

# 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 (June 6, 2024)]

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

2024 MAR 21 P 2: 59

FILED

SB 778



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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;

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- 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  
92 a 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  
106 and 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  
109 or 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.



The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

  
Clerk of the Senate

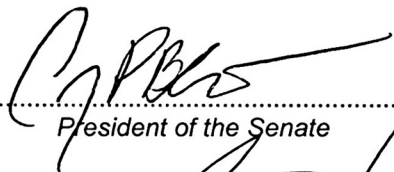
  
Clerk of the House of Delegates


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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

FILED

Originated in the Senate.

In effect 90 days from passage.

  
President of the Senate

  
Speaker of the House of Delegates

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The within is approved this the 27th  
Day of March 2024.

  
Governor



PRESENTED TO THE GOVERNOR

MAR 12 2024

Time 2:52 pm