

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### Senate Bill 497

FISCAL  
NOTE

BY SENATORS WELD, IHLENFELD, AND LINDSAY

[Introduced March 1, 2021; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-11-8 of the Code of West Virginia, 1931, as amended, relating  
 2 to the penalty for attempted murder; increasing the penalty for attempted murder of the  
 3 first degree; and creating a new penalty for attempted murder of the second degree.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES**

### **§61-11-8. Attempts; classification and penalties therefor.**

1 Every person who attempts to commit an offense, but fails to commit or is prevented from  
 2 committing it, shall, where it is not otherwise provided, be punished as follows:

3 (1) If the offense attempted be punishable with life imprisonment, the person making such  
 4 attempt shall be guilty of a felony and, upon conviction, shall be imprisoned in ~~the penitentiary a~~  
 5 state correctional facility not less than ~~three~~ five nor more than ~~fifteen~~ 25 years.

6 (2) If the offense attempted be punishable by imprisonment in ~~the penitentiary a state~~  
 7 correctional facility for a term less than life, such person shall be guilty of a felony and, upon  
 8 conviction, shall, in the discretion of the court, either be imprisoned in ~~the penitentiary a state~~  
 9 correctional facility for not less than one nor more than three years, or be confined in jail not less  
 10 than six nor more than 12 months, and fined not exceeding \$500: Provided, That any person who  
 11 attempts murder of the second degree is guilty of a felony and, upon conviction thereof, shall be  
 12 imprisoned in the penitentiary a state correctional facility not less than three nor more than 15  
 13 years.

14 (3) If the offense attempted be punishable by confinement in jail, such person shall be  
 15 guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than six months,  
 16 or fined not exceeding \$100.

NOTE: The bill increases the penalty for attempted murder of the first degree from the current not less than three nor more than 15 years, to not less than five nor more than 25 years; and creates a new penalty for attempted murder of the second year punishable, upon conviction, by imprisonment for not less than three nor more than 15 years.

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