

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 472

BY SENATORS WELD, GRADY, DEEDS, RUCKER,
WOELFEL, PHILLIPS, TARR, WOODRUM, AND HUNT
[Originating in the Committee on The Judiciary;
reported on January 31, 2023]

1 A BILL to amend and reenact §61-8-9 of the Code of West Virginia, 1931, as amended, relating
2 generally to indecent exposure; clarifying the essential elements of different forms of
3 indecent exposure; authorizing a person convicted of third offense indecent exposure for
4 purposes of sexual gratification to be both fined and imprisoned; creating the criminal
5 offense of indecent exposure in front of minors; defining terms; and establishing criminal
6 penalties for the new offense.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-9. Indecent exposure.

1 (a) A person is guilty of indecent exposure when ~~such~~ that person intentionally exposes
2 his or her sex organs or anus, or the sex organs or anus of another person, or intentionally causes
3 ~~such~~ exposure by another ~~or engages in any overt act of sexual gratification~~, and does so under
4 circumstances in which the person knows that the conduct is likely to cause affront or alarm:
5 *Provided*, That it is not considered indecent exposure for a mother to breast feed a child in any
6 location, public or private.

7 (b) ~~Except as provided in subsection (e), any~~ Any person who violates the provisions of
8 ~~this section~~ subsection (a) of this section shall be is guilty of a misdemeanor and, upon conviction
9 thereof, shall be confined in jail not more than 90 days, or fined not more than \$250, or both fined
10 and confined.

11 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, Any any
12 ~~person who violates the provisions of subsection (a) of this section by intentionally exposing~~
13 exposes his or her sex organs or anus, or the sex organs or anus of another person, or who
14 intentionally causes exposure by another person to another a third person and the exposure was
15 is done for the purpose of sexual gratification of any person, is guilty of a misdemeanor and, upon
16 conviction thereof, shall be fined not more than \$500 or confined in jail not more than 12 months,
17 or both. For a second offense under this subsection, the person is guilty of a misdemeanor and,

18 upon conviction thereof, shall be fined not more than \$1,000 and confined in jail for not less than
19 30 days nor more than 12 months. For a third or subsequent offense under this subsection, the
20 person is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and
21 imprisoned in a state correctional facility for not less than one year nor more than five years, or
22 both fined and imprisoned.

23 (d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, any
24 person who intentionally exposes his or her sex organs or anus, or the sex organs or anus of
25 another person, or who intentionally causes exposure by another to a third person, and the
26 exposure is done for the purpose of sexual gratification of any person, and who knew or should
27 have known that any of the persons present were younger than 16 years of age, is guilty of a
28 felony and, upon conviction thereof, shall be fined not more than \$3000 and imprisoned in a state
29 correctional facility for not less than one year nor more than five years, or both fined and
30 imprisoned.

31 (e) As used in this section, "sex organs" means the human penis or vulva.