

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2120

FISCAL
NOTE

2015 Carryover

(BY DELEGATES HOWELL, HOUSEHOLDER, HAMRICK,
STATLER, MOFFATT, WALTERS, BLAIR, KESSINGER,
ZATEZALO, FRICH AND HAMILTON)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. CRIMES AGAINST THE PEACE.

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

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

7 (b) It is unlawful for any person to bring upon the State Capitol Complex any weapon as

8 defined by the provisions of section two, article seven of this chapter. However, a person who has
 9 been issued an endorsement to a state license to carry a concealed deadly weapon pursuant to
 10 section four-a, article seven of this chapter may carry that deadly weapon upon the grounds of
 11 the State Capitol Complex and within its buildings except for the rooms, offices, marked hallways
 12 and floors occupied by the Supreme Court of Appeals and its employees.

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

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

ARTICLE 7. DANGEROUS WEAPONS.

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

1 (a) A person who has been issued a state license to carry a concealed deadly weapon
 2 pursuant to section four of this article may apply for an endorsement to that license that would
 3 permit that person to carry deadly weapons on the grounds of the State Capitol Complex and

4 within its buildings. An endorsement to a concealed weapons license may only be issued for
5 pistols or revolvers.

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

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

13 (1) The applicant's full name, county of residence, address, date and place of birth, social
14 security number, a description of the applicant's physical features, the applicant's country of
15 citizenship and, if the applicant is not a United States citizen, any alien or admission identification
16 number issued by United States Immigration and Customs Enforcement;

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

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

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

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

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

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

34 (3) The applicant or holder of the endorsement does not possess a valid license to carry
35 a concealed deadly weapon as provided in section four of this article or is prohibited from
36 possessing a firearm under the laws of this state, of the United States of America, or any other
37 state or territory thereof, or under the terms of any valid order issued by a court of competent
38 jurisdiction within the states, territories and possessions of the United States of America;

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

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

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

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

51 (f) If an application is denied or if an endorsement is revoked, the Capitol Police shall state

52 the specific reasons for the action in a written order and mail the order to the applicant or
53 endorsee. Any person whose application is denied, or whose endorsement has been revoked,
54 may file, in the circuit court of Kanawha County within thirty days of the date of the order of the
55 Capitol Police, a petition seeking review of that action. The court shall then determine whether
56 the applicant is entitled to the issuance of an endorsement under the criteria set forth in this
57 section. The applicant may be represented by counsel, but in no case is the court required to
58 appoint counsel for an applicant. The final order of the court shall include the court's findings of
59 fact and conclusions of law. If the final order upholds the action of the Capitol Police, the applicant
60 may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of
61 Appeals.

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

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

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

75 (j) Except as restricted or prohibited by this article or as otherwise prohibited by law, the

76 issuance of an endorsement to a concealed weapon permit granted pursuant to this section
77 authorizes the holder of the permit to carry a concealed pistol or revolver on the grounds and in
78 the buildings of the State Capitol Complex with the exception that it does not apply to the offices,
79 rooms, designated hallways and floors of the Supreme Court of Appeals and its employees.
80 Unless revoked, an endorsement is valid until the expiration of the current period of the grantee's
81 license to carry a concealed, deadly weapon.

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