

1 **H. B. 2889**

2  
3 (By Delegates Storch, Howell, E. Nelson, Shott, McCuskey,  
4 Ashley, Hunt, Miley and Manchin)

5  
6 [Introduced March 11, 2013; referred to the  
7 Committee on the Judiciary.]

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9  
10 A BILL to amend and reenact §61-7-11a of the Code of West Virginia,  
11 1931, as amended, relating to possessing deadly weapons on  
12 premises housing courts of law and in offices of family court  
13 judges; providing an exemption for magistrates and judges who  
14 are licensed to carry a concealed weapon.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §61-7-11a of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 7. DANGEROUS WEAPONS.**

19 **§61-7-11a. Possessing deadly weapons on premises of educational**  
20 **facilities; reports by school principals;**  
21 **suspension of driver license; possessing deadly**  
22 **weapons on premises housing courts of law and in**  
23 **offices of family law—master court judges;**  
24 **exceptions.**

25 (a) The Legislature hereby finds that the safety and welfare

1 of the citizens of this state are inextricably dependent upon  
2 assurances of safety for children attending, and the persons  
3 employed by, schools in this state and for those persons employed  
4 with the judicial department of this state. It is for the purpose  
5 of providing such assurances of safety, therefore, that subsections  
6 (b), (g) and (h) of this section are enacted as a reasonable  
7 regulation of the manner in which citizens may exercise those  
8 rights accorded to them pursuant to section twenty-two, article  
9 three of the Constitution of the State of West Virginia.

10 (b) (1) It ~~shall be~~ is unlawful for any person to possess any  
11 firearm or any other deadly weapon on any school bus as defined in  
12 section one, article one, chapter seventeen-a of this code, or in  
13 or on any public or private primary or secondary education  
14 building, structure, facility or grounds thereof, including any  
15 vocational education building, structure, facility or grounds  
16 thereof where secondary vocational education programs are conducted  
17 or at any school-sponsored function.

18 (2) This subsection ~~shall~~ does not apply to:

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

21 (B) A person specifically authorized by the board of education  
22 of the county or principal of the school where the property is  
23 located to conduct programs with valid educational purposes;

24 (C) A person who, as otherwise permitted by the provisions of

1 this article, possesses an unloaded firearm or deadly weapon in a  
2 motor vehicle, or leaves an unloaded firearm or deadly weapon in a  
3 locked motor vehicle;

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

7 (E) The official mascot of West Virginia University, commonly  
8 known as "The Mountaineer", acting in his or her official capacity.

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

14 (c) It ~~shall be~~ is the duty of the principal of each school  
15 subject to the authority of the State Board of Education to report  
16 any violation of subsection (b) of this section discovered by such  
17 principal to the State Superintendent of Schools within seventy-two  
18 hours after ~~such~~ the violation occurs. The State Board of Education  
19 shall keep and maintain such reports and may prescribe rules  
20 establishing policy and procedures for the making and delivery of  
21 the same as required by this subsection. In addition, it ~~shall be~~  
22 is the duty of the principal of each school subject to the  
23 authority of the State Board of Education to report any violation  
24 of subsection (b) of this section discovered by such principal to

1 the appropriate local office of the ~~Division of Public Safety~~ West  
2 Virginia State Police within seventy-two hours after such violation  
3 occurs.

4 (d) In addition to the methods of disposition provided by  
5 article five, chapter forty-nine of this code, any court which  
6 adjudicates a person who is fourteen years of age or older as  
7 delinquent for a violation of subsection (b) of this section may~~,~~  
8 ~~in its discretion,~~ order the Division of Motor Vehicles to suspend  
9 any driver's license or instruction permit issued to such person  
10 for such period of time as the court may ~~deem~~ determine  
11 appropriate, such suspension, however, not to extend beyond such  
12 person's nineteenth birthday; or, where ~~such~~ the person has not  
13 been issued a driver's license or instruction permit by this state,  
14 order the Division of Motor Vehicles to deny such person's  
15 application for the same for such period of time as the court may  
16 ~~deem~~ determine appropriate, such denial, however, not to extend  
17 beyond ~~such~~ the person's nineteenth birthday. Any suspension  
18 ordered by the court pursuant to this subsection shall be effective  
19 upon the date of entry of ~~such~~ the order. Where the court orders  
20 the suspension of a driver's license or instruction permit pursuant  
21 to this subsection, the court shall confiscate any driver's license  
22 or instruction permit in the adjudicated person's possession and  
23 forward the same to the Division of Motor Vehicles.

24 (e) (1) If a person eighteen years of age or older is

1 convicted of violating subsection (b) of this section, and if ~~such~~  
2 the person does not act to appeal ~~such~~ the conviction within the  
3 time periods described in subdivision (2) of this subsection, ~~such~~  
4 the person's license or privilege to operate a motor vehicle in  
5 this state shall be revoked in accordance with the provisions of  
6 this section.

7       (2) The clerk of the court in which the person is convicted as  
8 described in subdivision (1) of this subsection shall forward to  
9 the commissioner a transcript of the judgment of conviction. If the  
10 conviction is the judgment of a magistrate court, the magistrate  
11 court clerk shall forward such transcript when the person convicted  
12 has not requested an appeal within twenty days of the sentencing  
13 for ~~such~~ the conviction. If the conviction is the judgment of a  
14 circuit court, the circuit clerk shall forward such transcript when  
15 the person convicted has not filed a notice of intent to file a  
16 petition for appeal or writ of error within thirty days after the  
17 judgment was entered.

18       (3) If, upon examination of the transcript of the judgment of  
19 conviction, the commissioner shall determine that the person was  
20 convicted as described in subdivision (1) of this subsection, the  
21 commissioner shall make and enter an order revoking such person's  
22 license or privilege to operate a motor vehicle in this state for  
23 a period of one year, or, ~~in the event~~ if the person is a student  
24 enrolled in a secondary school, for a period of one year or until

1 the person's twentieth birthday, whichever is the greater period.  
2 The order shall contain the reasons for the revocation and the  
3 revocation period. The order of suspension shall advise the person  
4 that because of the receipt of the court's transcript, a  
5 presumption exists that the person named in the order of suspension  
6 is the same person named in the transcript. The commissioner may  
7 grant an administrative hearing which substantially complies with  
8 the requirements of the provisions of section two, article five-a,  
9 chapter seventeen-c of this code upon a preliminary showing that a  
10 possibility exists that the person named in the notice of  
11 conviction is not the same person whose license is being suspended.  
12 ~~Such~~ The request for hearing shall be made within ten days after  
13 receipt of a copy of the order of suspension. The sole purpose of  
14 this hearing shall be for the person requesting the hearing to  
15 present evidence that he or she is not the person named in the  
16 notice. ~~In the event~~ If the commissioner grants an administrative  
17 hearing, the commissioner shall stay the license suspension pending  
18 the commissioner's order resulting from the hearing.

19 (4) For the purposes of this subsection, a person is convicted  
20 when ~~such~~ the person enters a plea of guilty or is found guilty by  
21 a court or jury.

22 (f) (1) It ~~shall be~~ is unlawful for any parent(s), guardian(s)  
23 or custodian(s) of a person less than eighteen years of age who  
24 knows that ~~said~~ the person is in violation of subsection (b) of

1 this section, or who has reasonable cause to believe that ~~said the~~ the  
2 person's violation of ~~said the~~ the subsection is imminent, to fail to  
3 immediately report such knowledge or belief to the appropriate  
4 school or law-enforcement officials.

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

9 (g) (1) It ~~shall be~~ is unlawful for any person to possess any  
10 firearm or any other deadly weapon on any premises which houses a  
11 court of law or in the offices of a family ~~law master~~ court judge.

12 (2) This subsection ~~shall~~ does not apply to:

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

15 (B) A person exempted from the provisions of this subsection  
16 by order of record entered by a court with jurisdiction over ~~such~~  
17 the premises or offices; and

18 (C) Justices of the West Virginia Supreme Court of Appeals,  
19 Circuit Court Judges, Family Court Judges and Magistrates, who are  
20 licensed to carry a concealed weapon pursuant to the provisions of  
21 section four of this article.

22 (3) Any person violating this subsection ~~shall be~~ is guilty of  
23 a misdemeanor and, upon conviction thereof, shall be fined not more  
24 than \$1,000, or shall be confined in jail not more than one year,

1 or both fined and confined.

2 (h) (1) It ~~shall be~~ is unlawful for any person to possess any  
3 firearm or any other deadly weapon on any premises which houses a  
4 court of law or in the offices of a family ~~law master~~ court judge  
5 with the intent to commit a crime.

6 (2) Any person violating this subsection ~~shall be~~ is guilty of  
7 a felony and, upon conviction thereof, shall be imprisoned in ~~the~~  
8 ~~penitentiary~~ a correctional facility of this state for a definite  
9 term of years of not less than two years nor more than ten years,  
10 or fined not more than \$5,000, or both imprisoned and fined.

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

NOTE: The purpose of this bill is to add language to West Virginia Code §61-7-11a, recognizing the right of judges and magistrates of West Virginia Courts who are licensed to carry a concealed weapon to carry a concealed firearm in court buildings and offices of family court judges.

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