| 1   | Senate Bill No. 530   |
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| 2   | (By Senator K. Facemyer)  |
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| 4   | [Introduced February 7, 2012; referred to the Committee on the        |
| 5   | Judiciary.]   |
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| LO  | A BILL to amend and reenact $\$61-8D-4$ of the Code of West Virginia, |
| L1  | 1931, as amended, relating to creating the misdemeanor offense        |
| L2  | of child neglect by a parent, guardian or custodian which             |
| L3  | creates a substantial risk of bodily injury; penalties; and           |
| L 4 | exceptions.   |
| L 5 | Be it enacted by the Legislature of West Virginia:                    |
| L 6 | That §61-8D-4 of the Code of West Virginia, 1931, as amended,         |
| L 7 | be amended and reenacted to read as follows:                          |
| L 8 | ARTICLE 8D. CHILD ABUSE.  |
| L 9 | §61-8D-4. Child neglect resulting in injury; child neglect            |
| 20  | creating risk of injury; criminal penalties.                          |
| 21  | (a) Any parent, guardian or custodian who neglects a child and        |
| 22  | by such neglect causes a child bodily injury, as such term is         |
|     | defined in section one, article eight-b of this chapter, then such    |

- 1 parent, guardian or custodian is guilty of a felony and, upon 2 conviction thereof, shall be fined not less than \$100 nor more than 3 \$1,000 or imprisoned in a state correctional facility not less than
- 4 one nor more than three years or, be confined in jail for not more
- 5 than one year, or both fined and confined or imprisoned.
- 6 (b) Any parent, guardian or custodian who neglects a child and
  7 by such neglect causes a child serious bodily injury, as such term
  8 is defined in section one, article eight-b of this chapter, then
  9 such parent, guardian or custodian is guilty of a felony and, upon
  10 conviction thereof, shall be fined not less that \$300 nor more than
  11 \$3,000 or imprisoned in a state correctional facility for not less
  12 than one nor more than ten years or, both fined and imprisoned.
- (c) Any parent, guardian or custodian who grossly neglects a the child and by the gross neglect creates a substantial risk of serious bodily injury or of death to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 or imprisoned in a state correctional facility for not less than one nor more than five years.
- (d) Any parent, guardian or custodian who neglects a child and 20 by the neglect creates a substantial risk of bodily injury, as 21 defined in section one, article eight-b of this chapter, to the 22 child is guilty of a misdemeanor and, upon conviction thereof, 23 shall be fined not more than \$1,000 or shall be confined in jail

- 1 for not more than one year, or both fined and confined.
- 2 (e) The provisions of this section do not apply if the neglect
- 3 by the parent, quardian or custodian is due primarily to a lack of
- 4 financial means on the part of such parent, guardian or custodian.
- (f) The provisions of this section do not apply to any parent, guardian or custodian who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody or control of such parent, guardian or custodian with necessary medical care when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which such parent, guardian or custodian is an adherent or member.

NOTE: The purpose of this bill is to add a misdemeanor for child neglect creating a substantial risk of bodily injury.

This section has been completely rewritten; therefore strikethroughs and underscoring have been omitted.