

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 206

SENATOR WELD, *original sponsor*

[Passed April 3, 2017; in effect 90 days from passage]

1 AN ACT to amend and reenact §61-2-14a of the Code of West Virginia, 1931, as amended,
2 relating generally to the criminal offense of kidnapping; making unlawful the taking, gaining
3 custody of, confining, concealing or restraining of another person by force or threat of
4 force, duress, fraud, deceit, inveiglement, misrepresentation or enticement; and providing
5 penalties.

Be it enacted by the Legislature of West Virginia:

1 That §61-2-14a of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-14a. Kidnapping; penalty.

1 (a) Any person who unlawfully takes custody of, conceals, confines or restrains another
2 person against his or her will by means of force, threat of force, duress, fraud, deceit,
3 inveiglement, misrepresentation or enticement with the intent:

4 (1) To hold another person for ransom, reward or concession;

5 (2) To transport another person with the intent to inflict bodily injury or to terrorize the
6 victim or another person; or

7 (3) To use another person as a shield or hostage, is guilty of a felony and, upon conviction,
8 shall be punished by confinement by the Division of Corrections for life, and, notwithstanding the
9 provisions of article twelve, chapter sixty-two of this code, is not eligible for parole.

10 (b) The following exceptions apply to the penalty contained in subsection (a):

11 (1) A jury may, in their discretion, recommend mercy, and if the recommendation is added
12 to their verdict, the person is eligible for parole in accordance with the provisions of article twelve,
13 chapter sixty-two of this code;

14 (2) If the person pleads guilty, the court may, in its discretion, provide
15 that the person is eligible for parole in accordance with the provisions of article twelve, chapter
16 sixty-two of this code and, if the court so provides, the person is eligible for parole in accordance

17 with the provisions of said article in the same manner and with like effect as if the person had
18 been found guilty by the verdict of a jury and the jury had recommended mercy;

19 (3) In all cases where the person against whom the offense is committed is returned, or is
20 permitted to return, alive, without bodily harm having been inflicted upon him, but after ransom,
21 money or other thing, or any concession or advantage of any sort has been paid or yielded, the
22 punishment shall be confinement by the Division of Corrections for a definite term of years not
23 less than twenty nor more than fifty; or

24 (4) In all cases where the person against whom the offense is committed is returned, or is
25 permitted to return, alive, without bodily harm having been inflicted upon him or her, but without
26 ransom, money or other thing, or any concession or advantage of any sort having been paid or
27 yielded, the punishment shall be confinement by the Division of Corrections for a definite term of
28 years not less than ten nor more than thirty.

29 (c) For purposes of this section, "to use another as a hostage" means to seize or detain
30 and threaten to kill or injure another in order to compel a third person or a governmental
31 organization to do, or abstain from doing, any legal act as an explicit or implicit condition for the
32 release of the person detained.

33 (d) Notwithstanding any other provision of this section, if a violation of this section is
34 committed by a family member of a minor abducted or held hostage and he or she is not motivated
35 by monetary purposes, but rather intends to conceal, take, remove the child or refuse to return
36 the child to his or her lawful guardian in the belief, mistaken or not, that it is in the child's interest
37 to do so, he or she is guilty of a felony and, upon conviction thereof, be confined in a correctional
38 facility for not less than one nor more than five years or fined not more than \$1,000, or both
39 confined and fined.

40 (e) Notwithstanding any provision of this code to the contrary, where a law-enforcement
41 agency of this state or a political subdivision thereof receives a complaint that a violation of the
42 provisions of this section has occurred, the receiving law-enforcement agency shall notify any

43 other law-enforcement agency with jurisdiction over the offense, including, but not limited to, the
44 State Police and each agency so notified, shall cooperate in the investigation forthwith.

45 (f) It is a defense to a violation of subsection (d) of this section, that the accused's action
46 was necessary to preserve the welfare of the minor child and the accused promptly reported his
47 or her actions to a person with lawful custody of the minor, to law enforcement or to the Child
48 Protective Services Division of the Department of Health and Human Resources.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2017.

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Governor