

Senate Bill No. 327

(By Senator Jenkins, Plymale, Nohe and Klempa)

[Introduced January 27, 2011; referred to the Committee on the
Judiciary.]

**Interim
Bill**

A BILL to amend and reenact §61-2-12 of the Code of West Virginia, 1931, as amended, relating to the criminal offenses of robbery and attempted robbery; making it a crime to rob or attempt to rob a person under the pretense of having a deadly weapon; and increasing certain 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 the pretense of having a firearm or other deadly weapon, is guilty of robbery in the first degree and, upon conviction thereof, shall be ~~imprisoned~~ confined

1 in a state correctional facility for not less than ten years.

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

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

NOTE: The purpose of this bill is to make it a crime to rob or attempt to rob a person under the pretense of having a deadly weapon. The bill also increases certain criminal penalties.

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

This bill was recommended for introduction and passage during the 2011 Regular Session of the Legislature by the Joint Standing Committee on the Judiciary.