

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 2358

FISCAL  
NOTE

By Delegate Hornbuckle

[Introduced January 11, 2023; Referred to the  
Committee on Health and Human Resources then the  
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §61-8-32, relating to making it a misdemeanor for a person to knowingly allow  
 3 a felony drug offense to be committed on his or her property; creating a duty to report;  
 4 establishing criminal penalties; and allowing a private cause of action.

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

**ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.**

**§61-8-32. Property owners allowing felony drug activities by tenants; penalty.**

1 It is unlawful for any person who owns real property to rent or to otherwise allow a person  
 2 who has exclusive possession of his or her real property to knowingly allow a person or another  
 3 invitee to the real property to commit a felony drug crime on the property in violation of this code  
 4 without reporting the crime to a law-enforcement agency. Upon discovery of a felony being  
 5 committed the property owner shall, within 48 hours, report the activity to a state or local law-  
 6 enforcement agency. Any person convicted of a violation of this section is guilty of a misdemeanor  
 7 and, upon conviction, shall be fined not more than \$500. Upon a second or subsequent conviction  
 8 he or she shall be confined up to 10 days in jail, or fined not more than \$500, or both fined and  
 9 confined. Any person owning adjoining real property has standing to sue the owner for creating a  
 10 public nuisance and may file a civil action for damages for the landowner’s criminal and negligent  
 11 act.

NOTE: The purpose of this bill is to make it a misdemeanor for a person to knowingly allow a felony drug offense to be committed on his or her property. The bill creates a duty to report. The bill creates criminal penalties. The bill allows a private cause of action.

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