WEST VIRGINIA LEGISLATURE

**FISCAL NOTE**

2022 REGULAR SESSION

Introduced

House Bill 4090

By Delegates Keaton, Holstein, and Pinson

[Introduced January 14, 2022; 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 trespassing; increasing the criminal penalty for trespass.

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~~ $250 and/or confined in jail not more than two months, or both fined and confined: *Provided,* That for any first violation of this subsection, a court may substitute community service or pretrial diversion in lieu of a fine or confinement for trespassing on condemned property.

(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.

NOTE: The purpose of this bill is to increase the criminal penalty for trespass.

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