WEST VIRGINIA CODE: §61-11-19

§61-11-19. Procedure in trial of persons for second or third offense.

A prosecuting attorney, when he or she has knowledge of a former sentence or sentences to the penitentiary of any person convicted of an offense punishable by confinement in the penitentiary, may give information thereof to the court immediately upon conviction and before sentence. Said court shall, before expiration of the next term at which such person was convicted, cause such person or prisoner to be brought before it, and upon an information filed by the prosecuting attorney, setting forth the records of conviction and sentence, or convictions and sentences, as the case may be, and alleging the identity of the prisoner with the person named in each, shall require the prisoner to say whether he or she is the same person or not. If he or she says he or she is not, or remains silent, his or her plea, or the fact of his or her silence, shall be entered of record, and a jury shall be impaneled to inquire whether the prisoner is the same person mentioned in the several records. If the jury finds that he or she is not the same person, he or she shall be sentenced upon the charge of which he or she was convicted as provided by law; but if they find that he or she is the same, or after being duly cautioned if he or she acknowledged in open court that he or she is the same person, the court shall sentence him or her to such further confinement as is prescribed by §61-11-18 of this code on a second or third conviction as the case may be: *Provided,* That where the person is convicted pursuant to a plea agreement, the agreement shall address whether or not the provisions of this section and §61-11-18 of this code are to be invoked.

The clerk of such court shall transmit a copy of said information to the Commissioner of the Division of Corrections and Rehabilitation, together with the other papers required by the provisions of §62-8-10 of this code.

Nothing contained herein shall be construed as repealing the provisions of §62-8-4 of this code, but no proceeding shall be instituted by the warden, as provided therein, if the trial court has determined the fact of former conviction or convictions as provided herein.

WV Legislature