

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 450**

**FISCAL  
NOTE**

By Senator Tarr

[Introduced February 13, 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 requirements for  
6 participation; providing exclusions from participation; setting forth a limitation of liability;  
7 providing 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 a former state trooper, former deputy sheriff, former state fire marshal, former Department  
3 of Natural Resources police officer, former municipal police officer, or former federal law-  
4 enforcement officer to provide West Virginia Guardian services as that term is defined in this  
5 section. The purpose of the contract is to provide public safety and/or security on public school  
6 grounds and buildings. Any county board of education may contract with as many independent  
7 contractors as the county school board considers necessary.

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

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

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

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

15 "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, but who is 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.*, and who has retired pursuant to the provisions of §15-2-27.

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

"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 school 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.

(c) Authority. — Notwithstanding the provisions of §61-7-11a or any applicable rule, an independent contractor acting as a West Virginia Guardian may carry weapons upon meeting all the requirements of this section. A West Virginia Guardian is not law enforcement and has no authority to arrest. They are to provide public safety and/or security to protect life and property as

set forth in this section. Guardians must wear apparel that makes them readily identifiable as a Guardian while performing the duties as set forth in in this section.

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

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

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

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

(4) Has completed and passed all the following training courses and/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 that shall include a physical examination, vision examination, psychiatric examination, and a pre-employment drug screen within one year of beginning a contract with a board of education and upon initiating a new contract following the expiration of all contract extension options. The cost of these each shall be paid by the independent contractor;

(C) A firearm and less than lethal use of force course. To maintain firearm proficiency, the independent contractor must complete yearly training in firearm and less than lethal use of force course; 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 former Department of Natural Resources police officer, a former State Fire Marshal, or federal law enforcement;

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

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

(8) 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.

(9) 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 school 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 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;

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

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

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

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

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

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

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

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

102 (f) Liability. —

103 (1) A county school board may not be held civilly liable or be criminally prosecuted for any  
104 action of a West Virginia Guardian acting within the scope of the duties for which their services  
105 were contracted unless the county school board can be shown to be grossly negligent or  
106 committed willful misconduct.

107 (2) A West Virginia Guardian acting within the scope of the duties for which their services  
108 were contracted may not be held civilly liable or be criminally prosecuted unless the action can be  
109 shown to be for a malicious purpose, in bad faith, grossly negligent or the committed by willful  
110 misconduct.

111 (3) Monetary damages awarded that arise from the same cause of action, transaction or  
112 occurrence, or series of transactions or occurrences shall not exceed \$1,000,000 in favor of any  
113 one person and shall not exceed \$3,000,000 in the aggregate.

114 (g) Miscellaneous. —

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

117 (2) Nothing in this section requires a county board of education to enter into a contract for  
118 guardian services. Participation by a county board of education is voluntary and subject to the  
119 availability of county funds. Any county board of education that opts to participate shall do so at its

120 own expense and any additional funds provided by county entities or private donations. The  
121 provisions of this section place no obligation for the state to appropriate money for the purposes  
122 set forth in this section.

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

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

NOTE: The purpose of this bill is to establish the West Virginia Guardian Act. The bill allows the county school boards to contract for participation in the program. The bill defines terms. The bill sets out the authority of independent contractors participating in the program. The bill provides requirements for participation. The bill provides exclusions from participation. The bill sets forth a limitation of liability. The bill provides exemptions from purchasing requirements. Finally, the bill provides for exclusions from state benefit programs.

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