WEST VIRGINIA CODE: §61-2-9D

§61-2-9d. Strangulation; suffocation and asphyxiation; definitions; penalties.

(a) As used in this section:

"Bodily injury" means substantial physical pain, illness or any impairment of physical condition;

"Strangle" means knowingly and willfully restricting another person's air intake or blood flow by the application of pressure on the neck or throat;

"Suffocate" means knowingly and willfully restricting the normal breathing or circulation of blood by blocking the nose or mouth of another; and

"Asphyxiate" means knowingly and willfully restricting the normal breathing or circulation of blood by the application of pressure on the chest or torso.

(b) Any person who strangles, suffocates or asphyxiates another without that person's consent and thereby causes the other person bodily injury or loss of consciousness is guilty of a felony and, upon conviction thereof, shall be fined not more than $2,500 or imprisoned in a state correctional facility not less than one year or more than five years, or both fined and imprisoned.

(c) Notwithstanding subsection (b) of this section, any person who, without the consent of the other person, strangles, suffocates, or asphyxiates: (1) A family or household member, as defined in §48-27-204 of this code; or (2) any other person during the commission of conduct that constitutes, or could reasonably be charged as, a violation of §61-8-12 of this code, or any felony violation of the provisions of §61-8B-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code, and thereby causes bodily injury or loss of consciousness, is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years.

(d) Any person who violates the provisions of this section and has been previously convicted under this section, or under a law of another jurisdiction which requires proof of substantially similar elements, shall, upon conviction, be imprisoned in a state correctional facility for not less than three nor more than 15 years.

WV Legislature