WEST VIRGINIA CODE: §61-8D-3

§61-8D-3. Child abuse resulting in injury; child abuse creating risk of injury; criminal penalties.

(a) If a parent, guardian, custodian, or person in a position of trust in relation to a child abuses a child and by the abuse causes the child bodily injury as the term is defined in §61-8B-1 of this code, then the parent, guardian, custodian, or person in a position of trust in relation to the child is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years, or in the discretion of the court, be confined in jail for not more than one year.

(b) If a parent, guardian, custodian, or person in a position of trust in relation to a child abuses a child and by the abuse causes the child serious bodily injury as the term is defined in §61-8B-1 of this code, then the parent, guardian, custodian, or person in position of trust is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than five nor more than 15 years.

(c) A parent, guardian, custodian, or person in a position of trust in relation to a child who abuses a child and by the abuse creates a substantial risk of death or serious bodily injury to the child, as serious bodily injury is defined in §61-8B-1 of this code, 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 10 years.

(d)(1) If a parent, guardian, custodian, or person in a position of trust in relation to a child abuses a child and by the abuse creates a substantial risk of bodily injury, as bodily injury is defined in §61-8B-1 of this code, to the child, then the parent, guardian, custodian, or person in position of trust is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 or confined in jail not more than six months, or both.

(2) If a parent, guardian, custodian, or person in a position of trust to a child violates this subsection and has previously been convicted of violating this subsection, §61-8D-4(d) of this code, or a law of another state or the federal government with the same essential elements, then the parent, guardian, custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years.

(e) Any person convicted of a second or subsequent felony offense under this section, who was previously convicted of a felony offense under this section, §61-8D-4, or a law of another state or the federal government with the same essential elements of a felony offense contained within either section, may be imprisoned for a term up to twice the term otherwise authorized.

(f) Any person convicted of a misdemeanor offense under this section:

WV Legislature

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Human Services through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) May not be required to register pursuant to §15-13-1 *et seq*. of this code; and

(3) May not, solely by virtue of the conviction, have his or her custody, visitation or parental rights automatically restricted.

(g) This section does not preclude a parent, guardian, or custodian from providing reasonable discipline to a child.

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