

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 778

By Senators Weld and Deeds

[Introduced February 14, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-11-18 of the Code of West Virginia, 1931, as amended, relating
2 to qualifying offenses for the purpose of enhancing the sentence of a repeat offender.

Be it enacted by the Legislature of West Virginia:

1 **§61-11-18. Punishment for second or third offense of felony.**

2 (a) For purposes of this section, "qualifying offense" means any offenses or an attempt or
3 conspiracy to commit any of the offenses in the following provisions of this code:

4 (1) ~~§60A-4-401(i)~~ §60A-4-401(a)(i) and ~~§60A-4-401(ii)~~ §60A-4-401(a)(ii);

5 (2) §60A-4-406;

6 (3) §60A-4-409(b)(1), ~~§60A-4-409(2)~~, §60A-4-409 (b)(2) and ~~§60A-4-409(3)~~;

7 (4) §60A-4-411;

8 (5) §60A-4-414;

9 (6) §60A-4-415;

10 (7) §60A-4-416(a);

11 (8) §61-2-1;

12 (9) §61-2-4;

13 (10) §61-2-7;

14 (11) §61-2-9(a);

15 (12) §61-2-9a(d) and §61-2-9a(e);

16 (13) §61-2-9b;

17 (14) §61-2-9c;

18 ~~(14)~~ (15) §61-2-9d;

19 ~~(15)~~ (16) §61-2-10;

20 ~~(16)~~ (17) §61-2-10b(b) and §61-2-10b(c);

21 ~~(17)~~ (18) Felony provisions of §61-2-10b(d);

22 ~~(18)~~ (19) §61-2-12;

23 ~~(19)~~ (20) Felony provisions of §61-2-13;

- 24 ~~(20)~~ (21) §61-2-14;
- 25 ~~(21)~~ (22) §61-2-14a(a) and §61-2-14a(d);
- 26 ~~(22)~~ (23) §61-2-14c;
- 27 ~~(23)~~ (24) §61-2-14d(a) and §61-2-14d(b);
- 28 ~~(24)~~ (25) §61-2-14f;
- 29 ~~(25)~~ (26) §61-2-14h(a), §61-2-14h(b), and §61-2-14h(c);
- 30 ~~(26)~~ (27) §61-2-16a(a) and §61-2-16a(b);
- 31 ~~(27)~~ (28) Felony provisions of §61-2-16a(c);
- 32 ~~(28)~~ (29) §61-2-28(d);
- 33 ~~(29)~~ (30) §61-2-29(d) and §61-2-29(e);
- 34 ~~(30)~~ (31) §61-2-29a;
- 35 ~~(31)~~ (32) §61-3-1;
- 36 ~~(32)~~ (33) §61-3-2;
- 37 ~~(33)~~ (34) §61-3-3;
- 38 ~~(34)~~ (35) §61-3-4;
- 39 ~~(35)~~ (36) §61-3-5;
- 40 ~~(36)~~ (37) §61-3-6;
- 41 ~~(37)~~ (38) §61-3-7;
- 42 ~~(38)~~ (39) §61-3-11;
- 43 ~~(39)~~ (40) §61-3-13(a);
- 44 (41) §61-3-18;
- 45 (42) §61-3-19;
- 46 (43) §61-3-20;
- 47 (44) §61-3-20a;
- 48 (45) §61-3-21;
- 49 (46) §61-3-22;

50 (47) §61-3-24;
51 (48) §61-3-24a;
52 ~~(40)~~ (49) §61-3-27;
53 (50) §61-3-54;
54 ~~(41)~~ (51) §61-3C-14b;
55 ~~(42)~~ (52) §61-3E-5;
56 (53) §61-5-10;
57 ~~(43)~~ (54) §61-5-17(b), §61-5-17(f), §61-5-17(h), and §61-5-17(i);
58 ~~(44)~~ (55) §61-5-27;
59 ~~(45)~~ (56) §61-6-24;
60 ~~(46)~~ (57) Felony provisions of §61-7-7;
61 ~~(47)~~ (58) §61-7-12;
62 ~~(48)~~ (59) §61-7-15;
63 ~~(49)~~ (60) §61-7-15a;
64 ~~(50)~~ (61) §61-8-12;
65 ~~(51)~~ (62) §61-8-19(b);
66 (63) §61-8A-2;
67 (64) §61-8A-4;
68 (65) §61-8A-5;
69 ~~(52)~~ (66) §61-8B-3;
70 ~~(53)~~ (67) §61-8B-4;
71 ~~(54)~~ (68) §61-8B-5;
72 ~~(55)~~ (69) §61-8B-7;
73 ~~(56)~~ (70) §61-8B-10;
74 (71) §61-8B-11b;
75 ~~(57)~~ (72) §61-8C-2;

76 ~~(58)~~ (73) §61-8C-3;
77 ~~(59)~~ (74) §61-8C-3a;
78 ~~(60)~~ (75) §61-8D-2;
79 ~~(64)~~ (76) §61-8D-2a;
80 ~~(62)~~ (77) §61-8D-3;
81 ~~(63)~~ (78) §61-8D-3a;
82 ~~(64)~~ (79) §61-8D-4;
83 ~~(65)~~ (80) §61-8D-4a;
84 ~~(66)~~ (81) §61-8D-5;
85 ~~(67)~~ (82) §61-8D-6;
86 ~~(68)~~ (83) §61-10-31;
87 ~~(69)~~ (84) §61-11-8;
88 ~~(70)~~ (85) §61-11-8a;
89 ~~(71)~~ (86) §61-14-2; and
90 ~~(72)~~ (87) §17C-5-2(b), driving under the influence causing death.

91 (b) Except as provided by subsection (c) of this section, when any person is convicted of a
92 qualifying offense and is subject to imprisonment in a state correctional facility therefor, and it is
93 determined, as provided in §61-11-19 of this code, that ~~such~~ the person had been before convicted
94 in the United States of a crime punishable by imprisonment in state or federal correctional facility,
95 the court shall, if the sentence to be imposed is for a definite term of years, add five years to the
96 time for which the person is or would be otherwise sentenced. Whenever in ~~such~~ that case the
97 court imposes an indeterminate sentence, the minimum term shall be twice the term of years
98 otherwise provided for under ~~such~~ the sentence.

99 (c) Notwithstanding any provision of this code to the contrary, when any person is
100 convicted of first degree murder or second degree murder or a violation of §61-8B-3 of this code
101 and it is determined, as provided in §61-11-19 of this code, that ~~such~~ the person had been before

102 convicted in this state of first degree murder, second degree murder, or a violation of §61-8B-3 of
103 this code, or has been so convicted under any law of the United States or any other state for an
104 offense which has the same or substantially similar elements as any offense described in this
105 subsection, ~~such~~ the person shall be punished by imprisonment in a state correctional facility for
106 life and is not eligible for parole.

107 (d) When it is determined, as provided in §61-11-19 of this code, that ~~such~~ the person shall
108 ~~have~~ has been twice before convicted in the United States of a crime punishable by imprisonment
109 in a state or federal correctional facility which has the same or substantially similar elements as a
110 qualifying offense, the person shall be sentenced to imprisonment in a state correctional facility for
111 life: *Provided*, That prior convictions arising from the same transaction or series of transactions
112 shall be considered a single offense for purposes of this section: *Provided, however*, That the
113 most recent previous qualifying offense which would otherwise constitute a qualifying offense for
114 purposes of this subsection may not be considered if more than 20 years have elapsed between:
115 (1) The release of the person from his or her term of imprisonment or period of supervision
116 resulting from the most recent qualifying offense or the expiration of a period of supervised release
117 resulting from ~~such~~ the offense; and (2) the conduct underlying the current charge.

NOTE: The purpose of this bill is to amend and add certain qualifying offenses for the purpose of enhancing the sentence of a repeat offender.

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