

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 (4) (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;

(8) (11) §60A-4-419: Drug kingpin;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(64)~~ ~~(65)~~ §61-7-15: Persons prohibited from committing violent crime while wearing body armor;

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

~~(63)~~ ~~(67)~~ §61-8-12: Incest;

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

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

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

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

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

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

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

~~(74)~~ ~~(75)~~ §61-8B-7: Sexual abuse in the first degree;

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

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

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

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

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

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

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

~~(79)~~ (83) §61-8D-3: Child abuse resulting in injury; child abuse creating risk of injury;

~~(80)~~ (84) §61-8D-3a: Female genital mutilation;

~~(81)~~ (85) §61-8D-4: Child neglect resulting in injury; child neglect creating risk of injury;

~~(82)~~ (86) §61-8D-4a: Child neglect resulting in death;

~~(83)~~ (87) §61-8D-5: Sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; parent, guardian, custodian or person in a position of trust allowing sexual abuse to be inflicted upon a child; displaying of sex organs by a parent, guardian, or custodian;

~~(84)~~ (88) §61-8D-6: Sending, distributing, exhibiting, possessing, displaying or transporting material by a parent, guardian or custodian, depicting a child engaged in sexually explicit conduct;

~~(85)~~ (89) §61-10-31: Conspiracy;

~~(86)~~ (90) §61-11-8: Attempts;

~~(87)~~ (91) §61-11-8a: Solicitation to commit certain felonies; and

~~(88)~~ (92) §61-14-2: Human trafficking of an individual; aiding and abetting human trafficking. and

~~(89)~~ §17C-5-2(b), driving under the influence causing death.

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

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

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

(d) When it is determined, as provided in §61-11-19 of this code, that the person has been twice previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility which has the same or substantially similar elements as a qualifying offense, the person shall be sentenced to imprisonment in a state correctional facility for life: *Provided*, That prior convictions arising from the same transaction or series of transactions shall be considered a single offense for purposes of this section: *Provided, however*, That the most recent previous qualifying offense which would otherwise constitute a qualifying offense for purposes of this subsection may not be considered if more than 20 years have elapsed between:

(1) The release of the person from his or her term of imprisonment or period of supervision resulting from the most recent qualifying offense or the expiration of a period of supervised release resulting from the offense; and (2) the conduct underlying the current charge.