

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 4755

By Delegates Ridenour, Kump, Butler, Masters,
Hillenbrand, Funkhouser, Ward, Mallow, Kimble, and
Martin
[Originating the in the Committee on the Judiciary,
Reported on February 3, 2026.]

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 purposes of recidivism punishment; and adding aggravated
3 vehicular homicide, driving under the influence causing serious bodily injury, and third
4 offense driving under the influence as qualifying offenses for enhanced sentencing of a
5 repeat offender.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

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

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

3 (1) §17C-5-1(c): Aggravated vehicular homicide;

4 (2) §17C-5-2(b): Driving under the influence causing death;

5 (3) §17C-5-2(c): Driving under the influence causing serious bodily injury;

6 (4) §17C-5-2(m): Third offense driving under the influence;

7 (1) (5) §60A-4-401(a)(i) and §60A-4-401(a)(ii): Manufacturing or delivery of a Schedule I or

8 II controlled substance which is a narcotic drug or methamphetamine; manufacturing or delivery of
9 any other Schedule I, II, or II drug;

10 (2) (6) §60A-4-406: Distribution to persons under the age of 18 by persons over the age of

11 21; distribution by persons 18 or over in, on, or within 1,000 feet of, school or college; distribution
12 by persons 18 or over in, on, or within 200 feet of a public library;

13 (3) (7) §60A-4-409(b)(1), §60A-4-409(b)(2); §60A-4-409(c), §60A-4-409(d), and §60A-4-

14 409(e): Prohibited acts relating to transportation of controlled substances into state;

15 (4) (8) §60A-4-411: Operating or attempting to operate clandestine drug laboratories;

16 (5) (9) §60A-4-414: Conspiracy;

17 (6) §60A-4-415;

18 (7) (10) §60A-4-416(a): Drug delivery resulting in death;

19 (8) (11) §60A-4-419: Drug kingpin;

20 (9) (12) §61-2-1: First and second degree murder;

21 (10) (13) §61-2-4: Voluntary manslaughter;

22 (11) (14) §61-2-7: Attempt to kill or injure by poison;

23 (12) (15) §61-2-9(a): Malicious assault; unlawful assault;

24 (13) (16) §61-2-9a(d) and §61-2-9a(e): Second or subsequent offense stalking or
25 harassment; stalking or harassment in violation of a protective order;

26 (14) (17) §61-2-9b: Malicious or unlawful assault of a child near a school;

27 (15) (18) §61-2-9c: Wanton endangerment involving the use of fire;

28 (16) (19) §61-2-9d: Strangulation, suffocation, and asphyxiation;

29 (17) (20) §61-2-10: Assault during commission of or attempt to commit a felony;

30 (18) (21) §61-2-10b(b) and §61-2-10b(c): Malicious and unlawful assault on governmental
31 representatives, health care providers, utility workers, law-enforcement officers, correctional
32 employees and emergency medical service personnel;

33 (19) (22) Felony provisions of §61-2-10b(d): Battery on a government representative,
34 health care worker, utility worker, emergency service personnel, correctional employee or law-
35 enforcement officer;

36 (20) (23) §61-2-12: Robbery or attempted robbery;

37 (21) (24) Felony provisions of §61-2-13: Extortion or attempted extortion by threats;

38 (22) (25) §61-2-14: Abduction of person, kidnapping or concealing child;

39 (23) (26) §61-2-14a(a) and §61-2-14a(d): Kidnapping;

40 (24) (27) §61-2-14c: Threats to kidnap or demand ransom;

41 (25) (28) §61-2-14d(a) and §61-2-14d(b): Concealment or removal of minor child from
42 custodian or from person entitled to visitation;

43 (26) (29) §61-2-14f: Penalties for abduction of a child near a school;

44 (27) (30) §61-2-14h(a), §61-2-14h(b), and §61-2-14h(c): Purchase or sale of child;

45 (28) (31) §61-2-16a(a) and §61-2-16a(b): Malicious assault and unlawful assault on a
46 driver, conductor, motorman, captain, pilot or other person in charge of any vehicle used for public
47 conveyance;

48 (29) (32) Felony provisions of §61-2-16a(c): Second offense battery on a driver, conductor,
49 motorman, captain, pilot or other person in charge of any vehicle used for public conveyance;

50 (30) (33) §61-2-28(d): Domestic battery and assault, third or subsequent offense;

51 (31) (34) §61-2-29(d) and §61-2-29(e): Abuse or neglect of an incapacitated adult;

52 (32) (35) §61-2-29a: Death of an incapacitated adult by a caregiver;

53 (33) (36) §61-3-1: Burning, etc., of a dwelling or outbuilding; first degree arson;

54 (34) (37) §61-3-2: Burning, etc., of other buildings or structures; second degree arson;

55 (35) (38) §61-3-3: Burning personal property of another of the value of five hundred dollars
56 or more; third degree arson;

57 (36) (39) §61-3-4: Attempt to commit arson; fourth degree arson;

58 (37) (40) §61-3-5: Burning, or attempting to burn, insured property;

59 (38) (41) §61-3-6: Willfully, unlawfully and maliciously setting fire on lands;

60 (39) (42) §61-3-7: Causing injuries during an arson-related crime;

61 (40) (43) §61-3-11: Burglary; entry of dwelling or outhouse;

62 (41) (44) Felony violation of §61-3-12: Entry of building other than dwelling; entry of
63 railroad, traction or motorcar, steamboat, or other vessel;

64 (42) (45) §61-3-13(a): Grand larceny;

65 (43) (46) Felony violation of §61-3-18: Receiving or transferring stolen goods;

66 (44) (47) Felony violation of §61-3-19: Bringing into this state, receiving or disposing of
67 property stolen in another state;

68 (45) (48) Felony violation of §61-3-20: Embezzlement;

69 (46) (49) Felony violation of §61-3-20a: Embezzlement by misuse of power of attorney or
70 other fiduciary relationship;

71 (47) (50) Felony violation of §61-3-21: Embezzlement by carrier or other person;
72 (48) (51) §61-3-22: Falsifying accounts;
73 (49) (52) Felony violation of §61-3-24: Obtaining money, property and services by false
74 pretenses; disposing of property to defraud creditors;
75 (50) (53) Felony violation of §61-3-24a: Attempted or fraudulent use, forgery, traffic of
76 credit cards; possession and transfer of credit cards and credit card making equipment; false or
77 fraudulent use of telephonic services;
78 (51) (54) §61-3-27: Malicious killing of animals by poison or otherwise;
79 (52) (55) §61-3-54: Taking identity of another person;
80 (53) (56) §61-3C-14b: Soliciting, etc. a minor via computer, soliciting a minor and traveling
81 to engage the minor in prohibited sexual activity;
82 (54) (57) §61-3E-5: Causing death or injury;
83 (55) (58) Felony violation of §61-5-10: Persons in custody of institutions or officers;
84 (56) (59) Felony provisions of §61-5-17: Obstructing officer; fleeing from officer; making
85 false statements to officer; interfering with emergency communications;
86 (60) §61-5-17a: Obstructing a law-enforcement officer, probation officer, parole officer,
87 courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire
88 marshal, firefighter, or emergency medical service personnel causing death;
89 (57) (61) §61-5-27: Intimidation of and retaliation against public officers and employees,
90 jurors, and witnesses; fraudulent official proceedings and legal processes against public officials
91 and employees; making public threats directed at inciting lawless action;
92 (58) (62) §61-6-24: Threats of terrorist acts, conveying false information concerning
93 terrorist acts and committing terrorist hoaxes prohibited;
94 (59) (63) Felony provisions of §61-7-7: Persons prohibited from possessing firearms;
95 (60) (64) §61-7-12: Wanton endangerment involving a firearm;

96 (61) (65) §61-7-15: Persons prohibited from committing violent crime while wearing body
97 armor;

98 (62) (66) §61-7-15a: Use or presentation of a firearm during commission of a felony;

99 (63) (67) §61-8-12: Incest;

100 (64) (68) §61-8-19(b): Cruelty to animals;

101 (65) (69) §61-8A-2: Distribution and display to minor of obscene matter;

102 (66) (70) §61-8A-4: Use of obscene matter with intent to seduce minor;

103 (67) (71) §61-8A-5: Employment or use of minor to produce obscene matter or assist in
104 doing sexually explicit conduct;

105 (68) (72) §61-8B-3: Sexual assault in the first degree;

106 (69) (73) §61-8B-4: Sexual assault in the second degree;

107 (70) (74) §61-8B-5: Sexual assault in the third degree;

108 (71) (75) §61-8B-7: Sexual abuse in the first degree;

109 (72) (76) §61-8B-10: Imposition of sexual acts on persons incarcerated, detained, or under
110 supervision;

111 (73) (77) §61-8B-11b: Prohibiting sexual intercourse, sexual intrusion, or sexual contact,
112 against students by school employees;

113 (74) (78) §61-8C-2: Use of minors in filming sexually explicit conduct prohibited;

114 (75) (79) §61-8C-3: Distribution and exhibiting of material depicting minors engaged in
115 sexually explicit conduct or computer-generated child pornography prohibited;

116 (76) (80) §61-8C-3a: Prohibiting child erotica;

117 (77) (81) §61-8D-2: Murder of a child by a parent, guardian or custodian or other person, or
118 person in a position of trust in relation to a child, by refusal or failure to supply necessities, or by
119 delivery, administration or ingestion of a controlled substance;

120 (78) (82) §61-8D-2a: Death of a child by a parent, guardian or custodian or other person or
121 person in a position of trust in relation to a child, by child abuse;

122 (79) (83) §61-8D-3: Child abuse resulting in injury; child abuse creating risk of injury;
123 (80) (84) §61-8D-3a: Female genital mutilation;
124 (81) (85) §61-8D-4: Child neglect resulting in injury; child neglect creating risk of injury;
125 (82) (86) §61-8D-4a: Child neglect resulting in death;
126 (83) (87) §61-8D-5: Sexual abuse by a parent, guardian, custodian or person in a position
127 of trust to a child; parent, guardian, custodian or person in a position of trust allowing sexual abuse
128 to be inflicted upon a child; displaying of sex organs by a parent, guardian, or custodian;
129 (84) (88) §61-8D-6: Sending, distributing, exhibiting, possessing, displaying or transporting
130 material by a parent, guardian or custodian, depicting a child engaged in sexually explicit conduct;
131 (85)-(89) §61-10-31: Conspiracy;
132 (86) (90) §61-11-8: Attempts;
133 (87) (91) §61-11-8a: Solicitation to commit certain felonies; and
134 (88) (92) §61-14-2: Human trafficking of an individual; aiding and abetting human
135 trafficking. and
136 (89) §17C-5-2(b), ~~driving under the influence causing death.~~
137 (b) Except as provided by subsection (c) of this section, when any person is convicted of a
138 qualifying offense and is subject to imprisonment in a state correctional facility for the qualifying
139 offender and it is determined, as provided in §61-11-19 of this code, that the person had been
140 previously convicted in the United States of a crime punishable by imprisonment in a state or
141 federal correctional facility, the court shall, if the sentence to be imposed is for a definite term of
142 years, add five years to the time for which the person is or would be otherwise sentenced.
143 Whenever in that case the court imposes an indeterminate sentence, the minimum term shall be
144 twice the term of years otherwise provided for under the sentence.
145 (c) Notwithstanding any provision of this code to the contrary, when any person is
146 convicted of first degree murder or second degree murder or a violation of §61-8B-3 of this code
147 and it is determined, as provided in §61-11-19 of this code, that the person had been previously

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

153 (d) When it is determined, as provided in §61-11-19 of this code, that the person has been
154 twice previously convicted in the United States of a crime punishable by imprisonment in a state or
155 federal correctional facility which has the same or substantially similar elements as a qualifying
156 offense, the person shall be sentenced to imprisonment in a state correctional facility for
157 life: *Provided*, That prior convictions arising from the same transaction or series of transactions
158 shall be considered a single offense for purposes of this section: *Provided, however*, That the
159 most recent previous qualifying offense which would otherwise constitute a qualifying offense for
160 purposes of this subsection may not be considered if more than 20 years have elapsed between:
161 (1) The release of the person from his or her term of imprisonment or period of supervision
162 resulting from the most recent qualifying offense or the expiration of a period of supervised release
163 resulting from the offense; and (2) the conduct underlying the current charge.