

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4695**

By Delegates Vance, Martin, Brooks, Akers, Maynor,  
McGeehan, Dean, Bridges, Pritt, Toney, and Hornby

[Originating in the Committee on the Judiciary;

Reported on February 5, 2026]

A BILL to amend and reenact §61-8B-5, §61-8B-9, §61-8D-4a, §61-8D-5 and §61-8D-6 of the Code of West Virginia, 1931, as amended, relating to increasing the criminal penalties for crimes against minors; increasing penalties for the offenses of sexual assault in the third degree; increasing penalties for sexual abuse in the third degree; increasing penalties for child neglect resulting in death; increasing penalties for sending, distributing, exhibiting, possessing, displaying, or transporting material by a parent, guardian, or custodian, or person in a position of trust, depicting a child engaged in sexually explicit conduct; increasing penalties for and adding attempt to the offense of sexual abuse by a parent, guardian, custodian, or person in a position of trust to a child; and creating criminal penalties.

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

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

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

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

(2) The person, ~~being~~ is 16 years old or more and engages in sexual intercourse or sexual intrusion with another person who is less than 16 years old and who is at least four years younger than the defendant.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than ~~one year~~ two years nor more than ~~five~~ 10 years, or fined not more than ~~\$10,000~~ \$20,000 and imprisoned in a state correctional facility not less than ~~one year~~ two years nor more than ~~five~~ 10 years.

**§61-8B-9. Sexual abuse in the third degree.**

(a) A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent, when such the lack of consent is due to the

victim's incapacity to consent by reason of being less than ~~sixteen~~ 16 years old.

(b) In any prosecution under this section it is a defense that:

(1) The defendant was less than sixteen ~~sixteen~~ 16 years old; or

(2) The defendant was less than four years older than the victim.

(c) Any person who violates the provisions of this section ~~shall be~~ is guilty of a misdemeanor ~~felony~~, and, upon conviction thereof, shall be ~~confined in the county jail~~ imprisoned in a state correctional facility not ~~more~~ less than ~~ninety days~~ one year nor more than ~~three years~~, or fined not more than ~~\$500~~ \$1,000 and ~~confined in the county jail~~ imprisoned in a state correctional facility not ~~more~~ less than ~~ninety days~~ one year nor more than ~~three years~~.

ARTICLE	8D.	CHILD	ABUSE.
§61-8D-4a.	Child neglect resulting in death; criminal penalties.		

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child shall neglect a child under his or her care, custody or control and by such neglect cause the death of said child, then such parent, guardian or custodian, or person in a position of trust in relation to a child shall be guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 \$2,000 nor more than ~~\$5,000~~ \$10,000 or committed to the custody of the Division of Corrections for not less than ~~three~~ 10 nor more than ~~15~~ 40 years, or both fined and imprisoned.

(b) No child who in lieu of medical treatment was under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing with a reasonable proven record of success shall, for that reason alone, be considered to have been neglected within the provisions of this section. A method of religious healing shall be presumed to be a recognized method of religious healing if fees and expenses incurred in connection with the treatment are permitted to be deducted from taxable income as "medical expenses" pursuant to regulations or rules promulgated by the United States Internal Revenue Service: *Provided*, That the provisions of this subsection do not apply to a person in a position of trust in relation to a child who, by virtue of his or her occupation or position, is charged with any duty or responsibility for the health,

education, welfare, or supervision of a child.

(c) A child whose parent, guardian or legal custodian, or person in a position of trust in relation to that child has inhibited or interfered with the provision of medical treatment in accordance with a court order may be considered to have been neglected for the purposes of this section.

**§61-8D-5. Sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; parent, guardian, custodian or person in a position of trust allowing sexual abuse to be inflicted upon a child; failing to report sexual assault or abuse upon a child; displaying of sex organs by a parent, guardian, or custodian; penalties.**

(a) In addition to any other offenses set forth in this code, the Legislature hereby declares a separate and distinct offense under this subsection, as follows: If any parent, guardian or custodian of or other person in a position of trust in relation to a child under his or her care, custody or control, ~~shall engage~~ engages in or attempt to engage in sexual exploitation of, or in sexual intercourse, sexual intrusion or sexual contact with, a child under his or her care, custody or control, notwithstanding the fact that the child may have willingly participated in ~~such~~ the conduct, or the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than ~~ten~~ 20 nor more than ~~twenty~~ 40 years, or fined not less than ~~\$500~~ \$1,000 nor more than ~~\$5,000~~ \$10,000 and imprisoned in a correctional facility not less than ~~ten~~ 20 years nor more than ~~twenty~~ 40 years.

(b) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces or attempts to procure, authorize, or induce another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is less than ~~sixteen~~ 16 years of

age ~~or any age~~ if the child is a disabled child, as identified in §61-8F-2 of this code, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than ~~five~~ 10 years nor more than ~~fifteen~~ 30 years, or fined not less than ~~\$1,000~~ \$2,000 nor more than ~~\$10,000~~ \$20,000 and imprisoned in a correctional facility not less than ~~five~~ 10 years nor more than ~~fifteen~~ 30 years.

(c) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces or attempts to procure, authorize, or induce another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is ~~sixteen~~ 16 years of age or older, notwithstanding the fact that the child may have ~~consented to~~ willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than ~~one year~~ two years nor more than ~~five~~ 10 years.

~~(d) The provisions of this section shall not apply to a custodian or person in a position of trust whose age exceeds the age of the child by less than four years~~

**§61-8D-6. Sending, distributing, exhibiting, possessing, displaying or transporting material by a parent, guardian or custodian, or person in a position of trust, depicting a child engaged in sexually explicit conduct; penalty.**

Any parent, guardian or custodian, or person in a position of trust who, with knowledge, sends or causes to be sent, or distributes, exhibits, possesses, displays or transports, any material visually portraying a child under his or her care, custody or control engaged in any sexually explicit conduct, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary

- 5 not more than ~~two~~ four years, and fined not less than ~~\$400~~ \$800 nor more than ~~\$4,000~~ \$8,000.