

SB 148

RECEIVED

98 APR -7 PM 2:27

OFFICE OF THE CLERK
LEGISLATIVE CENTER

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 148

(By Senators TOMBLIN, MR. PRESIDENT, AND BURKHALP,
By REQUEST OF THE EXECUTIVE)



PASSED March 14, 1998
In Effect NINETY DAYS FROM Passage

RECEIVED
98 APR -7 PM 2:27
OFFICE OF THE CLERK
SENATE WEST VIRGINIA

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 148

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND BUCKALEW,
BY REQUEST OF THE EXECUTIVE)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article eight-d, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to criminal penalties for engaging or procuring another to engage in sexual misconduct with a child; adding parents to persons to whom the criminal penalties apply; and increasing the penalties against a parent, guardian or custodian who engages or procures another person to engage in sexual misconduct with a child.

Be it enacted by the Legislature of West Virginia:

That section five, article eight-d, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 8D. CHILD ABUSE.

§61-8D-5. Sexual abuse by a parent, guardian or custodian; parent, guardian or custodian allowing sexual abuse to be inflicted 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
2 code, the Legislature hereby declares a separate and
3 distinct offense under this subsection, as follows: If any
4 parent, guardian or custodian of a child under his or her
5 care, custody or control, shall engage in or attempt to
6 engage in sexual exploitation of, or in sexual intercourse,
7 sexual intrusion or sexual contact with, a child under his
8 or her care, custody or control, notwithstanding the fact
9 that the child may have willingly participated in such
10 conduct, or the fact that the child may have consented to
11 such conduct or the fact that the child may have suffered
12 no apparent physical injury or mental or emotional injury
13 as a result of such conduct, then such parent, guardian or
14 custodian shall be guilty of a felony and, upon conviction
15 thereof, shall be imprisoned in the penitentiary not less
16 than ten nor more than twenty years, or fined not less than
17 five hundred nor more than five thousand dollars and
18 imprisoned in the penitentiary not less than ten years nor
19 more than twenty years.

20 (b) If any parent, guardian or custodian shall knowingly
21 procure another person to engage in or attempt to engage
22 in sexual exploitation of, or sexual intercourse, sexual
23 intrusion or sexual contact with, a child under the care,
24 custody or control of such parent, guardian or custodian
25 when such child is less than sixteen years of age, notwith-
26 standing the fact that the child may have willingly
27 participated in such conduct or the fact that the child may

28 have suffered no apparent physical injury or mental or
29 emotional injury as a result of such conduct, such parent,
30 guardian or custodian shall be guilty of a felony and, upon
31 conviction thereof, shall be imprisoned in the penitentiary
32 not less than five years nor more than fifteen years, or
33 fined not less than one thousand nor more than ten
34 thousand dollars and imprisoned in the penitentiary not
35 less than five years nor more than fifteen years.

36 (c) If any parent, guardian or custodian shall knowingly
37 procure another person to engage in or attempt to engage
38 in sexual exploitation of, or sexual intercourse, sexual
39 intrusion or sexual contact with, a child under the care,
40 custody or control of such parent, guardian or custodian
41 when such child is sixteen years of age or older, notwith-
42 standing the fact that the child may have consented to
43 such conduct or the fact that the child may have suffered
44 no apparent physical injury or mental or emotional injury
45 as a result of such conduct, then such parent, guardian or
46 custodian shall be guilty of a felony and, upon conviction
47 thereof, shall be imprisoned in the penitentiary not less
48 than one year nor more than five years.

49 (d) The provisions of this section shall not apply to a
50 custodian whose age exceeds the age of the child by less
51 than four years.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates
President of the Senate
Speaker House of Delegates

The within approved this the 6th day of April, 1998

Governor

PRESENTED TO THE

GOVERNOR

Date

3/26/98

Time

12:00 pm