WEST VIRGINIA CODE: §61-8B-11b

§61-8B-11b. Prohibiting sexual intercourse, sexual intrusion, or sexual contact, against students by school employees; exception; penalties.

(a) Any teacher, principal, counselor, coach, other employee, volunteer, or school resource officer of any private or public elementary or secondary school who engages in sexual intercourse, sexual intrusion, or sexual contact, as those terms are defined in §61-8B-1 of this code, with any student enrolled in any private or public elementary or secondary school regardless of the age of the student is guilty of a felony and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years or fined not more than $5,000 or both imprisoned and fined. The fact that the student may have consented to the act or that the act did not occur on school property or during a school function is not a defense.

(b) For purposes of this section:

(1) A private elementary or secondary school means any private school or other entity authorized to provide an elementary or secondary education to students who are exempt from compulsory school attendance pursuant to §18-8-1 of this code; and

(2) A public elementary or secondary school means any school under the general supervision of the West Virginia Board of Education pursuant to section two, article XII of the West Virginia Constitution.

(c) Any student under the age of 18 years currently enrolled in a secondary school and engaged in a wage-earning registered youth apprenticeship program, as authorized under §18A-3-1 of this code or approved by the state board, may not be prosecuted for a violation of subsection (a) of this section, including those secondary school students under the age of 18 years participating in the Grow Your Own teacher pathway or any Career Technical Education school service personnel training programs.

(d) This is a separate and distinct criminal offense from any other applicable offense under this code. The penalties set forth in this section are in addition to any other penalties for any other applicable offense.

(e) A final conviction under this section shall cause the permanent forfeiture of any teaching or other certificate issued pursuant to §18A-3-2a of this code.

WV Legislature