

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### House Bill 4419

FISCAL  
NOTE

BY DELEGATES HOWELL, MAYNARD, WARD, AMBLER,  
COOPER, ZATEZALO, GRAVES, SOBONYA, FRICH, CRISS  
AND KESSINGER

[Introduced February 5, 2018; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new  
2 sections, §61-11-27 and §61-11-28, all relating to securing the borders against persons  
3 who may be in the country unlawfully; providing enhanced penalty for committing a felony  
4 while not a lawful immigrant or resident of the United States, and providing for reporting  
5 to United States Homeland Security persons arrested for whom the arresting officer has  
6 probable cause to believe the person may not be lawfully in the country.

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

## **ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.**

### **§61-11-27. Punishment where felony committed by person not a lawful immigrant or resident.**

1 When any person is convicted of an offense and is subject to confinement in the state  
2 correctional facility therefor, and it is determined by the court that the person while committing the  
3 offense was not a lawful immigrant or resident of the country, if the sentence to be imposed is for  
4 a definite term of years, the court shall add five years to the time for which the person is or would  
5 be otherwise sentenced. Whenever in the case of a person convicted of a felony committed while  
6 determined to be not a lawful immigrant or resident, the court imposes an indeterminate sentence,  
7 the minimum term shall be twice the term of years otherwise provided under the sentence.

### **§61-11-28. Procedure upon arrest where arresting officer has probable cause to believe person arrested is not legally permitted to be in the United States.**

1 If at the time a police officer makes an arrest for any crime, and the arresting officer has  
2 probable cause to believe the person arrested is not legally permitted to be in the United States,  
3 the officer shall notify the appropriate office of the United States Department of Homeland Security  
4 with jurisdiction over immigration and unlawful aliens.

NOTE: The purpose of this bill is to provide enhanced penalty for committing a felony while not legally in the country, and to provide for reporting to appropriate border security authority a person arrested by an officer who has probable cause to believe the person

arrested is not in the country legally.

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