

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 986

BY SENATORS WILLIS, WOELFEL, TARR, AND HELTON

[Reported March 2, 2026, from the Committee on
Judiciary]

1 A BILL to amend and reenact §49-1-201 the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding a new section, designated §61-8D-3b, relating to child torture
3 and abused children; clarifying that reasonable discipline, including spanking, does not
4 constitute abuse of a child; providing definitions; creating the crime of child torture; and
5 creating criminal penalties.

Be it enacted by the Legislature of West Virginia:

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-201. Definitions related, but not limited to, child abuse and neglect.

1 When used in this chapter, terms defined in this section have the meanings ascribed to
2 them that relate to, but are not limited to, child abuse and neglect, except in those instances where
3 a different meaning is provided or the context in which the word is used clearly indicates that a
4 different meaning is intended.

5 "Abandonment" means any conduct that demonstrates the settled purpose to forego the
6 duties and parental responsibilities to the child;

7 "Abused child" means:

8 (1) A child whose health or welfare is being harmed or threatened by:

9 (A) A parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to
10 inflict, or knowingly allows another person to inflict, physical injury, or mental or emotional injury
11 upon the child or another child in the home. Physical injury may include an injury to the child as a
12 result of excessive corporal punishment: Provided, That physical injury or mental or emotional
13 injury does not include an injury to a child as a result of reasonable corporal discipline, including,
14 but not limited to, spanking;

15 (B) Sexual abuse or sexual exploitation;

16 (C) The sale or attempted sale of a child by a parent, guardian, or custodian in violation of
17 §61-2-14h of this code;

18 (D) Domestic violence as defined in §48-27-202 of this code; or

19 (E) Human trafficking or attempted human trafficking in violation of §61-14-2 of this code.

20 (2) A child conceived as a result of sexual assault, as that term is defined in this section,
21 or as a result of the violation of a criminal law of another jurisdiction which has the same essential
22 elements: *Provided*, That ~~no~~ a victim of sexual assault may not be determined to be an abusive
23 parent as that term is defined in this section, based upon being a victim of sexual assault.

24 "Abusing parent" means a parent, guardian, or other custodian, regardless of his or her
25 age, whose conduct has been adjudicated by the court to constitute child abuse or neglect as
26 alleged in the petition charging child abuse or neglect.

27 "Battered parent" for the purposes of §49-4-601 *et seq.* of this code means a respondent
28 parent, guardian, or other custodian who has been adjudicated by the court to have not condoned
29 the abuse or neglect and has not been able to stop the abuse or neglect of the child or children
30 due to being the victim of domestic violence as defined by §48-27-202 of this code, which was
31 perpetrated by the same person or persons determined to have abused or neglected the child or
32 children.

33 "Child abuse and neglect" or "child abuse or neglect" means any act or omission that
34 creates an abused child or a neglected child as those terms are defined in this section.

35 "Child abuse and neglect services" means social services which are directed toward:

36 (A) Protecting and promoting the welfare of children who are abused or neglected;

37 (B) Identifying, preventing, and remedying conditions which cause child abuse and
38 neglect;

39 (C) Preventing the unnecessary removal of children from their families by identifying family
40 problems and assisting families in resolving problems which could lead to a removal of children
41 and a breakup of the family;

42 (D) In cases where children have been removed from their families, providing time-limited
43 reunification services to the children and the families so as to reunify those children with their
44 families, or some portion of the families;

45 (E) Placing children in suitable adoptive homes when reunifying the children with their
46 families, or some portion of the families, is not possible or appropriate; and

47 (F) Assuring the adequate care of children or juveniles who have been placed in the
48 custody of the department or third parties.

49 "Condition requiring emergency medical treatment" means a condition which, if left
50 untreated for a period of a few hours, may result in permanent physical damage; that condition
51 includes, but is not limited to, profuse or arterial bleeding, dislocation or fracture,
52 unconsciousness, and evidence of ingestion of significant amounts of a poisonous substance.

53 "Imminent danger to the physical well-being of the child" means an emergency situation
54 in which the welfare or the life of the child is threatened. These conditions may include an
55 emergency situation when there is reasonable cause to believe that any child in the home is or
56 has been sexually abused or sexually exploited, or reasonable cause to believe that the following
57 conditions threaten the health, life, or safety of any child in the home:

58 (A) Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling, babysitter, or
59 other caretaker;

60 (B) A combination of physical and other signs indicating a pattern of abuse which may be
61 medically diagnosed as battered child syndrome;

62 (C) Nutritional deprivation;

63 (D) Abandonment by the parent, guardian, or custodian;

64 (E) Inadequate treatment of serious illness or disease;

65 (F) Substantial emotional injury inflicted by a parent, guardian, or custodian;

66 (G) Sale or attempted sale of the child by the parent, guardian, or custodian;

67 (H) The parent, guardian, or custodian's abuse of alcohol or drugs or other controlled
68 substance as defined in §60A-1-101 of this code, has impaired his or her parenting skills to a
69 degree as to pose an imminent risk to a child's health or safety; or

70 (I) Any other condition that threatens the health, life, or safety of any child in the home.

71 "Neglected child" means a child:

72 (A) Whose physical or mental health is harmed or threatened by a present refusal, failure,
73 or inability of the child's parent, guardian, or custodian to supply the child with necessary food,
74 clothing, shelter, supervision, medical care, or education, when that refusal, failure, or inability is
75 not due primarily to a lack of financial means on the part of the parent, guardian, or custodian; or

76 (B) Who is presently without necessary food, clothing, shelter, medical care, education, or
77 supervision because of the disappearance or absence of the child's parent or custodian: ~~or~~

78 Provided, That (C) "Neglected neglected child" does not mean a child whose education is
79 conducted within the provisions of §18-8-1 et seq. of this code.

80 "Parent Resource Navigator" means an individual established through the Court
81 Improvement Program (CIP) or Public Defender Services (PDS) model who is assisting a parent
82 or parents through requirements to be unified or reunified with their child or children.

83 "Petitioner or co-petitioner" means the department or any reputable person who files a
84 child abuse or neglect petition pursuant to §49-4-601 et seq. of this code.

85 "Permanency plan" means the part of the case plan which is designed to achieve a
86 permanent home for the child in the least restrictive setting available.

87 "Respondent" means all parents, guardians, and custodians identified in the child abuse
88 and neglect petition who are not petitioners or co-petitioners.

89 "Sexual abuse" means:

90 (A) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by §61-8c-
91 3 of this code, which a parent, guardian, or custodian engages in, attempts to engage in, or
92 knowingly procures another person to engage in, with a child notwithstanding the fact that for a

93 child who is less than 16 years of age, the child may have willingly participated in that conduct or
94 the child may have suffered no apparent physical, mental, or emotional injury as a result of that
95 conduct or, for a child 16 years of age or older, the child may have consented to that conduct or
96 the child may have suffered no apparent physical injury or mental, or emotional injury as a result
97 of that conduct;

98 (B) Any conduct where a parent, guardian, or custodian displays his or her sex organs to
99 a child, or procures another person to display his or her sex organs to a child, for the purpose of
100 gratifying the sexual desire of the parent, guardian, or custodian, of the person making that
101 display, or of the child, or for the purpose of affronting or alarming the child; or

102 (C) Any of the offenses proscribed in §61-8b-7, §61-8b-8, or §61-8b-9 of this code.

103 "Sexual assault" means any of the offenses proscribed in §61-8b-3, §61-8b-4, or §61-8b-
104 5 of this code.

105 "Sexual contact" means sexual contact as that term is defined in §61-8b-1 of this code.

106 "Sexual exploitation" means an act where:

107 (A) A parent, custodian, or guardian, whether for financial gain or not, persuades, induces,
108 entices, or coerces a child to engage in sexually explicit conduct as that term is defined in §61-
109 8c-1 of this code;

110 (B) A parent, guardian, or custodian persuades, induces, entices, or coerces a child to
111 display his or her sex organs for the sexual gratification of the parent, guardian, custodian, or a
112 third person, or to display his or her sex organs under circumstances in which the parent,
113 guardian, or custodian knows that the display is likely to be observed by others who would be
114 affronted or alarmed; or

115 (C) A parent, guardian, or custodian knowingly maintains or makes available a child for
116 the purpose of engaging the child in commercial sexual activity in violation of §61-14-5 of this
117 code.

118 "Sexual intercourse" means sexual intercourse as that term is defined in §61-8b-1 of this
119 code.

120 "Sexual intrusion" means sexual intrusion as that term is defined in §61-8b-1 of this code.

121 "Serious physical abuse" means bodily injury which creates a substantial risk of death,
122 causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or
123 impairment of the function of any bodily organ.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8D. CHILD ABUSE.

§61-8D-3b. Child torture.

1 (a) For the purposes of this section:

2 "Bodily injury" has the same meaning as defined in §61-8B-1 of this code.

3 "Course of conduct" means two or more acts or omissions directed at the same child,
4 which evidence a continuing pattern of abuse, injury, deprivation, or emotional distress and which
5 are not a single isolated event.

6 "Emotional distress" means significant psychological or emotional suffering or distress that
7 may, but does not necessarily, require medical or other professional treatment or counseling.

8 "Sadistic gratification" means pleasure gained from the pain and suffering of someone
9 else.

10 "Serious bodily injury" has the same meaning as defined in §61-8B-1 of this code.

11 "Severe emotional distress" means severe psychological or emotional suffering that
12 results in substantial physical or cognitive impairment, a clinically diagnosable psychological or
13 physical condition, or observable and verifiable symptoms.

14 "Terrorize" means to create or maintain a state of extreme fear in someone.

15 "Torture" means a course of conduct against a child that involves extreme cruelty resulting
16 in physical pain, emotional distress, or a substantial risk of bodily injury.

17 (b) If a parent, guardian, custodian, or person in a position of trust in relation to a child
18 intentionally or knowingly tortures that child, the parent, guardian, custodian, or person in a
19 position of trust in relation to the child is guilty of the felony of child torture and upon conviction
20 shall be imprisoned in a state correctional facility for two to 10 years.

21 (c) If a parent, guardian, custodian, or person in a position of trust in relation to a child
22 intentionally and knowingly tortures a child and, in the course of their conduct of torture they have
23 done so with any of the following:

24 (1) An intent to terrorize a child;

25 (2) An intent to cause severe emotional distress in a child;

26 (3) An intent to gain sadistic gratification;

27 (4) An intent to cause or an act that causes serious bodily injury or a substantial risk of
28 serious bodily injury or death to the child; or

29 (5) The use of a firearm or other deadly weapon as defined in §61-7-2;

30 The parent, guardian, custodian, or person in a position of trust in relation to the child is guilty of
31 the felony offense of aggravated child torture, and upon conviction shall be imprisoned in a state
32 correctional facility for five to 15 years.

33 (d) The offense in this section is established as a separate and distinct offense, and in
34 addition to any and all other offenses provided for in this code.