

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4195

FISCAL
NOTE

BY DELEGATES R. MILLER, CANESTRARO, ELDRIDGE,
HANSHAW, CAMPBELL, MAYNARD, MARCUM, ROBINSON
AND ISNER

[Introduced January 18, 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 and entry of a dwelling or outhouse, establishing the offense of criminal
 3 trespassing of a dwelling; and providing misdemeanor criminal penalty.

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~~ is 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 who breaks and enters, or enters without breaking, ~~or shall, in the daytime, break and enter~~ the
 4 dwelling house, or an outhouse adjoining thereto or occupied therewith, of another, with intent to
 5 commit a crime therein, ~~he shall be deemed~~ is guilty of burglary.

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

10 (b) Any person who trespasses upon a dwelling house, or an outhouse adjoining thereto
 11 or occupied therewith, of another, with intent to commit a crime therein, is guilty of criminal
 12 trespassing of a dwelling, a misdemeanor, and upon conviction thereof, shall be fined not more
 13 than \$1,000 or confined in jail not more than one year, or both fined and confined.

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

NOTE: The purpose of this bill is to clarify the offense of burglary, eliminate the differentiation between daytime and nighttime burglary and add provisions for the criminal trespassing of a dwelling.

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