

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 434

By Senators Taylor, Azinger, Chapman, Karnes,
Martin, Maynard, Phillips, Smith, and Clements

[Introduced January 23, 2023; referred
to the Committee on Education; and then to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §18A-2-16; and to amend and reenact §61-7-11a of said code, all relating to
 3 creating the School Safety Act; creating a mobile training team for the purpose of school
 4 safety; providing for regional mobile training officers; empowering the West Virginia
 5 Department of Homeland Security to create the program; providing for coordination
 6 between school protection officers and the mobile training team; permitting elementary
 7 and secondary school teachers and administrators to carry concealed weapons;
 8 classifying such persons who carry concealed weapons as school protection officers;
 9 providing that any teacher or administrator may become a school protection officer;
 10 providing for exceptions; defining public notice for when a school has a school protection
 11 officer on location; providing for an incentive in the form of a bonus to be given to school
 12 protection officers, and providing that this incentive may be revoked if school protection
 13 officers lose their classification.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-16. Mobile training team.

1 (a) There is hereby created in the West Virginia Department of Homeland Security the
 2 West Virginia mobile training team, which shall be administered by a chief mobile training officer.
 3 The team shall provide services to public and nonpublic schools regarding school safety and
 4 security. The team shall adhere to the tenants of the Crisis Response Plan as set forth fully in §18-
 5 9F-9 of this code.

6 (b) Not later than 90 days after the effective date of this section, the director of the
 7 Department of Homeland Security shall appoint an individual who satisfies the criteria specified in
 8 subsection (g) of this section as the chief mobile training officer, who shall serve at the pleasure of

9 the director. To carry out the duties prescribed by this section, the chief mobile training officer may
10 hire and maintain necessary staff and may enter into any necessary agreements.

11 (c) Not later than 90 days after the appointment of the chief mobile training officer, the
12 director of public safety shall appoint 16 regional mobile training officers, each of whom shall
13 satisfy the criteria set forth in subsection (i) of this section, to conduct the duties described in this
14 section. The regions shall be set by the West Virginia Department of Education to best serve the
15 entire state. To carry out the duties prescribed by this section, a regional mobile training officer
16 may hire and maintain necessary staff and may enter into any necessary agreements.

17 (d) Except as otherwise provided by law, nothing in this section shall be construed to give
18 the director of the Department of Homeland Security, the chief mobile training officer, or a regional
19 mobile training officer authority over the incident management structure or responsibilities of local
20 emergency response personnel.

21 (e) The Department of Homeland Security shall adopt rules with respect to the West
22 Virginia mobile training team. The rules shall be made available for public inspection at the
23 Department of Homeland Security and at other places and during reasonable hours as fixed by the
24 chief mobile training officer of the West Virginia mobile training team.

25 (f) As used in this section, "veteran" means any person who has completed service in the
26 armed forces of the United States and who has been honorably discharged under honorable
27 conditions from the armed forces, or who has been transferred to the reserve with evidence of
28 satisfactory service.

29 (g) No person is eligible for appointment to the position of chief mobile training officer or the
30 position of regional mobile training officer unless that person meets the following requirements:

31 (1) The person is a licensed peace officer; or

32 (2) The person is a veteran; and

33 (3) The person has met all additional qualifications prescribed by this section.

34 (h) The duties of the chief mobile training officer include:

- 35 (1) Administering the West Virginia mobile training team;
- 36 (2) Adopting additional qualifications and training requirements for regional mobile training
37 officers appointed under this code;
- 38 (3) Enforcing rules and executing additional duties prescribed by the Department of
39 Homeland Security.
- 40 (i) The duties of a regional mobile training officer include:
- 41 (1) Upon request, assisting an administrator within an officer's region in the development
42 or review of an emergency management plan under this section;
- 43 (2) Upon request, assisting an administrator of a public or nonpublic school within an
44 officer's region with any other security protocols for activities or events outside of the building
45 during or after school hours;
- 46 (3) Upon request, assisting in strategic communications between federal, state, and local
47 law enforcement or agencies in the event of an emergency situation at a school within an officer's
48 region;
- 49 (4) Offering tactical emergency medical services training to public and nonpublic schools
50 within an officer's region;
- 51 (5) Promoting the use of the West Virginia Safe Schools tip line within an officer's region;
- 52 (6) Enforcing rules and executing additional duties prescribed by either the Department of
53 Homeland Security or the chief mobile training officer;
- 54 (7) Providing instruction and training through West Virginia school safety under the West
55 Virginia Emergency Management Office;
- 56 (8) Overseeing training operations and offering training opportunities for school
57 employees, including observing emergency management tests, providing weapons manipulation
58 instruction, and other appropriate activities.
- 59 (j) The West Virginia school safety and crisis center is hereby created within the
60 Department of Homeland Security and shall be operated by the mobile training team established

61 under this section.

62 (k) The mobile training team shall develop curriculum and provide instruction and training,
63 including firearms training, that individuals may complete to satisfy the criterion specified in §61-7-
64 11a of this code to be permitted to convey deadly weapons or dangerous ordnance into a school
65 safety zone under §61-7-11a of this code. Except as otherwise specified in §18-9F-9 or §61-7-11a
66 of this code, an individual shall successfully complete the curriculum, instruction, and training so
67 developed as a requirement to be permitted to convey deadly weapons or dangerous ordinance
68 into a school safety zone under the authority of §61-7-11a of this code. The curriculum, instruction,
69 and training shall follow the school protection officer training guidelines adopted under §61-7-11a
70 of this code and include both of the following:

71 (1) Initial instruction and training, which shall not exceed 24 hours;

72 (2) Annual requalification training, which shall not exceed eight hours. Nothing in this
73 section prohibits a school district board of education or governing body of a school from requiring
74 additional training for an individual to which this section applies.

75 (l) The curriculum of the initial and requalification instruction and training required under
76 this section shall include instruction in all of the following:

77 (1) Mitigation techniques;

78 (2) Communications capabilities and coordination and collaboration techniques;

79 (3) Neutralization of potential threats and active shooters;

80 (4) Accountability;

81 (5) Reunification;

82 (6) Psychology of critical incidents;

83 (7) De-escalation techniques;

84 (8) Crisis intervention;

85 (9) Trauma and first aid care;

86 (10) The history and pattern of school shootings;

- 87 (11) Tactics for responding to critical incidents in schools;
- 88 (12) At least four hours of training in scenario-based or simulated training exercises;
- 89 (13) Completion of tactical live firearms training; and
- 90 (14) Realistic urban training.
- 91 (m) The board or governing body of the school that authorizes an individual to convey
92 deadly weapons or dangerous ordnance into a school safety zone, under §61-7-11a of this code,
93 shall pay all fees for the training described in this section that the individual receives.
- 94 (n) A school district board of education or governing body of a school may adopt alternate
95 curriculum, instruction, and training, provided it includes all of the topics specified in this section. A
96 district board or governing body shall submit any alternate curriculum, instruction, and training
97 adopted under this section to the school safety and crisis center for approval prior to granting
98 authorization to an individual to convey deadly weapons or dangerous ordnance into a school
99 safety zone under the control of the district board or governing authority. The school safety center
100 shall approve any curriculum, instruction, and training within 30 days after receipt if the curriculum,
101 instruction, and training comply with this section.
- 102 (o) Each school district board of education or governing body of a school shall provide to
103 the school safety and crisis center a current list of the qualified personnel authorized to convey
104 deadly weapons or dangerous ordnance into a school safety zone under the control of the district
105 board or governing body who have completed training under this section. The list is not a public
106 record.
- 107 (p) The Department of Homeland Security shall adopt rules to implement this section.

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; teachers in elementary or secondary schools may carry

concealed firearms; designation as school protection officer; suspension of driver’s license; possessing deadly weapons on premises housing courts of law and family law courts.

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

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

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

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

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

19 (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 or chapter 49 of this code in the
23 performance of his or her duties;

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

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

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

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

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

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

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

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

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

48 (J) Teachers and administrators designated as school protection officers:

49 (i) Any school district within the state may designate one or more elementary or secondary

50 school teachers or administrators as a protection officer. The responsibilities and duties of a
51 school protection officer are voluntary and shall be in addition to the normal responsibilities and
52 duties of the teacher or administrator. There is no limit to the number of teachers or administrators
53 to become school protection officers.

54 (ii) Any person designated by a school district as a school protection officer shall be
55 authorized to carry concealed firearms or a self-defense spray device in any school in the district.
56 A self-defense spray device shall mean any device that is capable of carrying, and that ejects,
57 releases, or emits, a nonlethal solution capable of incapacitating a violent threat. The school
58 protection officer may not be permitted to allow any firearm or device out of his or her personal
59 control while that firearm or device is on school property. Any school protection officer who
60 violates this subsection may be removed immediately from the classroom and subject to
61 employment termination proceedings.

62 (iii) Any teacher or administrator of an elementary or secondary school who seeks to be
63 designated as a school protection officer shall request that designation in writing, and submit it to
64 the superintendent of the school district which employs him or her as a teacher or administrator.
65 Along with this request, any teacher or administrator seeking to carry a concealed firearm on
66 school property shall also submit proof that he or she has a valid concealed carry endorsement or
67 permit, and all teachers and administrators seeking the designation of school protection officer
68 shall submit a certificate of a school protection officer training program completion from a training
69 program approved by the West Virginia Department of Homeland Security which demonstrates
70 that the person has successfully completed the training requirements for the Prevention Resource
71 Officer Program (PRO) established by the West Virginia Department of Homeland Security
72 Division of Justice and Community Services. No school district may designate a teacher or
73 administrator as a school protection officer unless that person has successfully completed the
74 PRO training program. No school district may allow a school protection officer to carry a
75 concealed firearm on school property unless the school protection officer has a valid concealed

76 carry endorsement or permit.

77 (iv) Any school district that designates a teacher or administrator as a school protection
78 officer shall, within 30 days, notify, in writing, the director of the West Virginia Department of
79 Homeland Security of the designation, which shall include the following:

80 (1) The full name, date of birth, and address of the officer.

81 (2) The name of the school district, and

82 (3) The date the person was designated as a school protection officer.

83 Notwithstanding any other provisions of law to the contrary, any identifying information
84 collected under the authority of this subsection may not be considered public information and may
85 not be subject to a request for public records.

86 (v) A school district may revoke the designation of a person as a school protection officer
87 for any reason and shall immediately notify the designated school protection officer in writing of the
88 revocation. The school district shall also within 30 days of the revocation notify the director of the
89 West Virginia Department of Homeland Security in writing of the revocation of the designation of
90 such person as a school protection officer. A person who has had the designation of school
91 protection officer revoked has the right to appeal the revocation decision to the director of the West
92 Virginia Department of Homeland Security who has final decision authority.

93 (vi) The director of the West Virginia Department of Homeland Security shall maintain a
94 listing of all persons designated by school districts as school protection officers and shall make this
95 list available to all law-enforcement agencies and shall conduct a background check on the person
96 applying to become a school protection officer.

97 (vii) Records pertaining to individuals who complete training to become school protection
98 officers to convey deadly weapons into schools shall not be a matter of public record; however, the
99 county board of education and the state board of education shall notify the public, by whatever
100 means the affected school regularly communicates with the public, that the board or governing
101 body has authorized one or more persons as a school protection officer to go armed within a

102 school operated by the board or governing authority.

103 (viii) All persons designated as school protection officers shall receive a certificate to
104 school completion of curriculum, instruction, and training established under this section.

105 (K) School protection officer bonus.

106 (i) Any school protection officer who is authorized as such under subsection (J) of this
107 section shall be eligible to receive a bonus as an incentive for carrying concealed weapons at their
108 respective classroom or school. The West Virginia Department of Education shall designate the
109 amount of money to be given to school protection officers.

110 (ii) Any school protection officer who has their school protection officer classification
111 revoked shall not be entitled to the amount of the bonus.

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

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

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

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

122 (d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a
123 court which adjudicates a person who is 14 years of age or older as delinquent for a violation of
124 §61-7-11a(b) of this code may order the Division of Motor Vehicles to suspend a driver's license or
125 instruction permit issued to the person for a period of time as the court considers appropriate, not
126 to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's
127 license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny

128 the person's application for a license or permit for a period of time as the court considers
129 appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the
130 court pursuant to this subsection is effective upon the date of entry of the order. Where the court
131 orders the suspension of a driver's license or instruction permit pursuant to this subsection, the
132 court shall confiscate any driver's license or instruction permit in the adjudicated person's
133 possession and forward to the Division of Motor Vehicles.

134 (e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code
135 and if the person does not act to appeal the conviction within the time periods described in §61-7-
136 11a(e)(2) of this code, the person's license, or privilege to operate a motor vehicle in this state shall
137 be revoked in accordance with the provisions of this section.

138 (2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1)
139 of this code shall forward to the commissioner a transcript of the judgment of conviction. If the
140 conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the
141 transcript when the person convicted has not requested an appeal within 20 days of the
142 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk
143 shall forward a transcript of the judgment of conviction when the person convicted has not filed a
144 notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was
145 entered.

146 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner
147 determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the
148 commissioner shall make and enter an order revoking the person's license or privilege to operate
149 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled
150 in a secondary school, for a period of one year or until the person's 20th birthday, whichever is the
151 greater period. The order shall contain the reasons for the revocation and the revocation period.
152 The order of suspension shall advise the person that because of the receipt of the court's
153 transcript, a presumption exists that the person named in the order of suspension is the same

154 person named in the transcript. The commissioner may grant an administrative hearing which
155 substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a
156 preliminary showing that a possibility exists that the person named in the notice of conviction is not
157 the same person whose license is being suspended. The request for hearing shall be made within
158 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for
159 the person requesting the hearing to present evidence that he or she is not the person named in
160 the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the
161 license suspension pending the commissioner's order resulting from the hearing.

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

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

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

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

173 (2) This subsection does not apply to:

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

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

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

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

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

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

NOTE: The purpose of this bill is to create a mobile training team for the purpose of school safety. The bill provides for regional mobile training officers. The bill empowers the West Virginia Department of Homeland Security to create the program. The bill provides for coordination between school protection officers and the mobile training team. The bill permits elementary and secondary school teachers and administrators to carry concealed weapons. The bill classifies such persons who carry concealed weapons as school protection officers. The bill provides that any teacher or administrator may become a school protection officer. The bill provides for requirements and exceptions. The bill provides for an incentive in the form of a bonus to be given to school protection officers. Finally, the bill provides that this incentive may be revoked if school protection officers lose their classification.

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