board of Risk and Insurance Management pursuant to §29-12-5a in addition to any appropriate liability insurance coverage required by subdivision (d)(7) of this section.

(g) *Miscellaneous.* —

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

(2) Nothing in this section requires a county board to enter into a contract for guardian services. Participation by a county board is voluntary and subject to the availability of county funds. Any county board that opts to participate shall do so at its own expense and any additional funds provided by county entities or private donations. The provisions of this section place no obligation for the state to appropriate money for the purposes set forth in this section.

(3) As an independent contractor, a West Virginia Guardian is not eligible for participation in the public employee insurance plan, workers' compensation, additional state retirement

credited to employment as a West Virginia Guardian, or any other state-sponsored or -offered state benefit plan.

(4) Notwithstanding any other provision of this code or federal law to the contrary, nothing in this section shall be construed to create an employer-and-employee relationship.

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)(I) 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:

(A) Any person currently employed as a law-enforcement officer, chief executive, or pre-certified law-enforcement officer as those terms are defined in §30-29-1 of this code, whether on or off duty;

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

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

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

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

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

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

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

(I) Air rifles and rimfire rifles possessed for the purpose of shooting teams to the extent permitted pursuant to §18-2-46;

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

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

(L) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided, That:*

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

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

(M) A school safety officer as defined in §15-2D-3 authorized to carry a firearm and who meets the requirements set forth in §15-2D-3 and §18-5-52.

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

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

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

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

69 (d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a
70 court which adjudicates a person who is 14 years of age or older as delinquent for a violation of
71 §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license
72 or instruction permit issued to the person for a period of time as the court considers appropriate,
73 not to extend beyond the person's 19th birthday. If the person has not been issued a driver's
74 license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny
75 the person's application for a license or permit for a period of time as the court considers
76 appropriate, not to extend beyond the person's 19th birthday. A suspension ordered by the court
77 pursuant to this subsection is effective upon the date of entry of the order. Where the court orders
78 the suspension of a driver's license or instruction permit pursuant to this subsection, the court
79 shall confiscate any driver's license or instruction permit in the adjudicated person's possession
80 and forward it to the Division of Motor Vehicles.

81 (e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this
82 code, and if the person does not act to appeal the conviction within the time periods described in
83 §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this
84 state shall be revoked in accordance with the provisions of this section.

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

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's 20th birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

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

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

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

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

121 (2) This subsection does not apply to:

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

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

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

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

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

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

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect 90 days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2025.

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Governor