

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]

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

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

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

15 (c) If the offender is armed with a firearm or other dangerous weapon while in the structure
 16 or conveyance, with the intent to do bodily injury to a human being in the structure or conveyance
 17 at the time the offender knowingly trespasses, the offender, notwithstanding the provisions of §61-
 18 7-1 of this code, ~~is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less~~
 19 ~~than \$100 nor more than \$500, or be confined in jail for not more than one year, or both fined and~~
 20 ~~confined~~ of a felony and, upon conviction thereof shall be imprisoned in a correctional facility not

21 less than one year and nor more than 10 years and shall be fined not less than \$5,000 nor more
22 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.