

WEST VIRGINIA CODE: §61-8D-2A

§61-8D-2a. Death of a child by a parent, guardian or custodian or other person by child abuse; criminal penalties.

(a) If any parent, guardian or custodian maliciously and intentionally inflicts upon a child under his or her care, custody or control substantial physical pain, illness or any impairment of physical condition by other than accidental means, thereby causing the death of such child, then such parent, guardian or custodian is guilty of a felony.

(b) If any parent, guardian or custodian knowingly allows any other person to maliciously and intentionally inflict upon a child under the care, custody or control of such parent, guardian or custodian substantial physical pain, illness or any impairment of physical condition by other than accidental means, which thereby causes the death of such child, then such other person and such parent, guardian or custodian are each guilty of a felony.

(c) Any person convicted of a felony described in subsection (a) or (b) of this section shall be imprisoned in a state correctional facility for a period of fifteen years to life. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of fifteen years of his or her sentence.

(d) The provisions of this section are not applicable to any parent, guardian or custodian or other person who, without malice, fails or refuses, or allows another person to, without malice, fail or refuse, to supply a child under the care, custody or control of such parent, guardian or custodian with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which such parent, guardian or custodian is an adherent or member. The provisions of this section are not applicable to any health care provider who fails or refuses, or allows another person to fail or refuse, to supply a child with necessary medical care when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which the parent, guardian or custodian of the child is an adherent or member, or where such failure or refusal is pursuant to a properly executed do not resuscitate form.