

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 326

BY SENATORS TRUMP, KESSLER, WOELFEL, PALUMBO,

ROMANO AND PLYMALE

[Introduced January 19, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to repeal §49-4-901 of the Code of West Virginia, 1931, as amended; and to amend said
2 code by adding thereto a new section, designated §61-8D-10, relating to repealing,
3 revising, relocating and recodifying the law relating to contributing to delinquency or
4 neglect of a child.

Be it enacted by the Legislature of West Virginia:

1 That §49-4-901 of the Code of West Virginia, 1931, as amended, be repealed; and that
2 said code be amended by adding thereto a new section, designated §61-8D-10, all to read as
3 follows:

ARTICLE 8D. CHILD ABUSE.

§61-8D-10. Contributing to delinquency or neglect of a child; penalties; payment of medical costs; proof; court discretion; other payments; suspended sentence; maintenance and care; temporary custody.

1 (a) A person who by any act or omission contributes to, encourages, or tends to cause the
2 delinquency or neglect of any child, including, but not limited to, aiding or encouraging the child
3 habitually or continually to refuse to respond, without just cause, to the lawful supervision of the
4 child's parents, guardian, or custodian or to be habitually absent from school without just cause,
5 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more
6 than \$500, or confined for a period not exceeding one year, or both.

7 (b) In addition to any penalty provided under this section and any restitution which may be
8 ordered by the court under section one, article eleven-a, of this chapter the court may order any
9 person convicted under this section to pay all, or any portion, of the cost of medical, psychological,
10 or psychiatric treatment of the child resulting from the acts for which the person is convicted,
11 whether the child sustained bodily injury.

12 (c) This section does not apply to any parent, guardian or custodian who fails or refuses,
13 or allows another person to fail or refuse, to supply a child under the care, custody, or control of
14 the parent, guardian, or custodian with necessary medical care, when medical care conflicts with

15 the tenets and practices of a recognized religious denomination or order of which parent, guardian
16 or custodian is an adherent or member.

17 (d) In finding a person guilty of contributing to the delinquency of a child, it is not necessary
18 to prove that the child has actually become delinquent, if it appears from the evidence that the
19 accused is guilty of conduct or an act of neglect or omission of duty on his or her part toward the
20 child which would tend to bring about or to encourage a delinquency.

21 (e) Upon conviction, the court may suspend the sentence of a person found guilty under
22 this section. A suspended sentence may be subjected to the following terms and conditions:

23 (1) That offender pay for any and all treatment, support, and maintenance while the child
24 is in the custody of the state or person that the court determines reasonable and necessary for
25 the welfare of the child;

26 (2) That the offender post a sufficient bond to secure the payment for all sums ordered to
27 be paid under this section, as long as the bond does not exceed \$5,000; and

28 (3) That the offender participate in any program or training that will assist the child in
29 correcting the delinquent behavior or, in the case of neglect, that will assist the offender in
30 correcting his or her behavior that led to violation of this section.

31 (f)(1) The penalty of a bond given upon suspension of a sentence which becomes forfeited
32 is recoverable without a separate suit. The court may cause a citation or a summons to issue to
33 the principal and surety, requiring that they appear at a time named by the court, not less than
34 ten days, from the issuance of the summons, and show cause why a judgment should not be
35 entered for the penalty of the bond and execution issued against the property of the principal and
36 the surety.

37 (2) Any money collected or paid upon an execution, or upon the bond, shall be deposited
38 with the clerk of the court in which the bond was given. The money shall be applied first to the
39 payment of all court costs and then to the treatment, care, or maintenance of the child who was
40 at issue when the offender was convicted of this section.

NOTE: The purpose of this bill is to repeal, revise, relocate and recodify the current law relating to contributing to the delinquency of a minor child. This bill is recommended for passage by the West Virginia Court Improvement Board.

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