

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 37

FISCAL
NOTE

BY SENATORS WOELFEL, TRUMP, AND OJEDA

[Introduced January 10, 2018; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating
 2 to burglary; eliminating the offense of daytime burglary; making breaking and entering or
 3 entering without breaking into a dwelling or outbuilding thereof a felony regardless of time
 4 of day; and establishing the penalty for burglary.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-11. Burglary; entry of dwelling or outhouse; penalties.

1 ~~(a) Burglary shall be a felony and, any person convicted thereof shall be confined in the~~
 2 ~~penitentiary not less than one nor more than fifteen years. If any person shall in the nighttime,~~
 3 ~~break and enter, or enter without breaking, or, shall in the daytime, break and enter the dwelling~~
 4 ~~house, or an outhouse adjoining thereto or occupied therewith, of another, with intent to commit~~
 5 ~~a crime therein, he shall be deemed guilty of burglary~~ Any person who breaks and enters, or
 6 enters without breaking, a dwelling house or outbuilding adjoining a dwelling with the intent to
 7 commit a violation of the criminal laws of this state is guilty of a felony and, upon conviction
 8 thereof, shall be imprisoned in a state correctional facility for not less than one nor more than
 9 fifteen years.

10 ~~(b) If any person shall, in the daytime, enter without breaking a dwelling house, or an~~
 11 ~~outhouse adjoining thereto or occupied therewith, of another, with intent to commit a crime therein,~~
 12 ~~he shall be deemed guilty of a felony, and, upon conviction, shall be confined in the penitentiary~~
 13 ~~not less than one nor more than ten years~~

14 ~~(c)~~ (b) The term "dwelling house", as used in subsections subsection (a) and ~~(b)~~ of this
 15 section, ~~shall include, but not be~~ includes, but is not limited to, a mobile home, house trailer,
 16 modular home, factory-built home or self-propelled motor home, used as a dwelling regularly or
 17 only from time to time, or any other nonmotive vehicle primarily designed for human habitation
 18 and occupancy and used as a dwelling regularly or only from time to time.

NOTE: The purpose of this bill is to equalize the criminal penalty for entering without

breaking regardless of the time of day.

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