

bill to limit courthouse carry ban to the judicial parts of  
courthouses and require storage lockers at courthouses

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11 A BILL to amend and reenact §61-7-1, §61-7-2 and §61-7-11a of  
12 the code of West Virginia, 1931, as amended; and to further  
13 amend said article by adding thereto two new sections,  
14 designated §61-7-11b and §61-7-11c, all relating to the  
15 prohibition on possessing deadly weapons on premises  
16 housing courts of law; narrowing scope of prohibition to  
17 court facilities; requiring the provision of secure weapon  
18 storage areas at courthouses for individuals to lawfully  
19 store firearms before entering restricted area; and  
20 defining terms.

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

22 That §61-7-1, §61-7-2 and §61-7-11a of the code of West  
23 Virginia, 1931, as amended, be amended and reenacted; and that  
24 said article be further amended by adding thereto two new

1 sections, designated §61-7-11b and §61-7-11c, all to read as  
2 follows:

3 **ARTICLE 7. DANGEROUS WEAPONS.**

4 **§61-7-1. Legislative findings.**

5 (a) The Legislature finds that the overwhelming support of  
6 the citizens of West Virginia for article three, section twenty-  
7 two of the constitution of this state, commonly known as the  
8 "Right to Keep and Bear Arms Amendment", combined with the  
9 obligation of the state to reasonably regulate the right of  
10 persons to keep and bear arms for self-defense requires the  
11 reenactment of this article.

12 (b) The Legislature also finds that the safety and welfare  
13 of the citizens of this state are inextricably dependent upon  
14 assurances of safety for children attending, and the persons  
15 employed by, schools in this state and for those persons  
16 employed with the judicial department of this state. It is for  
17 the purpose of providing such assurances of safety, therefore,  
18 that Sections eleven-a, eleven-b and eleven-c of this article  
19 are is enacted as a reasonable regulation of the manner in which  
20 citizens may exercise those rights accorded to them pursuant to  
21 section twenty-two, article three of the Constitution of the  
22 state of West Virginia.

1 **§61-7-2. Definitions.**

2 As used in this article, unless the context otherwise  
3 requires:

4 (1) "Blackjack" means a short bludgeon consisting, at the  
5 striking end, of an encased piece of lead or some other heavy  
6 substance and, at the handle end, a strap or springy shaft which  
7 increases the force of impact when a person or object is struck.  
8 The term "blackjack" shall include, but not be limited to, a  
9 billy, billy club, sand club, sandbag or slapjack.

10 (2) "Gravity knife" means any knife that has a blade  
11 released from the handle by the force of gravity or the  
12 application of centrifugal force and when so released is locked  
13 in place by means of a button, spring, lever or other locking or  
14 catching device.

15 (3) "Knife" means an instrument, intended to be used or  
16 readily adaptable to be used as a weapon, consisting of a sharp-  
17 edged or sharp-pointed blade, usually made of steel, attached to  
18 a handle which is capable of inflicting cutting, stabbing or  
19 tearing wounds. The term "knife" shall include, but not be  
20 limited to, any dagger, dirk, poniard or stiletto, with a blade  
21 over three and one-half inches in length, any switchblade knife  
22 or gravity knife and any other instrument capable of inflicting  
23 cutting, stabbing or tearing wounds. A pocket knife with a blade  
24 three and one-half inches or less in length, a hunting or

1 fishing knife carried for hunting, fishing, sports or other  
2 recreational uses, or a knife designed for use as a tool or  
3 household implement shall not be included within the term  
4 "knife" as defined herein unless such knife is knowingly used or  
5 intended to be used to produce serious bodily injury or death.

6 (4) "Switchblade knife" means any knife having a spring-  
7 operated blade which opens automatically upon pressure being  
8 applied to a button, catch or other releasing device in its  
9 handle.

10 (5) "Nunchuka" means a flailing instrument consisting of  
11 two or more rigid parts, connected by a chain, cable, rope or  
12 other nonrigid, flexible or springy material, constructed in  
13 such a manner as to allow the rigid parts to swing freely so  
14 that one rigid part may be used as a handle and the other rigid  
15 part may be used as the striking end.

16 (6) "Metallic or false knuckles" means a set of finger  
17 rings attached to a transverse piece to be worn over the front  
18 of the hand for use as a weapon and constructed in such a manner  
19 that, when striking another person with the fist or closed hand,  
20 considerable physical damage may be inflicted upon the person  
21 struck. The terms "metallic or false knuckles" shall include any  
22 such instrument without reference to the metal or other  
23 substance or substances from which the metallic or false  
24 knuckles are made.

1           (7) "Pistol" means a short firearm having a chamber which  
2 is integral with the barrel, designed to be aimed and fired by  
3 the use of a single hand.

4           (8) "Revolver" means a short firearm having a cylinder of  
5 several chambers that are brought successively into line with  
6 the barrel to be discharged, designed to be aimed and fired by  
7 the use of a single hand.

8           (9) "Deadly weapon" means an instrument which is designed  
9 to be used to produce serious bodily injury or death or is  
10 readily adaptable to such use. The term "deadly weapon" shall  
11 include, but not be limited to, the instruments defined in  
12 subdivisions (1) through (8), inclusive, of this section or  
13 other deadly weapons of like kind or character which may be  
14 easily concealed on or about the person. For the purposes of  
15 section one-a, article five, chapter eighteen-a of this code and  
16 section eleven-a, article seven of this chapter, in addition to  
17 the definition of "knife" set forth in subdivision (3) of this  
18 section, the term "deadly weapon" also includes any instrument  
19 included within the definition of "knife" with a blade of three  
20 and one-half inches or less in length. Additionally, for the  
21 purposes of section one-a, article five, chapter eighteen-a of  
22 this code and section eleven-a, article seven of this chapter,  
23 the term "deadly weapon" includes explosive, chemical,  
24 biological and radiological materials. Notwithstanding any other

1 provision of this section, the term "deadly weapon" does not  
2 include any item or material owned by the school or county  
3 board, intended for curricular use, and used by the student at  
4 the time of the alleged offense solely for curricular purposes.

5 (10) "Concealed" means hidden from ordinary observation so  
6 as to prevent disclosure or recognition. A deadly weapon is  
7 concealed when it is carried on or about the person in such a  
8 manner that another person in the ordinary course of events  
9 would not be placed on notice that the deadly weapon was being  
10 carried.

11 (11) "Firearm" means any weapon which will expel a  
12 projectile by action of an explosion.

13 (12) "Controlled substance" has the same meaning as is  
14 ascribed to that term in subsection (d), section one hundred  
15 one, article one, chapter sixty-a of this code.

16 (13) "Drug" has the same meaning as is ascribed to that  
17 term in subsection (1), section one hundred one, article one,  
18 chapter sixty-a of this code.

19 (14) "Court facility" means the courtroom of the supreme  
20 court of appeals, a circuit court, a family court, a magistrate  
21 court or a municipal court; judges', justices' or magistrates'  
22 chambers; those portions of a courthouse designated as witness  
23 rooms, jury deliberation rooms, attorney conference rooms,  
24 prisoner holding cells or law library; offices of the court

1 clerks or other employees of the judicial department of this  
2 state; but does not include any common area of ingress or egress  
3 to a courthouse that provides access to the non-court facility  
4 areas of a courthouse.

5 (15) "Courthouse" means:

6 (A) Any building owned by this state or a political  
7 subdivision thereof that houses a court facility, exclusive of  
8 any parking lot, parking garage or other area set aside for  
9 vehicular travel or parking; or

10 (B) The portion of any other building that is leased by  
11 this state or a political subdivision thereof, if a court  
12 facility is housed within any portion of the leased premises,  
13 exclusive of any parking lot, parking garage or other area set  
14 aside for vehicular travel or parking or any portion of the  
15 building not leased by this state or a political subdivision  
16 thereof.

17 (16) "School bus" has the same meaning as in §17A-1-1.

18 (17) "School property" :

19 (A) Means:

20 (i) Any public or private primary or secondary school  
21 building and its improved grounds, whether leased or owned by  
22 the school, including any vocational education building,  
23 structure, facility or grounds thereof where secondary  
24 vocational education programs are conducted; or

1        (ii) The area within a school bus when that school bus is  
2 being used by any school described in subparagraph (i) of this  
3 paragraph to transport one or more primary or secondary school  
4 students to and from school-related activities, including  
5 curricular, cocurricular, noncurricular, extracurricular and  
6 supplementary activities; but

7        (B) Does not include:

8        (i) Any institution of higher education, public or private;  
9 or

10       (ii) Any school bus when not in use.

11       (18) "Secure weapon storage area" means a facility  
12 maintained in conjunction with any court facility that:

13       (A) Provides free storage of any deadly weapon otherwise  
14 lawful for the depositor to possess whose possession within the  
15 court facility is otherwise prohibited;

16       (B)(i) Provides a stationary locked box sufficient in size  
17 for handguns and key to a weapon depositor for weapon storage;  
18 or

19       (ii) Designates an official to receive weapons for  
20 safekeeping, during the depositor's visit to the court facility,  
21 who tags each weapon stored and issues a corresponding receipt  
22 that protects the weapon from misplacement or erroneous transfer  
23 and enables the depositor to retrieve the weapon upon exiting  
24 the court facility; and

1        (C) Which is open for retrieval at all times the court  
2 facility is occupied plus a reasonable amount of time thereafter  
3 for a depositor who has lawfully entered and remained in the  
4 court facility to retrieve the weapon and not be unduly denied  
5 restoration of his or her lawful possession of the weapon upon  
6 leaving the court facility.

7        **§61-7-11a. Possessing deadly weapons on school property; reports**  
8                    **by school principals; suspension of driver license.**

9        ~~(a) The Legislature hereby finds that the safety and~~  
10 ~~welfare of the citizens of this state are inextricably dependent~~  
11 ~~upon assurances of safety for children attending, and the~~  
12 ~~persons employed by, schools in this state and for those persons~~  
13 ~~employed with the judicial department of this state. It is for~~  
14 ~~the purpose of providing such assurances of safety, therefore,~~  
15 ~~that subsections (b), (g) and (h) of this section are is enacted~~  
16 ~~as a reasonable regulation of the manner in which citizens may~~  
17 ~~exercise those rights accorded to them pursuant to section~~  
18 ~~twenty two, article three of the Constitution of the state of~~  
19 ~~West Virginia.~~

20        ~~(b) (1) It shall be unlawful for any~~ Except as otherwise  
21 provided in subdivision (2) of this subsection, no person ~~to~~ may  
22 possess any firearm or any other deadly weapon on any school bus  
23 as defined in section one, article one, chapter seventeen-a of  
24 this code, or in or on any public or private primary or

1 ~~secondary education building, structure, facility or grounds~~  
2 ~~thereof, including any vocational education building, structure,~~  
3 ~~facility or grounds thereof where secondary vocational education~~  
4 ~~programs are conducted~~ property or at any school-sponsored  
5 function.

6 (2) This subsection shall not apply to:

7 (A) A law-enforcement officer acting in his or her official  
8 capacity;

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

13 (C) A person who, as otherwise permitted by the provisions  
14 of this article, possesses an unloaded firearm or deadly weapon  
15 in a motor vehicle, or leaves an unloaded firearm or deadly  
16 weapon in a locked motor vehicle;

17 (D) Programs or raffles conducted with the approval of the  
18 county board of education or school which include the display of  
19 unloaded firearms; or

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

23 (3) Any person violating this subsection ~~shall be~~ is guilty  
24 of a felony and, upon conviction thereof, shall be imprisoned ~~in~~

1 ~~the penitentiary of this state~~ for a definite term ~~of years~~ of  
2 not less than two years nor more than ten years, ~~or~~ fined not  
3 more than five thousand dollars, or both.

4 ~~(e)~~ (b) It shall be the duty of the principal of each  
5 school subject to the authority of the state board of education  
6 to report any violation of subsection ~~(b)~~ (a) of this section  
7 discovered by such principal to the state superintendent of  
8 schools within seventy-two hours after such violation occurs.  
9 The state board of education shall keep and maintain such  
10 reports and may prescribe rules establishing policy and  
11 procedures for the making and delivery of the same as required  
12 by this subsection. In addition, it shall be the duty of the  
13 principal of each school subject to the authority of the state  
14 board of education to report any violation of subsection (b) of  
15 this section discovered by such principal to the appropriate  
16 local office of the ~~division of public safety~~ state police  
17 within seventy-two hours after such violation occurs.

18 ~~(d)~~ (c) In addition to the methods of disposition provided  
19 by article five, chapter forty-nine of this code, any court  
20 which adjudicates a person who is fourteen years of age or older  
21 as delinquent for a violation of subsection ~~(b)~~ (a) of this  
22 section may, in its discretion, order the division of motor  
23 vehicles to suspend any driver's license or instruction permit  
24 issued to such person for such period of time as the court may

1 deem appropriate, such suspension, however, not to extend beyond  
2 such person's nineteenth birthday; or, where such person has not  
3 been issued a driver's license or instruction permit by this  
4 state, order the division of motor vehicles to deny such  
5 person's application for the same for such period of time as the  
6 court may deem appropriate, such denial, however, not to extend  
7 beyond such person's nineteenth birthday. Any suspension ordered  
8 by the court pursuant to this subsection shall be effective upon  
9 the date of entry of such order. Where the court orders the  
10 suspension of a driver's license or instruction permit pursuant  
11 to this subsection, the court shall confiscate any driver's  
12 license or instruction permit in the adjudicated person's  
13 possession and forward the same to the division of motor  
14 vehicles.

15 ~~(e)~~ (d)(1) If a person eighteen years of age or older is  
16 convicted of violating subsection ~~(b)~~ (a) of this section, and  
17 if such person does not act to appeal such conviction within the  
18 time periods described in subdivision (2) of this subsection,  
19 such person's license or privilege to operate a motor vehicle in  
20 this state shall be revoked in accordance with the provisions of  
21 this section.

22 (2) The clerk of the court in which the person is convicted  
23 as described in subdivision (1) of this subsection shall forward  
24 to the commissioner a transcript of the judgment of conviction.

1 If the conviction is the judgment of a magistrate court, the  
2 magistrate court clerk shall forward such transcript when the  
3 person convicted has not requested an appeal within twenty days  
4 of the sentencing for such conviction. If the conviction is the  
5 judgment of a circuit court, the circuit clerk shall forward  
6 such transcript when the person convicted has not filed a notice  
7 of intent to file a petition for appeal or writ of error within  
8 thirty days after the judgment was entered.

9 (3) If, upon examination of the transcript of the judgment  
10 of conviction, the commissioner shall determine that the person  
11 was convicted as described in subdivision (1) of this  
12 subsection, the commissioner shall make and enter an order  
13 revoking such person's license or privilege to operate a motor  
14 vehicle in this state for a period of one year, or, in the event  
15 the person is a student enrolled in a secondary school, for a  
16 period of one year or until the person's twentieth birthday,  
17 whichever is the greater period. The order shall contain the  
18 reasons for the revocation and the revocation period. The order  
19 of suspension shall advise the person that because of the  
20 receipt of the court's transcript, a presumption exists that the  
21 person named in the order of suspension is the same person named  
22 in the transcript. The commissioner may grant an administrative  
23 hearing which substantially complies with the requirements of  
24 the provisions of section two, article five-a, chapter

1 seventeen-c of this code upon a preliminary showing that a  
2 possibility exists that the person named in the notice of  
3 conviction is not the same person whose license is being  
4 suspended. Such request for hearing shall be made within ten  
5 days after receipt of a copy of the order of suspension. The  
6 sole purpose of this hearing shall be for the person requesting  
7 the hearing to present evidence that he or she is not the person  
8 named in the notice. ~~In the event~~ If the commissioner grants an  
9 administrative hearing, the commissioner shall stay the license  
10 suspension pending the commissioner's order resulting from the  
11 hearing.

12 (4) For the purposes of this subsection, a person is  
13 convicted when such person enters a plea of guilty or is found  
14 guilty by a court or jury.

15 ~~(f)~~ (e)(1) It shall be unlawful for any parent(s),  
16 guardian(s) or custodian(s) of a person less than eighteen years  
17 of age who knows that said person is in violation of subsection  
18 ~~(b)~~ (a) of this section, or who has reasonable cause to believe  
19 that said person's violation of said subsection is imminent, to  
20 fail to immediately report such knowledge or belief to the  
21 appropriate school or law-enforcement officials.

22 (2) Any person violating this subsection ~~shall be~~ is guilty  
23 of a misdemeanor and, upon conviction thereof, shall be fined

1 not more than one thousand dollars, ~~or shall be~~ confined in jail  
2 for not more than one year, or both.

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

6 ~~(2) This subsection shall not apply to:~~

7 ~~(A) A law enforcement officer acting in his or her official~~  
8 ~~capacity; and~~

9 ~~(B) A person exempted from the provisions of this~~  
10 ~~subsection by order of record entered by a court with~~  
11 ~~jurisdiction over such premises or offices.~~

12 ~~(3) Any person violating this subsection shall be guilty of~~  
13 ~~a misdemeanor, and, upon conviction thereof, shall be fined not~~  
14 ~~more than one thousand dollars, or shall be confined in jail not~~  
15 ~~more than one year, or both.~~

16 ~~(h) (1) It shall be unlawful for any person to possess any~~  
17 ~~firearm or any other deadly weapon on any premises which houses~~  
18 ~~a court of law or in the offices of a family law master with the~~  
19 ~~intent to commit a crime.~~

20 ~~(2) Any person violating this subsection shall be guilty of~~  
21 ~~a felony, and, upon conviction thereof, shall be imprisoned in~~  
22 ~~the penitentiary of this state for a definite term of years of~~  
23 ~~not less than two years nor more than ten years, or fined not~~  
24 ~~more than five thousand dollars, or both.~~

1       ~~(i) Nothing in this section may be construed to be in~~  
2 ~~conflict with the provisions of federal law.~~

3       **§61-7-11b. Possession of deadly weapons in court facility**  
4               **prohibited; exceptions; penalty; posting of signs;**  
5               **secure weapon storage areas.**

6       (a) Except as otherwise provided in subsection (b) of this  
7 section, no person may possess any deadly weapon within a court  
8 facility.

9       (b) Subsection (a) of this section shall not apply to:

10       (1) A law-enforcement officer acting in his or her official  
11 capacity;

12       (2) A person exempted from the provisions of subsection (a)  
13 of this section by order of record entered by a court with  
14 jurisdiction over the applicable court facility; or

15       (3) The checking and storage of a weapon in a secure weapon  
16 storage area established pursuant to subsection (c) of this  
17 section and the possession of a weapon in the court facility to  
18 the extent reasonably necessary to convey it to or from the  
19 secure weapon storage from outside the court facility.

20       (c) The authority in control of each courthouse shall make  
21 available at each public entrance to a court facility a secure  
22 weapon storage area for the temporary checking of firearms by  
23 persons lawfully carrying firearms or for the checking of other  
24 deadly weapons that are not otherwise prohibited by law. Any

1 individual checking a firearm, deadly weapon or an item deemed  
2 to be a dangerous weapon at a court facility must be issued a  
3 receipt. Notice of the location of the facility shall be posted  
4 as required under subsection (d) of this section. If weapons are  
5 maintained by an officer who tags weapons and issues receipts,  
6 the officer shall purge all records pertaining to checked  
7 weapons within a reasonable amount of time, not to exceed five  
8 business days, after the weapon has been retrieved by the person  
9 checking the weapon. The supreme court of appeals shall propose  
10 in its annual budget request sufficient funds to establish and  
11 upgrade self-service keyed storage lockers for all court  
12 facilities in sufficient numbers to meet the general demand for  
13 weapon storage so as to minimize the incidence of individuals  
14 needing to check their weapons by other means.

15 (d) Notice of the provisions of this section and §61-7-11c  
16 shall be posted conspicuously at each public entrance to each  
17 courthouse and each court facility, and no person shall be  
18 convicted of an offense under this section if the notice was not  
19 so posted at each public entrance to the courthouse and at the  
20 court facility unless the person had actual notice of the  
21 provisions of this section. The notice required by this  
22 subsection shall be printed immediately below an image not less  
23 than eight inches by eight inches in size containing a black  
24 silhouette of a pistol under the international "No" symbol, a

1 red circle with a diagonal bisecting line, a headline of  
2 "WEAPONS PROHIBITED" in not less than one-inch typeface, shall  
3 conclude with the words, "Posted pursuant to W.Va. Code §61-7-  
4 11b(d).", and shall have an opaque white background.

5 (e) Except as otherwise provided in subsection (f) of this  
6 section, any person violating this section is guilty of a  
7 misdemeanor and, upon conviction thereof, shall be fined not  
8 more than one thousand dollars, confined in jail for not more  
9 than one year, or both.

10 (f) Any person who is licensed under §61-7-4 to carry  
11 concealed weapons or who is authorized to lawfully carry  
12 concealed weapons without a license who violates this section is  
13 guilty of a misdemeanor, and upon conviction thereof, shall be  
14 fined not more than five hundred dollars. Forfeiture of a weapon  
15 is not authorized for any violation of this section punishable  
16 under this subsection.

17 **§61-7-11c. Possession of deadly weapons within courthouse or**  
18 **court facility with intent to commit crime; penalty.**

19 Any person who possesses any deadly weapon within any  
20 courthouse or court facility with the intent to commit a crime  
21 is guilty of a felony and, upon conviction thereof, shall be  
22 imprisoned for a definite term of not less than two years nor  
23 more than ten years, fined not more than five thousand dollars,  
24 or both.

bill to limit courthouse carry ban to the judicial parts of courthouses and require storage lockers at courthouses

NOTE: The purpose of this bill is to clarify that the prohibition on possessing deadly weapons upon premises housing courts of law are those portions of courthouses employed by the judicial department. This bill would also provide for secure, self-service storage lockers to be provided at court facilities for individuals to secure their weapons before entering the restricted area.

Strike-throughs indicate language which would be eliminated; underscoring indicates new language which would be added. §61-7-11b and §61-7-11c are new; therefore, strike-throughs and underscoring have been omitted.

This bill was proposed by Jim Mullins <[jmullins@wvcdl.org](mailto:jmullins@wvcdl.org)>