

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 209

**FISCAL
NOTE**

By Senator Tarr

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

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

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

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

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

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

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

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

13 "Public safety or security" means the protection of students, faculty, and staff of a public
14 school from violence, bullying, theft, substance abuse, the sale or use of illegal substances,
15 exposure to weapons, and threats on school grounds.

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

18 "Former state trooper" means a state police officer employed pursuant to the provisions of
19 §15-2-1 et seq., and who has retired pursuant to the provisions of §15-2-27.

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

23 "West Virginia Guardian" means an independent contractor under contract to a county
24 school board for the purposes of providing public safety and/or security on school grounds.
25 Persons contracted to provide these services shall include an honorably discharged veteran, a
26 retired state trooper, or a retired deputy sheriff. A West Virginia Guardian is considered an
27 authorized individual for purposes of the Gun-Free School Zones Act of 1990. 18 U.S.C. §921 and
28 §922.

29 (c) Authority. — Notwithstanding the provisions of §61-7-11a or any applicable rule, an
30 independent contractor acting as a West Virginia Guardian may carry a concealed weapon upon
31 meeting all the requirements of this section. A West Virginia Guardian is not law enforcement and
32 may not arrest. They are to provide public safety and/or security to protect life and property as set
33 forth in this section.

34 (d) Requirements for participation. — Prior to entering into a contract with a West Virginia
35 Guardian, the county school board shall require an applicant to provide proof that he or she:

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

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

39 (3) Has met and passed all the requirements for a concealed carry permit as set forth in
40 §61-7-4;

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

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

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

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

50 (5) Has either been honorably discharged from the United States Armed Services or is
51 retired from his or her employment as a state trooper or a deputy sheriff;

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

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

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

59 (1) A dishonorable or less than honorable discharge from the United States Armed
60 Services;

61 (2) Having not retired from service to the state of West Virginia as a state trooper or a
62 deputy sheriff;

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

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

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

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

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

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

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

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

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

78 (g) Miscellaneous. —

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

81 (2) Nothing in this section requires a county board of education to contract. Participation by
82 a county of board of education is voluntary and subject to the availability of county funds. Any
83 county board of education that opts to participate shall do so at its own expense. The provisions of
84 this section place no obligation for the state to appropriate money for the purposes set forth in this
85 section.

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

NOTE: The purpose of this bill is to create the West Virginia Guardian program to provide public safety and/or security on public school grounds and buildings.

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