

**Senate Bill No. 352**

(By Senators Edgell, Tucker, Chafin, Fanning, Jenkins, Minard,  
Williams, Wills, Barnes, Boley, Nohe, Foster, Prezioso, Snyder,  
Kessler (Mr. President), Unger, Stollings, Yost and Sypolt)

**Interim  
Bill**

[Introduced January 19, 2012; referred to the Committee on the  
Judiciary.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §61-2-31, relating to  
establishing criminal penalties for failure to report a  
missing child by the child's custodian.

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

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new section, designated §61-2-31, to read as  
follows:

**ARTICLE 2. CRIMES AGAINST THE PERSON.**

**§61-2-31. Failure to report missing child by custodian.**

(a) A custodian of a child who knowingly fails to report to a  
law-enforcement agency the disappearance of a child twelve years or  
older 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  
misdemeanor and, upon conviction thereof, shall be fined not less

1 than \$100 nor more than \$500 or confined in jail for not more than  
2 one year, or both fined and confined.

3 (b) A custodian of a child who knowingly fails to report to a  
4 law-enforcement agency the disappearance of a child eleven years or  
5 younger in his or her custody within twenty-four hours of the time  
6 he or she has knowledge that the child is missing is guilty of a  
7 felony and, upon conviction thereof, shall be fined not more than  
8 \$3,000 and committed to the custody of the Division of Corrections  
9 for not less than one nor more than five years.

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

19 (d) A custodian of a child who knowingly fails to report to a  
20 law-enforcement agency the disappearance of a child in his or her  
21 custody within twenty-four hours of the time he or she has  
22 knowledge that the child is missing, and the failure to report is  
23 for the purpose of concealing a criminal act or other criminal  
24 activity, is guilty of a felony and, upon conviction thereof, shall

1 be fined not less than \$1,000 nor more than \$5,000 and committed to  
2 the custody of the Division of Corrections for not less than three  
3 nor more than thirteen years.

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

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.