WEST virginia Legislature

**FISCAL NOTE**

2023 regular session

Introduced

House Bill 2567

By Delegates Ross, Linville, Dean, W. Hall, Dillon, Foggin, Coop-Gonzalez and Kump

[Introduced January 16, 2023; Referred to the Committee on the Judiciary]

A BILL to amend and reenact §61-3B-2 of the Code of West Virginia, 1931, as amended, relating to increasing the penalty for unlawful trespass into the home of another from a misdemeanor offense to a felony offense.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3B. TRESPASS.

§61-3B-2. Trespass in structure or conveyance.

(a) Any person who knowingly enters in, upon, or under a structure or conveyance without being authorized, licensed, or invited, or having been authorized, licensed, or invited is requested to depart by the owner, tenant, or the agent of the owner or tenant, and refuses to do so, ~~is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $100~~ is guilty of a felony and, upon conviction thereof shall be imprisoned in a correctional facility not less than one year and nor more than 10 years and shall be fined not less than $1,000 nor more than $5,000.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who, without permission, knowingly and willfully enters a structure which has a clear posting that the structure has been condemned by any municipal or county government as unfit for human habitation or use, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100, or confined in jail not more than six months, or both fined and confined: *Provided,* That for any first violation of this subsection offense of trespass on condemned property, a court may substitute community service or pretrial diversion in lieu of a fine or confinement for trespassing on condemned property.

(c) If the offender is armed with a firearm or other dangerous weapon while in the structure or conveyance, with the intent to do bodily injury to a human being in the structure or conveyance at the time the offender knowingly trespasses, the offender, notwithstanding the provisions of §61-7-1 of this code, is guilty ~~of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $500, or be confined in jail for not more than one year, or both fined and confined~~ of a felony and, upon conviction thereof shall be imprisoned in a correctional facility not less than one year and nor more than 10 years and shall be fined not less than $5,000 nor more than $10,000.

NOTE: The purpose of this bill is to increase the penalty of unlawful trespass into the home of another from a misdemeanor offense to a felony offense.

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