WEST VIRGINIA CODE: §61-8B-5

§61-8B-5. Sexual assault in the third degree.

(a) A person is guilty of sexual assault in the third degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or

(2) The person is 16 years old or more and engages in sexual intercourse or sexual intrusion with another person who is less than 16 years old and who is at least four years younger than the defendant.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than two years nor more than 10 years, or fined not more than $20,000 and imprisoned in a state correctional facility not less than two years nor more than 10 years.

WV Legislature