WEST VIRGINIA CODE: §61-8-12

§61-8-12. Incest; penalty.

(a) For the purposes of this section:

(1) “Aunt” means the sister of a person’s mother or father;

(2) “Brother” means the son of a person’s mother or father;

(3) “Daughter” means a person’s natural daughter, adoptive daughter, or the daughter of a person’s husband or wife;

(4) “Father” means a person’s natural father, adoptive father, or the husband of a person’s mother;

(5) “Granddaughter” means the daughter of a person’s son or daughter;

(6) “Grandfather” means the father of a person’s father or mother;

(7) “Grandmother” means the mother of a person’s father or mother;

(8) “Grandson” means the son of a person’s son or daughter;

(9) “Mother” means a person’s natural mother, adoptive mother, or the wife of a person’s father;

(10) “Niece” means the daughter of a person’s brother or sister;

(11) “Nephew” means the son of a person’s brother or sister;

(12) “Sexual intercourse” means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person;

(13) “Sexual intrusion” means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party;

(14) “Sister” means the daughter of a person’s father or mother;

(15) “Son” means a person’s natural son, adoptive son, or the son of a person’s husband or wife; and

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(16) “Uncle” means the brother of a person’s father or mother.

(b) A person is guilty of incest when such person engages in sexual intercourse or sexual intrusion with his or her father, mother, brother, sister, daughter, son, grandfather, grandmother, grandson, granddaughter, nephew, niece, uncle, or aunt.

(c) Any person who violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than 5 years nor more than 15 years, or fined not less than $500 nor more than $5,000 and imprisoned in the penitentiary not less than five years nor more than fifteen years.

(d) In addition to any penalty provided under this section and any restitution which may be ordered by the court under §61-11A-1 et seq. of this code, the court may order any person convicted under the provisions of this section, where the victim is a minor, to pay all or any portion of the cost of medical, psychological, or psychiatric treatment of the victim, the need for which results from the act or acts for which the person is convicted, whether or not the victim is considered to have sustained bodily injury.

(e) In any case where a person is convicted of an offense described in this section against a child and further has or may have custodial, visitation, or other parental rights to the child, the court shall find that the person is an abusing parent within the meaning of §49-4-601 through §49-4-610 of this code, and shall take further action in accord with the provisions of those sections.

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