

1 **Senate Bill No. 3**

2 (By Senators Palumbo, Leonhardt, Boley, Ferns, D. Hall, Karnes, Maynard, Nohe, Sypolt,
3 Trump, Blair, Williams, Plymale, Kirkendoll, Stollings and Cole (Mr. President))

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5 [Introduced January 14, 2015; referred to the Committee on the Judiciary.]
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10 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
11 designated §55-7-27, relating to liability of possessor of real property for harm to a
12 trespasser.

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

14 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
15 section, designated §55-7-27, to read as follows:

16 **ARTICLE 7. ACTIONS FOR INJURIES.**

17 **§55-7-27. Liability of possessor of real property for harm to a trespasser.**

18 (a) A possessor of real property, including an owner, lessee or other lawful occupant, owes
19 no duty of care to a trespasser except in those circumstances where a common-law right-of-action
20 existed as of the effective date of this section, including the duty to refrain from willfully or wantonly
21 causing the trespasser injury.

22 (b) A possessor of real property may use justifiable force to repel a criminal trespasser as

1 provided by section twenty-two of this article.

2 (c) This section does not increase the liability of any possessor of real property and does not
3 affect any immunities from or defenses to liability established by another section of this code or
4 available at common law to which a possessor of real property may be entitled.

5 (d) The Legislature intends to codify and preserve the common law in West Virginia on the
6 duties owed to trespassers by possessors of real property as of the effective date of this section.

(NOTE: The purpose of this bill is to codify existing common law in West Virginia as it relates to the duty of care possessors of property owe trespassers.

This section is new; therefore, strike-throughs and underscoring have been omitted.)