WEST VIRGINIA CODE: §61-8D-2A

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

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child 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 the child, then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony.

(b) If any parent, guardian or custodian, or person in a position of trust in relation to a child 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, or person in a position of trust in relation to a child 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, or person in a position of trust in relation to a child 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 15 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 15 years of his or her sentence.

(d) The provisions of this section are not applicable to any parent, guardian or custodian, 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 the 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 the 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 the 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.

WV Legislature