WEST VIRGINIA LEGISLATURE

**FISCAL NOTE**

2023 REGULAR SESSION

Introduced

House Bill 2358

By Delegate Hornbuckle

[Introduced January 11, 2023; Referred to the Committee on Health and Human Resources then the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-32, relating to making it a misdemeanor for a person to knowingly allow a felony drug offense to be committed on his or her property; creating a duty to report; establishing criminal penalties; and allowing a private cause of action.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.

§61-8-32. Property owners allowing felony drug activities by tenants; penalty.

It is unlawful for any person who owns real property to rent or to otherwise allow a person who has exclusive possession of his or her real property to knowingly allow a person or another invitee to the real property to commit a felony drug crime on the property in violation of this code without reporting the crime to a law-enforcement agency. Upon discovery of a felony being committed the property owner shall, within 48 hours, report the activity to a state or local law-enforcement agency. Any person convicted of a violation of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $500. Upon a second or subsequent conviction he or she shall be confined up to 10 days in jail, or fined not more than $500, or both fined and confined. Any person owning adjoining real property has standing to sue the owner for creating a public nuisance and may file a civil action for damages for the landowner’s criminal and negligent act.

NOTE: The purpose of this bill is to make it a misdemeanor for a person to knowingly allow a felony drug offense to be committed on his or her property. The bill creates a duty to report. The bill creates criminal penalties. The bill allows a private cause of action.

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