

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4695

By Delegates Vance, Martin, Brooks, Akers, Maynor,

McGeehan, Dean, Bridges, Pritt, Toney, and Hornby

[Introduced January 21, 2026; referred to the

Committee on the Judiciary]

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

Be it enacted by the Legislature of West Virginia:

ARTICLE	8B.	SEXUAL	OFFENSES.
§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 is~~ 16 years old or more and engages in sexual intercourse or sexual
5 intrusion with another person who is less than 16 years old and who is at least four years younger
6 than 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~~ two
9 years nor more than ~~five~~ 10 years, or fined not more than \$10,000 \$20,000 and imprisoned in a
10 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.

1 (a) A person is guilty of sexual abuse in the third degree when he or she subjects another
2 person to sexual contact without the latter's consent, when ~~such~~ the lack of consent is due to the
3 victim's incapacity to consent by reason of being less than ~~sixteen~~ 16 years old.
4 (b) In any prosecution under this section it is a defense that:

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

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

7 (c) Any person who violates the provisions of this section ~~shall be~~ is guilty of a

8 ~~misdemeanor~~ felony, and, upon conviction thereof, shall be ~~confined in the county jail~~ imprisoned

9 in a state correctional facility not ~~more~~ less than ~~ninety days~~ one year, or fined not more than \$500

10 \$1,000 and ~~confined in the county jail~~ imprisoned in a state correctional facility not ~~more~~ less than

11 ~~ninety~~ days one year nor more than three years.

ARTICLE 8D. CHILD ABUSE.

§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.

1 (a) In addition to any other offenses set forth in this code, the Legislature hereby declares a

2 separate and distinct offense under this subsection, as follows: If any parent, guardian or

3 custodian of or other person in a position of trust in relation to a child under his or her care, custody

4 or control, ~~shall engage~~ engages in or attempt to engage in sexual exploitation of, or in sexual

5 intercourse, sexual intrusion or sexual contact with, a child under his or her care, custody or

6 control, notwithstanding the fact that the child may have willingly participated in ~~such~~ the conduct,

7 or the fact that the child may have consented to such conduct or the fact that the child may have

8 suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then

9 such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and,

10 upon conviction thereof, shall be imprisoned in a correctional facility not less than ~~ten~~ 20 nor more

11 than ~~twenty~~ 40 years, or fined not less than \$500 \$1,000 nor more than \$5,000 \$10,000 and

12 imprisoned in a correctional facility not less than ~~ten~~ 20 years nor more than ~~twenty~~ 40 years.

13 (b) Any parent, guardian, custodian or other person in a position of trust in relation to the

14 child who knowingly procures, authorizes, or induces or attempts to procure, authorize, or induce

15 another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse,
16 sexual intrusion or sexual contact with, a child under the care, custody or control of such parent,
17 guardian, custodian or person in a position of trust when such child is less than ~~sixteen~~ 16 years of
18 age or any age if the child is a disabled child, as identified in §61-8F-2 of this code, notwithstanding
19 the fact that the child may have willingly participated in such conduct or the fact that the child may
20 have suffered no apparent physical injury or mental or emotional injury as a result of such conduct,
21 such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and,
22 upon conviction thereof, shall be imprisoned in a correctional facility not less than ~~five~~ 10 years nor
23 more than ~~fifteen~~ 30 years, or fined not less than ~~\$1,000~~ \$2,000 nor more than ~~\$10,000~~ \$20,000
24 and imprisoned in a correctional facility not less than ~~five~~ 10 years nor more than ~~fifteen~~ 30 years.

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

35 ~~(d) The provisions of this section shall not apply to a custodian or person in a position of~~
36 ~~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.**

1 Any parent, guardian or custodian, or person in a position of trust who, with knowledge,

- 2 sends or causes to be sent, or distributes, exhibits, possesses, displays or transports, any material
- 3 visually portraying a child under his or her care, custody or control engaged in any sexually explicit
- 4 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.

NOTE: The purpose of this bill is to increase penalties related to child sexual assault and sexual abuse; to increase penalties for distributing, possessing, and transporting material depicting a child engaged in sexually explicit conduct; to add attempt as a crime; and to clarify that failure to report sexual assault, sexual abuse, or sexual exploitation of a child is a felony.

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