

1 **H. B. 4356**

2
3 (By Delegates Fleischauer, Brown,
4 Ireland, Lawrence, Manypenny, Marcum, Miley, Skaff,
5 Stowers, R. Phillips and Hall)

6 [Introduced January 31, 2012; referred to the
7 Committee on the Judiciary.]

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10 A BILL to amend and reenact §61-8D-4 of the Code of West Virginia,
11 1931, as amended, relating to creating the misdemeanor offense
12 for child neglect by a parent, guardian or custodian which
13 creates a substantial risk of bodily injury; penalties; and
14 exceptions.

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

16 That §61-8D-4 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 8D. CHILD ABUSE.**

19 **§61-8D-4. Child neglect resulting in injury; child neglect**
20 **creating risk of injury; criminal penalties.**

21 (a) Any parent, guardian or custodian who neglects a child and
22 by such neglect causes a child bodily injury, as such term is
23 defined in section one, article eight-b of this chapter, then such
24 parent, guardian or custodian is guilty of a felony and, upon

1 conviction thereof, shall be fined not less than \$100 nor more than
2 \$1,000 or committed to the custody of the Division of Corrections
3 for not less than one nor more than three years or, in the
4 discretion of the court, be confined in jail for not more than one
5 year or both such fine and confinement or imprisonment.

6 (b) Any parent, guardian or custodian who neglects a child and
7 by such neglect causes a child serious bodily injury, as such term
8 is defined in section one, article eight-b of this chapter, then
9 such parent, guardian or custodian is guilty of a felony and, upon
10 conviction thereof, shall be fined not less that \$300 nor more than
11 \$3,000 or committed to the custody of the Division of Corrections
12 for not less than one nor more than ten years or both fined and
13 imprisoned.

14 (c) Any parent, guardian or custodian who grossly neglects a
15 child and by the gross neglect creates a substantial risk of
16 serious bodily injury or of death to the child is guilty of a
17 felony and, upon conviction thereof, shall be fined not more than
18 \$3,000 and confined to the custody of the Division of Corrections
19 for not less than one nor more than five years.

20 (d) Any parent, guardian or custodian who neglects a child and
21 by the neglect creates a substantial risk of bodily injury, as
22 defined in section one, article eight-b of this chapter, to the
23 child is guilty of a misdemeanor and, upon conviction thereof,
24 shall be fined not more than \$1,000 or shall be confined in jail

1 for not more than one year or both fined and confined.

2 (e) The provisions of this section do not apply if the neglect
3 by the parent, guardian or custodian is due primarily to a lack of
4 financial means on the part of such parent, guardian or custodian.

5 (f) The provisions of this section do not apply to any parent,
6 guardian or custodian who fails or refuses, or allows another
7 person to fail or refuse, to supply a child under the care, custody
8 or control of such parent, guardian or custodian with necessary
9 medical care when such medical care conflicts with the tenets and
10 practices of a recognized religious denomination or order of which
11 such parent, guardian or custodian is an adherent or member.

NOTE: The purpose of this bill is to add a misdemeanor for child neglect creating a substantial risk of bodily injury.

This section has been completely rewritten; therefore, it has been completely underscored.