WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 183

By Senators Woelfel, Deeds, Trump, and Caputo

[Introduced January 10, 2024; referred

to the Committee on the Judiciary]

1	A BILL to amend and reenact §61-8B-3 and §61-8B-5 of the Code of West Virginia, 1931, as						
2	amended, all relating to eliminating the marital exception to criminal prosecution of sexual						
3	assault offenses.						
	Be it enacted by the Legislature of West Virginia:						
	ARTICLE	8B.		SEXUAL	(OFFENSES.	
	§61-8B-3. Sexual assault in the first degree.						
1	(a) A person is guilty of sexual assault in the first degree when:						
2	(1) The person engages in sexual intercourse or sexual intrusion with another person and,						
3	in so doing:						
4	(i) Inflicts serious bodily injury upon anyone; or						
5	(ii) Employs a deadly weapon in the commission of the act; or						
6	(2) The person, being fourteen years old or more, engages in sexual intercourse or sexual						
7	intrusion with another person who is younger than twelve years old; and is not married to that						
8	person.						
9	(3) The fact that the person victimized is the spouse of the actor shall not serve as a						
10	defense to this offense	<u>e.</u>					
11	(b) Any person violating the provisions of this section is guilty of a felony and, upon						
12	conviction thereof, shall be imprisoned in a state correctional facility not less than fifteen nor more						
13	than thirty-five years, or fined not less than \$1,000 nor more than \$10,000 and imprisoned in a						
14	state correctional facil	ity not less than fiftee	en nor mo	re than thirty-five y	ears.		
15	(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any						
16	person violating the provisions of subsection (a) of this section who is eighteen years of age or						
17	older and whose victim is younger than twelve years of age, shall be imprisonment in a state						
18	correctional facility for not less than twenty-five nor more than one hundred years and a fine of not						
19	less than	\$5,000	nor	more	than	\$25,000.	
	§61-8B-5. Sexual assault in the third degree.						

Intr SB

2024R1344

1	(a) A person is guilty of sexual assault in the third degree when:					
2	(1) The person engages in sexual intercourse or sexual intrusion with another person who					
3	is mentally defective or mentally incapacitated; or					
4	(2) The person, being sixteen years old or more, engages in sexual intercourse or sexual					
5	intrusion with another person who is less than sixteen years old; and who is at least four years					
6	younger than the defendant and is not married to the defendant					
7	(3) The fact that the person victimized is the spouse of the actor shall not serve as a					
8	defense to this offense.					
9	(b) Any person violating the provisions of this section is guilty of a felony and, upon					
10	conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor					
11	more than five years, or fined not more than \$10,000 and imprisoned in a state correctional facility					
12	not less than one year nor more than five years.					

NOTE: The purpose of this bill is to eliminate the marital exception to criminal prosecution of sexual assault offenses.

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