WEST virginia legislature

2021 regular session

Introduced

Senate Bill 497

By Senators Weld, Ihlenfeld, and Lindsay

**FISCAL NOTE**

[Introduced March 1, 2021; referred

to the Committee on the Judiciary]

A BILL to amend and reenact §61-11-8 of the Code of West Virginia, 1931, as amended, relating to the penalty for attempted murder; increasing the penalty for attempted murder of the first degree; and creating a new penalty for attempted murder of the second degree.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES

§61-11-8. Attempts; classification and penalties therefor.

Every person who attempts to commit an offense, but fails to commit or is prevented from committing it, shall, where it is not otherwise provided, be punished as follows:

(1) If the offense attempted be punishable with life imprisonment, the person making such attempt shall be guilty of a felony and, upon conviction, shall be imprisoned in ~~the penitentiary~~ a state correctional facility not less than ~~three~~ five nor more than ~~fifteen~~ 25 years.

(2) If the offense attempted be punishable by imprisonment in ~~the penitentiary~~ a state correctional facility for a term less than life, such person shall be guilty of a felony and, upon conviction, shall, in the discretion of the court, either be imprisoned in ~~the penitentiary~~ a state correctional facility for not less than one nor more than three years, or be confined in jail not less than six nor more than 12 months, and fined not exceeding $500: *Provided,* That any person who attempts murder of the second degree is guilty of a felony and, upon conviction thereof, shall be imprisoned in ~~the~~ ~~penitentiary~~ a state correctional facility not less than three nor more than 15 years.

(3) If the offense attempted be punishable by confinement in jail, such person shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than six months, or fined not exceeding $100.

NOTE: The bill increases the penalty for attempted murder of the first degree from the current not less than three nor more than 15 years, to not less than five nor more than 25 years; and creates a new penalty for attempted murder of the second year punishable, upon conviction, by imprisonment for not less than three nor more than 15 years.

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