

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2618

**FISCAL
NOTE**

By Delegates Horst, Jennings, D. Smith, Coop-
Gonzalez, Hornby, Masters, Worrell, Jeffries, Maynor,
Crouse, and White

[Introduced February 19, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-7-7 of the Code of West Virginia, 1931, as amended, relating to
2 granting an automatic restoration of Second Amendment rights upon completion of a
3 sentence and any court-ordered penalties, restitution, or fines to those convicted of
4 nonviolent felonies.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-7. Persons prohibited from possessing firearms; classifications; right of nonprohibited persons over twenty-one years of age to carry concealed deadly weapons; offenses and penalties; reinstatement of rights to possess; offenses; penalties.

1 (a) Except as provided in this section, no person shall possess a firearm, as such is defined
2 in section two of this article, who:

3 (1) Has been convicted in any court of a crime punishable by imprisonment for a term
4 exceeding one year;

5 (2) Is habitually addicted to alcohol;

6 (3) Is an unlawful user of or habitually addicted to any controlled substance;

7 (4) Has been adjudicated to be mentally incompetent or who has been involuntarily
8 committed to a mental institution pursuant to the provisions of chapter twenty-seven of this code or
9 in similar law of another jurisdiction: *Provided*, That once an individual has been adjudicated as a
10 mental defective or involuntarily committed to a mental institution, he or she shall be duly notified
11 that they are to immediately surrender any firearms in their ownership or possession: *Provided*,
12 *however*, That the mental hygiene commissioner or circuit judge shall first make a determination of
13 the appropriate public or private individual or entity to act as conservator for the surrendered
14 property;

15 (5) Is an alien illegally or unlawfully in the United States;

16 (6) Has been discharged from the armed forces under dishonorable conditions;

(7) Is subject to a domestic violence protective order that:

(A) Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

(B) Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b) or (c), section nine of said article or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.

Any person who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in the county jail for not less than ninety days nor more than one year, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person:

(1) Who has been convicted in this state or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or

(2) Who has been convicted in this state or any other jurisdiction of a felony controlled

substance offense involving a Schedule I controlled substance other than marijuana, a Schedule II or a Schedule III controlled substance as such are defined in sections two hundred four, two hundred five and two hundred six, article two, chapter sixty-a of this code and who possesses a firearm as such is defined in section two of this article shall be guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than five years or fined not more than \$5,000, or both. The provisions of subsection (f) of this section shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

(c) Any person may carry a concealed deadly weapon without a license therefor who is:

(1) At least twenty-one years of age;

(2) A United States citizen or legal resident thereof;

(3) Not prohibited from possessing a firearm under the provisions of this section; and

(4) Not prohibited from possessing a firearm under the provisions of 18 U. S. C. §922(g) or

(n).

(d) As a separate and additional offense to the offense provided for in subsection (a) of this section, and in addition to any other offenses outlined in this code, and except as provided by subsection (e) of this section, any person prohibited by subsection (a) of this section from possessing a firearm who carries a concealed firearm is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than three years or fined not more than \$5,000, or both.

(e) As a separate and additional offense to the offense described in subsection (b) of this section, and in addition to any other offenses outlined in this code, any person prohibited by subsection (b) of this section from possessing a firearm who carries a concealed firearm is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than ten years or fined not more than \$10,000, or both.

(f) Any person prohibited from possessing a firearm by the provisions of subsection (a) of

69 this section may petition the circuit court of the county in which he or she resides to regain the
70 ability to possess a firearm and if the court finds by clear and convincing evidence that the person
71 is competent and capable of exercising the responsibility concomitant with the possession of a
72 firearm, the court may enter an order allowing the person to possess a firearm if such possession
73 would not violate any federal law: *Provided*, That a person prohibited from possessing a firearm by
74 the provisions of subdivision (4), subsection (a) of this section may petition to regain the ability to
75 possess a firearm in accordance with the provisions of section five, article seven-a of this chapter.

76 (g) Any person who has been convicted of an offense which disqualifies him or her from
77 possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set
78 aside or who subsequent thereto receives an unconditional pardon for said offense shall not be
79 prohibited from possessing a firearm by the provisions of the section.

80 (h) Any person who has been convicted of a nonviolent felony and has served their
81 sentence and paid any court-ordered penalties, restitution, and fines shall automatically have their
82 Second Amendment rights restored to the position those rights were in before the person was
83 convicted of this specific nonviolent felony.

NOTE: The purpose of this bill is to grant an automatic restoration of Second Amendment rights upon completion of a sentence and any other court-ordered penalties, restitution, or fines for those convicted of nonviolent felonies.

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