

**H. B. 2965**

(By Delegates Weld, B. White, Hanshaw and Byrd)

[Introduced February 24, 2015; referred to the

Committee on the Judiciary.]

**FISCAL  
NOTE**

A BILL to amend and reenact §61-2-12 of the Code of West Virginia, 1931, as amended, relating to providing that a person using an object that reasonably appears to be a firearm or other deadly weapon, during a robbery or attempted robbery is guilty of robbery in the first degree; and including existing criminal penalties.

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

That §61-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. CRIMES AGAINST THE PERSON.**

**§61-2-12. Robbery or attempted robbery; penalties.**

(a) Any person who commits or attempts to commit robbery by: (1) Committing violence to the person, including, but not limited to, partial strangulation or suffocation or by striking or beating; or (2) uses the threat of deadly force by the presenting of a firearm, ~~or~~ other deadly weapon, or any object that reasonably appears to be a firearm or other deadly weapon, is guilty of robbery in

1 the first degree and, upon conviction thereof, shall be imprisoned in a state correctional facility not  
2 less than ten years.

3 (b) Any person who commits or attempts to commit robbery by placing the victim in fear of  
4 bodily injury by means other than those set forth in subsection (a) of this section or any person who  
5 commits or attempts to commit robbery by the use of any means designed to temporarily disable the  
6 victim, including, but not limited to, the use of a disabling chemical substance or an electronic shock  
7 device, is guilty of robbery in the second degree and, upon conviction thereof, shall be confined in  
8 a correctional facility for not less than five years nor more than eighteen years.

9 (c) If any person: (1) By force and violence, or by putting in fear, feloniously takes, or  
10 feloniously attempts to take, from the person or presence of another any property or money or any  
11 other thing of value belonging to, or in the care, custody, control, management or possession of, any  
12 bank, he ~~shall be~~ or she is guilty of a felony and, upon conviction, shall be confined in ~~the~~  
13 ~~penitentiary~~ a correctional facility not less than ten nor more than twenty years; and (2) if any person  
14 in committing, or in attempting to commit, any offense defined in the preceding clause (1) of this  
15 subsection, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous  
16 weapon or device, disabling chemical substance or an electronic shock device, he ~~shall be~~ or she is  
17 guilty of a felony and, upon conviction, shall be confined in ~~the penitentiary~~ a correctional facility  
18 not less than ten years nor more than twenty-five years.

NOTE: The purpose of this bill is to provide that a person using an object that reasonably appears to be a firearm or other deadly weapon, during a robbery or attempted robbery, is guilty of robbery in the first degree.

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