

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 528**

By Senator Weld

[Introduced February 19, 2025; referred  
to the Committee on the Judiciary]

1 A BILL to amend §61-8D-5 of the Code of West Virginia, 1931, as amended, relating to adding  
2 attempt to the criminal offense of sexual abuse by a parent, guardian, custodian, or person  
3 in a position of trust to a child.

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

**ARTICLE 8D. CHILD ABUSE.**

**§61-8D-5. Sexual abuse by a parent, guardian, custodian or person in a position of trust to a  
child; parent, guardian, custodian or person in a position of trust allowing sexual  
abuse to be inflicted upon a child; displaying of sex organs by a parent, guardian, or  
custodian; penalties.**

1 (a) In addition to any other offenses set forth in this code, the Legislature hereby declares a  
2 separate and distinct offense under this subsection, as follows: If any parent, guardian or  
3 custodian of or other person in a position of trust in relation to a child under his or her care, custody  
4 or control, shall engage in or attempt to engage in sexual exploitation of, or in sexual intercourse,  
5 sexual intrusion or sexual contact with, a child under his or her care, custody or control,  
6 notwithstanding the fact that the child may have willingly participated in such conduct, or the fact  
7 that the child may have consented to such conduct or the fact that the child may have suffered no  
8 apparent physical injury or mental or emotional injury as a result of such conduct, then such  
9 parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon  
10 conviction thereof, shall be imprisoned in a correctional facility not less than ten nor more than  
11 twenty years, or fined not less than \$500 nor more than \$5,000 and imprisoned in a correctional  
12 facility not less than ten years nor more than twenty years.

13 (b) Any parent, guardian, custodian or other person in a position of trust in relation to the  
14 child who knowingly procures, authorizes, or induces, attempts to procure, authorize, or induce,  
15 another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse,  
16 sexual intrusion or sexual contact with, a child under the care, custody or control of such parent,  
17 guardian, custodian or person in a position of trust when such child is less than sixteen years of

age, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than five years nor more than fifteen years, or fined not less than \$1,000 nor more than \$10,000 and imprisoned in a correctional facility not less than five years nor more than fifteen years.

(c) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces, attempts to procure, authorize, or induce, another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is sixteen years of age or older, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than one year nor more than five years.

(d) The provisions of this section shall not apply to a custodian or person in a position of trust whose age exceeds the age of the child by less than four years.

NOTE: The purpose of this bill is to add attempt to the criminal offense of sexual abuse by a parent, guardian, custodian, or person in a position of trust to a child.

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