2012R1628HI

1	H. B. 4242
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3 4 5	(By Delegates Mahan, Fleischauer, Barill, Brown, Ferro, Fragale, Frazier, Longstreth, L. Phillips and Stowers)
6	[Introduced January 20, 2012; referred to the
7	Committee on the Judiciary then Finance.]
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10	A BILL to amend the Code of West Virginia, 1931, as amended, by
11	adding thereto a new section, designated $61-2-31$, relating to
12	establishing criminal penalties for failure to report a
13	missing child by the child's custodian.
14	Be it enacted by the Legislature of West Virginia:
15	That the Code of West Virginia, 1931, as amended, be amended
16	by adding thereto a new section, designated §61-2-31, to read as
17	follows:
18	ARTICLE 2. CRIMES AGAINST THE PERSON.
19	<u>§61-2-31. Failure to report missing child by custodian.</u>
20	(a) A custodian of a child who knowingly fails to report to a
21	law-enforcement agency the disappearance of a child twelve years or
22	older in his or her custody within twenty-four hours of the time he
23	or she has knowledge that the child is missing is guilty of a
24	misdemeanor and, upon conviction thereof, shall be fined not less
25	than \$100 nor more than \$500 or confined in jail for not more than

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1 one year, or both fined and confined.

(b) A custodian of a child who knowingly fails to report to a law-enforcement agency the disappearance of a child eleven years or younger in his or her custody within twenty-four hours of the time he or she has knowledge that the child is missing is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and committed to the custody of the Division of Corrections for not less than one nor more than five years.

9 <u>(c) A custodian of a child who knowingly fails to report to a</u> 10 <u>law-enforcement agency the disappearance of a child in his or her</u> 11 <u>custody within twelve hours of the time he or she has knowledge of</u> 12 <u>the disappearance of the child and that the child's disappearance</u> 13 <u>creates a substantial risk of serious bodily injury or death to the</u> 14 <u>child is guilty of a felony and, upon conviction thereof, shall be</u> 15 <u>fined not more than \$3,000 and committed to the custody of the</u> 16 <u>Division of Corrections for not less than one nor more than three</u> 17 <u>years.</u>

18 (d) A custodian of a child who knowingly fails to report to a 19 law-enforcement agency the disappearance of a child in his or her 20 custody within twenty-four hours of the time he or she has 21 knowledge that the child is missing, and the failure to report is 22 for the purpose of concealing a criminal act or other criminal 23 activity, is quilty of a felony and, upon conviction thereof, shall 24 be fined not less than \$1,000 nor more than \$5,000 and committed to

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1 the custody of the Division of Corrections for not less than three
2 nor more than thirteen years.

3 <u>(e) For purposes of this section, the meaning of the word</u> 4 <u>"custodian" is as defined pursuant to section one, article eight-d</u> 5 <u>of this chapter. No provision of this section is intended to</u> 6 <u>limit, modify or abrogate any duty of a caregiver otherwise</u> 7 <u>required pursuant to this code. It is the intention of the</u> 8 <u>Legislature in enacting this section that all criminal offenses and</u> 9 <u>penalties provided in this section are in addition to any other</u> 10 offenses and penalties provided by law.

NOTE: The purpose of this bill is to criminalize the failure of a custodian to report to law-enforcement officials a missing child. The penalties vary based on age and circumstances with enhanced penalties for failure to report when the custodian knows the child's disappearance creates a risk or harm or death to the child, or when a custodian fails to report the missing child to conceal criminal conduct.

This section is new; therefore, it has been completely underscored.

This bill was recommended for introduction and passage during the 2012 Regular Session of the Legislature by the Select Committee on Children, Juveniles and Other Issues.

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