

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3219

By Delegates Crouse, Masters, Horst, Bridges, Dean,

White, and Petitto

[Introduced March 07, 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 the right to bear arms as a fundamental right as provided for in the Second Amendment in
3 the United States Constitution and Article 3-22 in the West Virginia Constitution; defining a
4 crime of violence; and clarifying that law enforcement officers of this state may not infringe
5 on individuals right to bear arms.

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 may possess a firearm, as such is
2 defined in ~~section~~ §61-7-2 ~~two~~ of this code, who:

3 (1) Has been convicted in any court of a crime ~~punishable by imprisonment for a term~~
4 ~~exceeding one year~~ as that term is defined in this code: *Provided*, That notwithstanding any other
5 provision of this code, a person who has been found guilty of a violation under §60A-4-401 through
6 §60A-4-403, or §60A-4-409 through §60A-4-417 of this code shall be considered a violent
7 offender for the purpose of this section: *Provided however*, That the person's conviction or release
8 from incarceration has been five years prior, whichever is greater.

9 (2) Is habitually addicted to alcohol;

10 (3) Is an unlawful user of or habitually addicted to any controlled substance: *Provided*, That
11 a person who is in recovery from a substance use disorder and has maintained their recovery for
12 at least one year shall have their right to bear arms reinstated: *Provided however*, That the person
13 is not currently participating in any MAT treatment.

14 (4) Has been adjudicated to be mentally incompetent or who has been involuntarily
15 committed to a mental institution pursuant to ~~the provisions of~~ Chapter 27 of this code or in similar

16 law of another jurisdiction: *Provided*, That once an individual has been adjudicated as a mental
17 defective or involuntarily committed to a mental institution, he or she shall be duly notified that they
18 are to immediately surrender any firearms in their ownership or possession: *Provided, however*,
19 That the mental hygiene commissioner or circuit judge shall first make a determination of the
20 appropriate public or private individual or entity to act as conservator for the surrendered property;

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

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

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

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

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

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

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

34 (8) Has been convicted of a misdemeanor offense of assault or battery either under the
35 provisions of §61-2-28 of this code or the provisions of §61-2-9 (b) or (c), of this code or a federal
36 or state statute with the same essential elements in which the victim was a current or former
37 spouse, current or former sexual or intimate partner, person with whom the defendant has a child
38 in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the
39 defendant's child or ward or a member of the defendant's household at the time of the offense or
40 has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of
41 domestic violence.

Any person who violates the provisions of this subsection ~~shall be~~ is 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 90 days nor more than one year, or both fined and confined.

(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 a felony offense involving a minor; 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~~ Who possesses a firearm as such it is defined in §61-7-2 of this code ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be ~~confined~~ imprisoned in a state correctional facility for not more than five years or fined not more than \$5,000, or both fined and imprisoned. ~~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 21 years of age;

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

(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

68 possessing a firearm who carries a concealed firearm is guilty of a felony and, upon conviction
69 thereof, shall be ~~confined~~ imprisoned in a state correctional facility for not more than three years or
70 fined not more than \$5,000, or both fined and imprisoned.

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

76 (f) ~~Any person prohibited from possessing a firearm by the provisions of subsection (a) of~~
77 ~~this section may petition the circuit court of the county in which he or she resides to regain the~~
78 ~~ability to possess a firearm and if the court finds by clear and convincing evidence that the person~~
79 ~~is competent and capable of exercising the responsibility concomitant with the possession of a~~
80 ~~firearm, the court may enter an order allowing the person to possess a firearm if such possession~~
81 ~~would not violate any federal law: *Provided*, That a person prohibited from possessing a firearm by~~
82 ~~the provisions of subdivision (4), subsection (a) of this section may petition to regain the ability to~~
83 ~~possess a firearm in accordance with the provisions of section five, article seven-a of this chapter.~~

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

88 (g) Notwithstanding any other provision of this code to the contrary, a law enforcement
89 officer of this state may not aid, assist, abet, or otherwise participate in the removal, restriction, or
90 denial of a lawful, legal resident of this state to bear arms in cooperation with federal law
91 enforcement authorities: *Provided*, That no part of this article may restrict any law enforcement
92 officers of this state from investigating, charging, testifying in any court proceedings, or executing
93 search and arrest warrants, for crimes in this state.

NOTE: The purpose of this bill is to clarify that the right to bear arms is a constitutional right and to provide when persons convicted of non-violent crimes may have their rights to bear arms reinstated. The bill also clarifies what constitutes a crime of violence and provides protection for residents in the exercise of their constitutional rights.

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