WEST VIRGINIA CODE: §61-2-14a

§61-2-14a. Kidnapping; penalty.

(a) Any person who unlawfully takes custody of, conceals, confines, transports, or restrains another person against his or her will by means of force, threat of force, duress, fraud, deceit, inveiglement, misrepresentation, or enticement with the intent to:

(1) Hold another person for ransom, reward, or concession;

(2) Inflict bodily injury;

(3) Terrorize the victim or another person; or

(4) Use another person as a shield or hostage, is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment by the Division of Corrections and Rehabilitation for life, and, notwithstanding the provisions of §62-12-1 *et seq*. of this code, is not eligible for parole.

(b) The following exceptions apply to the penalty contained in subsection (a) of this section:

(1) A jury may, in their discretion, recommend mercy, and if the recommendation is added to their verdict, the person is eligible for parole in accordance with the provisions of §62-12-1 *et seq*. of this code;

(2) If the person pleads guilty, the court may, in its discretion, provide that the person is eligible for parole in accordance with the provisions of §62-12-1 *et seq*. of this code and, if the court so provides, the person is eligible for parole in accordance with the provisions of said article, in the same manner and with like effect as if the person had been found guilty by the verdict of a jury and the jury had recommended mercy;

(3) In all cases where the person against whom the offense is committed is returned, or is permitted to return, alive, without bodily harm having been inflicted upon him or her, but after ransom, money, or other thing, or any concession or advantage of any sort has been paid or yielded, the punishment shall be imprisonment by the Division of Corrections and Rehabilitation for a definite term of years not less than 20 nor more than 50; or

(4) In all cases where the person against whom the offense is committed is returned, or is permitted to return, alive, without bodily harm having been inflicted upon him or her, but without ransom, money, or other thing, or any concession or advantage of any sort having been paid or yielded, the punishment shall be imprisoned by the Division of Corrections and Rehabilitation for a definite term of years not less than 10 nor more than 30.

(c) For purposes of this section, "to use another as a hostage" means to seize or detain and threaten to kill or injure another in order to compel a third person or a governmental

WV Legislature

organization to do, or abstain from doing, any legal act as an explicit or implicit condition for the release of the person detained.

(d) Notwithstanding any other provision of this section, if a violation of this section is committed by a family member of a minor abducted or held hostage and he or she is not motivated by monetary purposes, but rather intends to conceal, take, remove the child, or refuse to return the child to his or her lawful guardian in the belief, mistaken or not, that it is in the child's interest to do so, he or she is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than one nor more than five years or fined not more than $1,000, or both imprisoned and fined.

(e) Notwithstanding any provision of this code to the contrary, where a law-enforcement agency of this state or a political subdivision thereof receives a complaint that a violation of the provisions of this section has occurred, the receiving law-enforcement agency shall notify any other law-enforcement agency with jurisdiction over the offense, including, but not limited to, the State Police and each agency so notified, shall cooperate in the investigation immediately.

(f) It is a defense to a violation of subsection (d) of this section, that the accused's action was necessary to preserve the welfare of the minor child and the accused promptly reported his or her actions to a person with lawful custody of the minor, to law enforcement, or to the Child Protective Services Division of the Department of Human Services.

WV Legislature