

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 778

By Senators Weld and Deeds

[Passed March 8, 2024; in effect 90 days from
passage]

1 AN ACT to amend and reenact §61-11-18 of the Code of West Virginia, 1931, as amended,
2 relating to qualifying offenses for the purpose of enhancing the sentence of a repeat
3 offender.

Be it enacted by the Legislature of West Virginia:

§61-11-18. Punishment for second or third offense of felony.

1 (a) For purposes of this section, "qualifying offense" means any offense or an attempt or
2 conspiracy to commit any of the offenses in the following provisions of this code:

3 (1) §60A-4-401(a)(i) and §60A-4-401(a)(ii);

4 (2) §60A-4-406;

5 (3) §60A-4-409(b)(1) and §60A-4-409 (b)(2);

6 (4) §60A-4-411;

7 (5) §60A-4-414;

8 (6) §60A-4-415;

9 (7) §60A-4-416(a);

10 (8) §61-2-1;

11 (9) §61-2-4;

12 (10) §61-2-7;

13 (11) §61-2-9(a);

14 (12) §61-2-9a(d) and §61-2-9a(e);

15 (13) §61-2-9b;

16 (14) §61-2-9c;

17 (15) §61-2-9d;

18 (16) §61-2-10;

19 (17) §61-2-10b(b) and §61-2-10b(c);

20 (18) Felony provisions of §61-2-10b(d);

21 (19) §61-2-12;

- 22 (20) Felony provisions of §61-2-13;
- 23 (21) §61-2-14;
- 24 (22) §61-2-14a(a) and §61-2-14a(d);
- 25 () (23) §61-2-14c;
- 26 (24) §61-2-14d(a) and §61-2-14d(b);
- 27 (25) §61-2-14f;
- 28 (26) §61-2-14h(a), §61-2-14h(b), and §61-2-14h(c);
- 29 (27) §61-2-16a(a) and §61-2-16a(b);
- 30 (28) Felony provisions of §61-2-16a(c);
- 31 (29) §61-2-28(d);
- 32 (30) §61-2-29(d) and §61-2-29(e);
- 33 (31) §61-2-29a;
- 34 (32) §61-3-1;
- 35 (33) §61-3-2;
- 36 (34) §61-3-3;
- 37 (35) §61-3-4;
- 38 (36) §61-3-5;
- 39 (37) §61-3-6;
- 40 (38) §61-3-7;
- 41 (39) §61-3-11;
- 42 (40) Felony violation of 61-3-12;
- 43 (41) §61-3-13(a);
- 44 (42) Felony violation of §61-3-18;
- 45 (43) Felony violation of §61-3-19;
- 46 (44) Felony violation of §61-3-20;
- 47 (45) Felony violation of §61-3-20a;

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- 48 (46) Felony violation of §61-3-21;
- 49 (47) §61-3-22;
- 50 (48) Felony violation of §61-3-24;
- 51 (49) Felony violation of §61-3-24a;
- 52 (50) §61-3-27;
- 53 (51) §61-3-54;
- 54 (52) §61-3C-14b;
- 55 (53) §61-3E-5;
- 56 (54) Felony violation of §61-5-10;
- 57 (55) §61-5-17(b), §61-5-17(f), §61-5-17(h), and §61-5-17(i);
- 58 (56) §61-5-27;
- 59 (57) §61-6-24;
- 60 (58) Felony provisions of §61-7-7;
- 61 (59) §61-7-12;
- 62 (60) §61-7-15;
- 63 (61) §61-7-15a;
- 64 (62) §61-8-12;
- 65 (63) §61-8-19(b);
- 66 (64) §61-8A-2;
- 67 (65) §61-8A-4;
- 68 (66) §61-8A-5;
- 69 (67) §61-8B-3;
- 70 (68) §61-8B-4;
- 71 (69) §61-8B-5;
- 72 (70) §61-8B-7;
- 73 (71) §61-8B-10;

74 (72) §61-8B-11b;
75 (73) §61-8C-2;
76 (74) §61-8C-3;
77 (75) §61-8C-3a;
78 (76) §61-8D-2;
79 (77) §61-8D-2a;
80 (78) §61-8D-3;
81 (79) §61-8D-3a;
82 (80) §61-8D-4;
83 (81) §61-8D-4a;
84 (82) §61-8D-5;
85 (83) §61-8D-6;
86 (84) §61-10-31;
87 (85) §61-11-8;
88 (86) §61-11-8a;
89 (87) §61-14-2; and
90 (88) §17C-5-2(b), driving under the influence causing death.

91 (b) Except as provided by subsection (c) of this section, when any person is convicted of a
92 qualifying offense and is subject to imprisonment in a state correctional facility for the qualifying
93 offender and it is determined, as provided in §61-11-19 of this code, that the person had been
94 previously convicted in the United States of a crime punishable by imprisonment in a state or
95 federal correctional facility, the court shall, if the sentence to be imposed is for a definite term of
96 years, add five years to the time for which the person is or would be otherwise sentenced.
97 Whenever in that case the court imposes an indeterminate sentence, the minimum term shall be
98 twice the term of years otherwise provided for under the sentence.

99 (c) Notwithstanding any provision of this code to the contrary, when any person is

100 convicted of first degree murder or second degree murder or a violation of §61-8B-3 of this code
101 and it is determined, as provided in §61-11-19 of this code, that the person had been previously
102 convicted in this state of first degree murder, second degree murder, or a violation of §61-8B-3 of
103 this code, or has been so convicted under any law of the United States or any other state for an
104 offense which has the same or substantially similar elements as any offense described in this
105 subsection, the person shall be punished by imprisonment in a state correctional facility for life and
106 is not eligible for parole.

107 (d) When it is determined, as provided in §61-11-19 of this code, that the person has been
108 twice previously convicted in the United States of a crime punishable by imprisonment in a state or
109 federal correctional facility which has the same or substantially similar elements as a qualifying
110 offense, the person shall be sentenced to imprisonment in a state correctional facility for
111 life: *Provided*, That prior convictions arising from the same transaction or series of transactions
112 shall be considered a single offense for purposes of this section: *Provided, however*, That the
113 most recent previous qualifying offense which would otherwise constitute a qualifying offense for
114 purposes of this subsection may not be considered if more than 20 years have elapsed between:
115 (1) The release of the person from his or her term of imprisonment or period of supervision
116 resulting from the most recent qualifying offense or the expiration of a period of supervised release
117 resulting from the offense; and (2) the conduct underlying the current charge.