

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2403

FISCAL
NOTE

By Delegate Steele

[Introduced January 11, 2023; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-10-31 of the Code of West Virginia, 1931, as amended, relating
 2 to defining criminal penalties for conspiracy to commit murder in the first degree,
 3 conspiracy to commit murder in the second degree, and conspiracy to commit voluntary
 4 manslaughter; and making other technical corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-31. Conspiracy; construction of section; penalties.

1 (a) It shall be unlawful for two or more persons to conspire: (1) to commit any offense
 2 against the state, or (2) to defraud the state, the state or any county board of education, or any
 3 county or municipality of the state, if, in either case, one or more of such persons does any act to
 4 effect the object of the conspiracy.

5 (b) Nothing in this section shall be construed to supersede, limit, repeal or affect the
 6 provisions of §3-9-8; §5-1-2; §5A-3-38; §20-7-7; §60-6-16, §61-6-7, §61-6-8, §61-6-9, and §61-6-
 7 10; or §62-8-1; all of this code. It shall not be a defense to any prosecution under this section thirty-
 8 one that the conduct charged or proven is also a crime under any other provision or provisions of
 9 this code or the common law.

10 (c)(1) Any person who violates the provisions of this section by conspiring to commit an
 11 offense against the state which is a felony, or by conspiring to defraud the state, the state or any
 12 county board of education, or any county or municipality of the state, shall be guilty of a felony and,
 13 upon conviction thereof, shall be punished by imprisonment in the ~~penitentiary~~ correctional facility
 14 for not less than one nor more than five years or by a fine of not more than \$10,000, or, in the
 15 discretion of the court, by both such imprisonment and fine.

16 (2) However, if any person violates this section by conspiring to commit murder in the first
 17 degree, conspiring to commit murder in the second degree, or conspiring to commit voluntary
 18 manslaughter, as an offense against the state and shall be guilty of a felony and, upon conviction
 19 thereof, shall be punished as follows:

20 (A) For a conviction of conspiracy to commit murder in the first degree, he or she shall be
21 punished by a definite term of imprisonment in the correctional facility for not less than five nor
22 more than 25 years determinate;

23 (B) For a conviction of conspiracy to commit murder in the second degree, he or she shall
24 be punished by a definite term of imprisonment in the correctional facility for not less than three nor
25 more than 15 years determinate; and

26 (C) For a conviction of conspiracy to commit voluntary manslaughter, he or she shall be
27 punished by a definite term of imprisonment in the correctional facility for not less than one nor
28 more than eight years determinate.

29 (d) Any person who violates the provisions of this section by conspiring to commit an
30 offense against the state which is a misdemeanor shall be guilty of a misdemeanor and, upon
31 conviction thereof, shall be punished by confinement in the county jail for not more than one year
32 or by a fine of not more than \$1,000, or, in the discretion of the court, by both such confinement and
33 fine.

NOTE: The purpose of this bill is to define the appropriate penalties for conspiracy to commit murder in the first degree, conspiracy to commit murder in the second degree, and conspiracy to commit voluntary manslaughter.

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