

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 504**

BY SENATORS CLEMENTS, GRADY, WOELFEL, AND DEEDS

[Originating in the Committee on the Judiciary;

reported February 1, 2024]



1 A BILL to amend and reenact §61-8B-11b of the Code of West Virginia, 1931, as amended,  
2 relating to felony offense involving sexual intercourse, intrusion, or contact with a student;  
3 clarifying that the offense applies to a student of any private or public elementary or  
4 secondary school; and providing an exception for secondary students participating in the  
5 teacher pathway youth apprenticeship program.

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

**ARTICLE 8B. SEXUAL OFFENSES.**

**§61-8B-11b. Prohibiting sexual intercourse, sexual intrusion, or sexual contact, ~~or~~  
~~intrusion~~ against students by school employees; exception; penalties.**

1 (a) Any teacher, principal, counselor, coach, other employee, volunteer, or school  
2 resource officer of any private or public elementary or secondary school who engages in sexual  
3 intercourse, sexual intrusion, or sexual contact, as those terms are defined in §61-8B-1 of this  
4 code, with any student enrolled in ~~the school~~ any private or public elementary or secondary school  
5 regardless of the age of the student is guilty of a felony and upon conviction thereof, shall be  
6 imprisoned in a state correctional facility for not less than one nor more than five years or fined  
7 not more than \$5,000 or both imprisoned and fined. The fact that the student may have consented  
8 to ~~such an~~ the act or that the act did not occur on school property or during a school function is  
9 not a defense.

10 (b) For purposes of this section:

11 (1) A private elementary or secondary school means any school enrolling students who  
12 are exempt from compulsory school attendance under either §18-8-1(b) of this code or §18-8-1  
13 (k) of this code; and

14 (2) A public elementary or secondary school means any school under the general  
15 supervision of the West Virginia Board of Education pursuant to section two, article XII of the West  
16 Virginia Constitution.

17            (c) Any student currently enrolled in a secondary school and engaged in a wage-earning  
18 registered youth apprenticeship program as part of the Grow Your Own teacher pathway, as  
19 authorized under §18A-3-1 of this code, may not be prosecuted for a violation of §61-8B-11b(a)  
20 of this code.

21            ~~(c)~~ (d) This is a separate and distinct criminal offense from any other applicable offense  
22 under this code. The penalties set forth in this section are in addition to any other penalties for  
23 any other applicable offense.

24            ~~(d)~~ (e) A final conviction under this section shall cause the permanent forfeiture of any  
25 teaching or other certificate issued pursuant to §18A-3-2a of this code.