

1 **Senate Bill No. 456**

2 (By Senators Laird, Browning, Unger, Kessler (Mr. President),  
3 Jenkins, Klempa, Beach and Barnes)

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5 [Introduced January 30, 2012; referred to the Committee on he  
6 Judiciary.]  
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11 A BILL to amend and reenact §61-8D-4 of the Code of West Virginia,  
12 1931, as amended, relating to making it a misdemeanor for  
13 child neglect which creates a substantial risk of bodily  
14 injury; and penalties.

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

16 That §61-8D-4 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 8D. CHILD ABUSE.**

19 **§61-8D-4. Child neglect resulting in injury; child neglect**  
20 **creating risk of injury; criminal penalties.**

21 (a) If any parent, guardian or custodian ~~shall neglect~~  
22 neglects a child and by such neglect causes ~~said~~ a child bodily  
23 injury, as such term is defined in section one, article eight-b of

1 this chapter, then such parent, guardian or custodian ~~shall be~~ is  
2 guilty of a felony and, upon conviction thereof, shall be fined not  
3 less than \$100 nor more than \$1,000 or committed to the custody of  
4 the Division of Corrections for not less than one nor more than  
5 three years or, in the discretion of the court, be confined in ~~the~~  
6 ~~county~~ jail for not more than one year or both such fine and  
7 confinement or imprisonment.

8 (b) If any parent, guardian or custodian ~~shall neglect~~  
9 neglects a child and by such neglect causes ~~said a~~ a child serious  
10 bodily injury, as such term is defined in section one, article  
11 eight-b of this chapter, then such parent, guardian or custodian  
12 ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall  
13 be fined not less that \$300 nor more than \$3,000 or committed to  
14 the custody of the Division of Corrections for not less than one  
15 nor more than ten years or both ~~such fine and imprisonment~~ fined  
16 and imprisoned.

17 (c) The provisions of this section ~~shall~~ do not apply if the  
18 neglect by the parent, guardian or custodian is due primarily to a  
19 lack of financial means on the part of such parent, guardian or  
20 custodian.

21 (d) The provisions of this section ~~shall~~ do not apply to any  
22 parent, guardian or custodian who fails or refuses, or allows  
23 another person to fail or refuse, to supply a child under the care,

1 custody or control of such parent, guardian or custodian with  
2 necessary medical care when such medical care conflicts with the  
3 tenets and practices of a recognized religious denomination or  
4 order of which such parent, guardian or custodian is an adherent or  
5 member.

6 (e) Any person who grossly neglects a child and by the gross  
7 neglect creates a substantial risk of serious bodily injury or of  
8 death to the child is guilty of a felony and, upon conviction  
9 thereof, shall be fined not more than \$3,000 and confined to the  
10 custody of the Division of Corrections for not less than one nor  
11 more than five years.

12 (f) Any person who neglects a child and by the neglect creates  
13 a substantial risk of bodily injury, as defined in section one,  
14 article eight-b of this chapter, to the child is guilty of a  
15 misdemeanor and, upon conviction thereof, shall be fined not more  
16 than \$1,000 or shall be confined in jail for not more than one year  
17 or both fined and confined.

NOTE: The purpose of this bill is to create a misdemeanor offense, with penalties, for child neglect creating a substantial risk of bodily injury.

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