

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

House Bill 4299

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[Introduced January 10, 2024; Referred
to the Committee on Education then the Judiciary]

1 A BILL to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating
2 to possessing deadly weapons on premises of educational facilities; and authorizing
3 teachers in elementary or secondary schools to carry concealed firearms and be
4 designated as a school protection officer.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; teachers, administrators, support personnel 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
3 by schools in this state and for persons employed by the judicial department of this state. It is for
4 the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h),
5 of this code and §61-7-11a(b)(2)(I) of this code, are enacted as a reasonable regulation of the
6 manner in which citizens may exercise the rights accorded to them pursuant to section 22, article
7 III of the 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 of
14 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) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

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

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

(K) 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; or

(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.

(L) Teachers, Administrators, Support Personnel designated as School Protection Officers (SPO).

(i) Any school district within the state shall designate one or more elementary or secondary school teachers, administrators, or support personnel as a SPO if they have applied, met all of the requirements and are otherwise eligible. The responsibilities and duties of a SPO officer are voluntary and shall be in addition to the normal responsibilities and duties of the teacher, administrator or support personnel.

(ii) Any person designated by a school district as a SPO shall be authorized to carry concealed firearms or a stun-gun or taser device in any school in the district. A stun-gun means a hand-held close proximity device designed and manufactured for self-defense which emits an electrical spark. A taser means any mechanism that is designed to emit an electronic, magnetic, or other type of charge or shock through the use of a projectile and used for the purpose of temporarily incapacitating a person. The SPO may not be permitted to allow any firearm or device

out of his or her personal control while that firearm or device is on school property. Any SPO who violates this subsection may be removed immediately from the classroom and subject to employment termination proceedings.

(iii) Any teacher, administrator, or support personnel of an elementary or secondary school who seeks to be designated as a SPO shall request that designation in writing, and submit it to the superintendent of the school district which employs him or her as a teacher, administrator or support personnel. Along with this request, any teacher, administrator, or support personnel seeking to carry a concealed firearm on school property shall also submit proof that he or she has:

(I) A valid concealed carry endorsement or permit issued by the county the teacher, administrator, or support personnel requests to be a SPO in.

(II) A certificate of a Security Protection Officer Training Program (SPOTP) completion from a training program which demonstrates that the person has successfully completed the curriculum, instruction, and training established under §61-7-11a(b)(3) of this section and regulated by the director of the West Virginia Justice and Community Services section within the West Virginia Department of Homeland Security.

(iv) No school district may designate a teacher, administrator, or support personnel as a school protection officer unless that person has successfully completed the SPOTP. No school district may allow a SPO to carry a concealed firearm on school property unless the SPO has a valid concealed carry endorsement or permit.

(v) Any school district that designates a teacher or administrator as a SPO shall, within 30 days, notify, in writing, the director of the West Virginia Justice and Community Services section within the West Virginia Department of Homeland Security of the designation, which shall include the following:

(I) The full name, date of birth, and address of the SPO.

(II) The name of the school district, and

93 (III) The date the person completed training and was designated as a SPO.

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

97 (vi) A school district may revoke the designation of a person as a SPO for any reason and
98 shall immediately notify the designated school protection officer in writing of the revocation. The
99 school district shall also within 30 days of the revocation notify the director of the West Virginia
100 Justice and Community Service section within the West Virginia Department of Homeland
101 Security in writing of the revocation of the designation of such person as a SPO. A person who
102 has had the designation of SPO officer revoked has the right to appeal the revocation decision to
103 the director of the West Virginia Justice and Community Service section within the West Virginia
104 Department of Homeland Security who has final decision authority.

105 (vii) The director of the West Virginia Justice and Community Services section within the
106 West Virginia Department of Homeland Security shall maintain a listing of all persons designated
107 by school districts as SPO's and shall make this list available to all law-enforcement agencies.

108 (viii) Schools with other armed security, PRO or SRO, may have one or more SPO's armed
109 at the same time. Any SPO armed in schools with an armed PRO or SRO will identify themselves
110 and coordinate with the PRO or SRO daily.

111 (3) Security Protection Officer Training Program (SPOTP) Curriculum, Instruction, and
112 Training.

113 (A) The Justice and Community Services section within the West Virginia Department of
114 Homeland Security shall develop curriculum and coordinate with local county law enforcement to
115 provide instruction and training, including firearms training, that prospective SPO's will complete
116 to be certified as a SPO. An individual shall successfully complete the curriculum, instruction,
117 and training so developed as a requirement to be permitted to convey deadly weapons or devices
118 into a school safety zone per this section of code.

119 (i) Initial instruction and training, which shall not exceed twenty-four hours;

120 (ii) Annual requalification training, which shall not exceed eight hours.

121 (iii) Nothing in this section prohibits a school district board of education or governing body
122 of a school from requiring additional training for an individual to which this section applies, not to
123 exceed four hours.

124 (B) The curriculum of the initial and requalification instruction and training required under
125 this section shall include instruction in all of the following:

126 (i) Mitigation techniques.

127 (ii) Communications capabilities and coordination and collaboration techniques.

128 (iii) Neutralization of potential threats and active shooters.

129 (iv) Accountability.

130 (v) Reunification.

131 (vi) Psychology of critical incidents.

132 (vii) De-escalation techniques.

133 (ix) Crisis intervention.

134 (x) Trauma and first aid care.

135 (xi) The history and pattern of school shootings.

136 (xii) Tactics of responding to critical incidents in schools.

137 (xiii) At least four hours of the training will consist of scenario-based or simulated training
138 exercises.

139 (xiv) Completion of tactical live firearms training.

140 (xv) Realistic urban training.

141 (4) Behavioral health assessment. Regional Comprehensive Behavioral Health Centers
142 will conduct a behavioral assessment screening yearly on all SPO's.

143 (5) Program Funding.

144 (A) Legislature appropriated funding of \$5,000.00 per county school district opting in to
145 SPO program to be used to conduct yearly training course (full or refresher). If a district doesn't
146 conduct a course of training the funding will be returned. Total cost if all counties (55) participate
147 (\$275,000.00).

148 (B) SPO volunteer applicant will fund both initial and annual weapons qualification costs,
149 not to exceed \$50.00 for course of fire and supply own ammunition.

150 ~~(3)-(6)~~ A person violating this subsection is guilty of a felony and, upon conviction thereof,
151 shall be imprisoned in a state correctional facility for a definite term of years of not less than two
152 years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

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

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

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

160 (d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a
161 court which adjudicates a person who is 14 years of age or older as delinquent for a violation of
162 §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license
163 or instruction permit issued to the person for a period of time as the court considers appropriate,
164 not to extend beyond the person's 19th birthday. If the person has not been issued a driver's
165 license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny
166 the person's application for a license or permit for a period of time as the court considers
167 appropriate, not to extend beyond the person's 19th birthday. A suspension ordered by the court
168 pursuant to this subsection is effective upon the date of entry of the order. Where the court orders
169 the suspension of a driver's license or instruction permit pursuant to this subsection, the court

shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

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

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

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

(2) This subsection does not apply to:

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

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

(3) 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.

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

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

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