WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

HOUSE BILL No. 2458

(By Delegates Kalka, Rowe, Michael, Evans, Brown and Hubbard)

Passed March 9, 1996

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections three and four, article eight-d, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to crime: child abuse resulting in injury; child abuse creating risk of injury; child neglect resulting in injury; child neglect creating risk of injury; and changing the criminal penalty.

Be it enacted by the Legislature of West Virginia:

That sections three and four, article eight-d, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 8D. CHILD ABUSE.

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

1 (a) If any parent, guardian or custodian shall abuse a child and by such abuse cause such child bodily injury as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars and committed to the custody of the division of corrections for not less than one nor more than five years, or in the discretion of the court, be confined in the county or regional jail for not more than one year.
If any parent, guardian or custodian shall abuse a child and by such abuse cause said child serious bodily injury as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony, and, upon conviction thereof, shall be fined not less than one thousand nor more than five thousand dollars and committed to the custody of the division of corrections not less than two nor more than ten years.

Any person who abuses a child and by the abuse creates a substantial risk of serious bodily injury or of death to the child is guilty of a felony, and upon conviction thereof shall be fined not more than three thousand dollars and confined to the custody of the division of corrections for not less than one nor more than five years.

§61-8D-4. Child neglect resulting in injury; child neglect creating risk of injury; criminal penalties.

(a) If any parent, guardian or custodian shall neglect a child and by such neglect cause said child bodily injury, as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars or committed to the custody of the division of corrections for not less than one nor more than three years, or in the discretion of the court, be confined in the county jail for not more than one year, or both such fine and confinement or imprisonment.

(b) If any parent, guardian or custodian shall neglect a child and by such neglect cause said child serious bodily injury, as such term is defined in section one, article eight-b of this chapter, then such parent, guardian or custodian shall be guilty of a felony, and upon conviction thereof, shall be fined not less than three hundred nor more than three thousand dollars or committed to the custody of the division of corrections for not less than one nor more than ten years, or both such fine and imprisonment.
(c) The provisions of this section shall not apply if the neglect by the parent, guardian or custodian is due primarily to a lack of financial means on the part of such parent, guardian or custodian.

(d) The provisions of this section shall not apply to any parent, guardian or custodian who fails or refuses, or allows another person to 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.

(e) Any person who grossly neglects a child and by the gross neglect creates a substantial risk of serious bodily injury or of death to the child is guilty of a felony, and upon conviction thereof shall be fined not more than three thousand dollars and confined to the custody of the division of corrections for not less than one nor more than five years.
Enr. H. B. 2458]

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 1st day of April, 1996.

[Signature]
Governor