

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4982

By Delegate Young

[Introduced January 22, 2024; Referred to the
Committee on the Judiciary]

21 physically unable to communicate unwillingness to an act.

22 ~~(6)~~ (5) "Sexual contact" means any intentional touching, either directly or through clothing,
23 of the breasts, buttocks, anus or any part of the sex organs of another person, or intentional
24 touching of any part of another person's body by the actor's sex organs, where ~~the victim is not~~
25 ~~married to the actor and~~ the touching is done for the purpose of gratifying the sexual desire of
26 either party.

27 ~~(7)~~ (6) "Sexual intercourse" means any act between persons involving penetration,
28 however slight, of the female sex organ by the male sex organ or involving contact between the
29 sex organs of one person and the mouth or anus of another person.

30 ~~(8)~~ (7) "Sexual intrusion" means any act between persons involving penetration, however
31 slight, of the female sex organ or of the anus of any person by an object for the purpose of
32 degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.

33 ~~(9)~~ (8) "Bodily injury" means substantial physical pain, illness or any impairment of physical
34 condition.

35 ~~(10)~~ (9) "Serious bodily injury" means bodily injury which creates a substantial risk of
36 death, which causes serious or prolonged disfigurement, prolonged impairment of health or
37 prolonged loss or impairment of the function of any bodily organ.

38 ~~(11)~~ (10) "Deadly weapon" means any instrument, device or thing capable of inflicting
39 death or serious bodily injury, and designed or specially adapted for use as a weapon, or
40 possessed, carried or used as a weapon.

41 ~~(12)~~ (11) "Forensic medical examination" means an examination provided to a possible
42 victim of a violation of the provisions of this article by medical personnel qualified to gather
43 evidence of the violation in a manner suitable for use in a court of law, to include: An examination
44 for physical trauma; a determination of penetration or force; a patient interview; and the collection
45 and evaluation of other evidence that is potentially relevant to the determination that a violation of
46 the provisions of this article occurred and to the determination of the identity of the assailant.

§61-8B-3. Sexual assault in the first degree.

1 (a) A person is guilty of sexual assault in the first degree when:

2 (1) The person engages in sexual intercourse or sexual intrusion with another person and,
3 in so doing:

4 (i) Inflicts serious bodily injury upon anyone; or

5 (ii) Employs a deadly weapon in the commission of the act; or

6 (2) The person, being fourteen years old or more, engages in sexual intercourse or sexual
7 intrusion with another person who is younger than twelve years old ~~and is not married to that~~
8 ~~person.~~

9 (b) Any person violating the provisions of this section is guilty of a felony and, upon
10 conviction thereof, shall be imprisoned in a state correctional facility not less than fifteen nor more
11 than thirty-five years, or fined not less than \$1,000 nor more than \$10,000 and imprisoned in a
12 state correctional facility not less than fifteen nor more than thirty-five years.

13 (c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any
14 person violating the provisions of subsection (a) of this section who is eighteen years of age or
15 older and whose victim is younger than twelve years of age, shall be imprisonment in a state
16 correctional facility for not less than twenty-five nor more than one hundred years and a fine of not
17 less than \$5,000 nor more than \$25,000.

§61-8B-5. Sexual assault in the third degree.

1 (a) A person is guilty of sexual assault in the third degree when:

2 (1) The person engages in sexual intercourse or sexual intrusion with another person who
3 is mentally defective or mentally incapacitated; or

4 (2) The person, being sixteen years old or more, engages in sexual intercourse or sexual
5 intrusion with another person who is less than sixteen years old and who is at least four years
6 younger than the defendant ~~and is not married to the defendant.~~

7 (b) Any person violating the provisions of this section is guilty of a felony and, upon

8 conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor
9 more than five years, or fined not more than \$10,000 and imprisoned in a state correctional facility
10 not less than one year nor more than five years.

NOTE: The purpose of this bill is to remove marriage from the definitions listed for crimes of sexual offenses.

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