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H. B. 2120

(By Delegates Howell, Householder, Hamrick, Statler, Moffatt,
Walters, Blair, Kessinger, Zatezalo, Frich and Hamilton)

[Introduced January 20, 2015; referred to the
Committee on the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §61-6-19 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-7-4a, all relating to endorsements to licenses to carry a concealed deadly weapon in order to authorize the grantee of an endorsement to carry a concealed pistol or revolver onto the grounds of the State Capitol Complex; providing an exception to the crime of carrying a deadly weapon onto the Capitol Complex; describing the effect and scope of an endorsement; establishing a process for application and investigation of applications; setting a fee for application; specifying grounds for the denial or revocation of an endorsement; providing for judicial review of the denial or revocation of an endorsement; and creating a special revenue account to be used to meet the costs of administering the program.

Be it enacted by the Legislature of West Virginia:

That §61-6-19 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §61-7-4a, all to read as follows:

1 **ARTICLE 6. CRIMES AGAINST THE PEACE.**

2 **§61-6-19. Willful disruption of governmental processes; offenses occurring at State Capitol**
3 **Complex; penalties.**

4 (a) If any person willfully interrupts or molests the orderly and peaceful process of any
5 department, division, agency or branch of state government or of its political subdivisions, he or she
6 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100 or
7 ~~imprisoned in the county or regional~~ confined in jail not more than six months, or both fined and
8 ~~imprisoned~~ confined: *Provided*, That any assembly in a peaceable, lawful and orderly manner for
9 a redress of grievances ~~shall is not be~~ a violation of this section.

10 (b) It is unlawful for any person to bring upon the State Capitol Complex any weapon as
11 defined by ~~the provisions of~~ section two, article seven of this chapter. However, a person who has
12 been issued an endorsement to a state license to carry a concealed deadly weapon pursuant to section
13 four-a, article seven of this chapter may carry that deadly weapon upon the grounds of the State
14 Capitol Complex and within its buildings except for the rooms, offices, marked hallways and floors
15 occupied by the Supreme Court of Appeals and its employees.

16 (c) It is unlawful for any person to willfully deface any trees, wall, floor, stairs, ceiling,
17 column, statue, monument, structure, surface, artwork or adornment in the State Capitol Complex.
18 It is unlawful for any person or persons to willfully block or otherwise willfully obstruct any public
19 access, stair or elevator in the State Capitol Complex after being asked by a law-enforcement officer
20 acting in his or her official capacity to desist: *Provided*, That in order to preserve the Constitutional
21 right of the people to assemble, it is not willful blocking or willful obstruction for persons gathered
22 in a group or crowd, if the persons move to the side or part to allow other persons to pass by the

1 group or crowd to gain ingress or egress: *Provided, however,* That this subsection ~~shall~~ does not
 2 apply to a law-enforcement officer acting in his or her official capacity.

3 (d) Any person who violates any provision of this subsection (b) or (c) of this section is guilty
 4 of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 or confined in the
 5 county or regional jail not more than six months, or both fined and confined.

6 **ARTICLE 7. DANGEROUS WEAPONS.**

7 **§61-7-4a. Endorsement for possessing deadly weapons within the State Capitol Complex;** 8 **application; fee; grounds for denial or suspension; administrative account.**

9 (a) A person who has been issued a state license to carry a concealed deadly weapon pursuant
 10 to section four of this article may apply for an endorsement to that license that would permit that
 11 person to carry deadly weapons on the grounds of the State Capitol Complex and within its
 12 buildings. An endorsement to a concealed weapons license may only be issued for pistols or
 13 revolvers.

14 (b) Any person desiring to obtain an endorsement to carry a concealed deadly weapon on the
 15 grounds of the State Capitol Complex shall submit a written application to the Capitol Police, pay
 16 a nonrefundable application fee of \$50, produce his or her current license to carry a concealed,
 17 deadly weapon, and produce proof of identity and residence in this state in the form of a valid,
 18 state-issued photo identification card.

19 (c) The Capitol Police and the Superintendent of the West Virginia State Police shall prepare
 20 uniform applications for endorsements, which shall include the following requirements:

21 (1) The applicant's full name, county of residence, address, date and place of birth, social
 22 security number, a description of the applicant's physical features, the applicant's country of

1 citizenship and, if the applicant is not a United States citizen, any alien or admission identification
2 number issued by United States Immigration and Customs Enforcement;

3 (2) The applicant's authorization for the Capitol Police, another state agency designated by
4 the Capitol Police, or a designated security contractor, to conduct an investigation relating to the
5 information contained in the application; and

6 (3) The applicant's sworn statement, witnessed by a notary public duly licensed under article
7 four, chapter twenty-nine of this code, that all information provided in the application is accurate and
8 true.

9 (d) For both initial and renewal applications for an endorsement, the Capitol Police shall
10 conduct an investigation including a nationwide criminal background check consisting of checking
11 the National Instant Criminal Background Check System and the West Virginia criminal history
12 record responses in order to verify that the information required by this section and section four of
13 this article is true and correct.

14 (e) The Capitol Police may deny any application for, refuse to issue, or revoke any
15 endorsement for any one or more of the following reasons:

16 (1) The applicant or holder of the endorsement has made false or misleading statements in
17 connection with his or her application for endorsement;

18 (2) The applicant for an endorsement has not submitted a complete application, including the
19 application fee, or has not produced valid proof of identity and state residence;

20 (3) The applicant or holder of the endorsement does not possess a valid license to carry a
21 concealed deadly weapon as provided in section four of this article or is prohibited from possessing
22 a firearm under the laws of this state, of the United States of America, or any other state or territory

1 thereof, or under the terms of any valid order issued by a court of competent jurisdiction within the
2 states, territories and possessions of the United States of America;

3 (4) The applicant or holder of the endorsement has committed any act or met any condition
4 listed in section four of this article that would disqualify him or her from continuing to hold or
5 receive a license to carry a concealed deadly weapon;

6 (5) The applicant or holder of the endorsement has been convicted of any criminal offense
7 described in or prohibited by article six, chapter sixty-one of the code, with the exceptions of
8 sections fourteen-a and twenty-five of that article;

9 (6) The applicant or holder of the endorsement is or has been removed from or requested to
10 leave any meeting, demonstration, building or surrounding grounds at the State Capitol Complex or
11 other building or grounds where state agencies are located; or

12 (7) The applicant or holder of the endorsement has threatened any public officer or employee
13 of the state with violence or words that would cause a reasonable person to believe that an act of
14 violence is likely to occur.

15 (f) If an application is denied or if an endorsement is revoked, the Capitol Police shall state
16 the specific reasons for the action in a written order and mail the order to the applicant or endorsee.
17 Any person whose application is denied, or whose endorsement has been revoked, may file, in the
18 circuit court of Kanawha County within thirty days of the date of the order of the Capitol Police, a
19 petition seeking review of that action. The court shall then determine whether the applicant is
20 entitled to the issuance of an endorsement under the criteria set forth in this section. The applicant
21 may be represented by counsel, but in no case is the court required to appoint counsel for an
22 applicant. The final order of the court shall include the court's findings of fact and conclusions of

1 law. If the final order upholds the action of the Capitol Police, the applicant may file an appeal in
2 accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals.

3 (g) A person who is engaged in the receipt, review or determination in the issuance or
4 revocation of an endorsement to a concealed weapon license does not incur any civil liability as the
5 result of the lawful performance of his or her duties under this article.

6 (h) If and when an endorsement has been granted, the Capitol Police shall furnish the
7 Superintendent of the West Virginia State Police with a certified copy of the approved application.
8 The Superintendent of the West Virginia State Police and Capitol Police shall maintain a registry
9 of all persons who have been issued endorsements to concealed weapons licenses upon the grounds
10 of the State Capitol Complex.

11 (i) The Capitol Police and the West Virginis State Police shall collaborate to design and
12 implement a means by which proof of an endorsement, granted pursuant to this section, may be
13 affixed to or upon a license to carry a concealed deadly weapon. When an endorsement is granted
14 to a licensee, the licensee shall be provided with this proof of the endorsement to add to the license
15 card that is carried on the person of the licensee.

16 (j) Except as restricted or prohibited by this article or as otherwise prohibited by law, the
17 issuance of an endorsement to a concealed weapon permit granted pursuant to this section authorizes
18 the holder of the permit to carry a concealed pistol or revolver on the grounds and in the buildings
19 of the State Capitol Complex with the exception that it does not apply to the offices, rooms,
20 designated hallways and floors of the Supreme Court of Appeals and its employees. Unless revoked,
21 an endorsement is valid until the expiration of the current period of the grantee's license to carry a
22 concealed, deadly weapon.

1 (k)The fee that is paid with an application for endorsement shall be deposited into a special
2 revenue account, hereby created in the State Treasury, called the "Capitol Police Firearm
3 Administration Fund." Moneys from this fund may be used to offset the expenses of the Capitol
4 Police in the investigation of applications and other costs in the administration of the provisions of
5 this section. If the amounts accrued in the fund have exceeded these costs and expenses for a period
6 of three contiguous years, the Capitol Police may also use such excess amounts for the purchase of
7 equipment necessary to carry out their duties for the security of state buildings and the persons within
8 them.

NOTE: The purpose of this bill is to permit holders of licenses to carry a concealed deadly weapon on the grounds of the State Capitol Complex and its buildings. The bill sets forth the requirements to apply and qualify for an endorsement to be added to a concealed carry permit, and specifies reasons for which an endorsement may be denied, suspended or revoked. The bill also prohibits those licensees from carrying any concealed deadly weapon within the Supreme Court's offices and rooms.

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

§61-7-4a is new; therefore, it has been completely underscored.