

# WEST VIRGINIA CODE: §61-8D-3

## **§61-8D-3. Child abuse resulting in injury; child abuse creating risk of injury; criminal penalties.**

(a) If any parent, guardian or custodian shall abuse a child and by such abuse cause such child bodily injury as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility for not less than one nor more than five years, or in the discretion of the court, be confined in jail for not more than one year.

(b) If any parent, guardian or custodian shall abuse a child and by such abuse cause said child serious bodily injury as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and committed to the custody of the Division of Corrections not less than two nor more than ten years.

(c) Any parent, guardian or custodian who abuses a child and by the abuse creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in section one, article eight-b of this chapter, to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(d)(1) If a parent, guardian or custodian who has not previously been convicted under this section, section four of this article or a law of another state or the federal government with the same essential elements abuses a child and by the abuse creates a substantial risk of bodily injury, as bodily injury is defined in section one, article eight-b of this chapter, to the child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both.

(2) For a second offense under this subsection or for a person with one prior conviction under this section, section four of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,500 and confined in jail not less than thirty days nor more than one year, or both.

(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, section four of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both.

(e) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Bureau for Children and Families through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to article thirteen, chapter fifteen of this code; and

(3) Shall not, solely by virtue of the conviction, have their custody, visitation or parental rights automatically restricted.

(f) Nothing in this section shall preclude a parent, guardian or custodian from providing reasonable discipline to a child.