WEST virginia legislature

2021 regular session

Committee Substitute

for

Senate Bill 485

By Senators Weld, Woelfel, and Woodrum

[Originating in the Committee on the Judiciary; reported on March 29, 2021]

A BILL to amend and reenact §61-7-15a of the Code of West Virginia, 1931, as amended, relating to use or presentation of a firearm during the commission of a felony; creating the offense of possessing a firearm on one’s person during the commission of certain qualifying felony offenses; and defining “qualifying felony”.

Be it enacted by the Legislature of West Virginia:

Article 7. Dangerous weapons.

§61-7-15a.  Use, possession, or presentation of a firearm during commission of a felony; penalties.

(a) As a separate and distinct offense, and in addition to any and all other offenses provided for in this code, any person who, while ~~engaged in the attempt or the commission of~~ attempting to commit or committing a felony, uses, or presents a firearm shall be guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not more than 10 years.

(b) As a separate and distinct offense, and in addition to any and all other offenses provided for in this code, other than those set forth in subsection (c) of this section, any person who, while attempting to commit or committing a qualifying felony, possesses on his or her person a firearm, shall be guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not more than 10 years.

(c) For purposes of subsection (b) of this section, “qualifying felony” means any of the felony offenses in §60A-4-401(i), §60A-4-401(ii), §60A-4-406, felony provisions of §60A-4-409, §60A-4-411, §60A-4-415, §60A-4-416(a), §61-2-1, §61-2-7, §61-2-9(a), §61-2-9b, §61-2-9d, §61-2-10, §61-2-10b(b) and §61-2-10b(c), §61-2-10b(d), §61-2-12, §61-2-14, §61-3-1, §61-3-2, §61-3-4, §61-3-5, §61-3-6, §61-3-7, §61-3-11, §61-3E-5, §61-5-27, §61-6-24, §61-8B-3, §61-8B-4, §61-8B-5, §61-8B-7, or §61-8B-10 of this code.