

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Enrolled

Senate Bill 197

BY SENATORS WELD, WOELFEL, DEEDS, TARR, AND Z.

MAYNARD

[Passed March 14, 2026; in effect 90 days from
passage (June 12, 2026)]

FILED

2026 APR - 1 P 10: 32

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SB 197

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1 AN ACT to amend and reenact §61-8B-5, §61-8B-9, §61-8D-4a, §61-8D-5 and §61-8D-6 of the
2 Code of West Virginia, 1931, as amended, relating to increasing the criminal penalties and
3 fines for crimes against minors; increasing criminal penalties and fines for the offenses of
4 sexual assault in the third degree; increasing criminal penalties and fines for sexual abuse
5 in the third degree; increasing criminal penalties and fines for child neglect resulting in
6 death; increasing criminal penalties and fines relating to the crime of when any parent,
7 guardian, or custodian of or other person in a position of trust in relation to a child under
8 his or her care, custody or control, engages in or attempts to engage in sexual exploitation
9 of, or in sexual intercourse, sexual intrusion or sexual contact with, a child under his or her
10 care, custody or control; creating the crime of when any parent, guardian, custodian or
11 other person in a position of trust in relation to the child who knowingly attempts to procure,
12 authorize, or induce another person to engage in or attempt to engage in sexual
13 exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under
14 the care, custody, or control of such parent, guardian, custodian, or person in a position
15 of trust when such child is less than 16 years of age or any age if the child is a disabled
16 child and establishing criminal penalties and fines; increasing criminal penalties and fines
17 for the crime of when any parent, guardian, custodian, or other person in a position of trust
18 in relation to the child who knowingly procures, authorizes, or induces another person to
19 engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual
20 intrusion or sexual contact with, a child under the care, custody, or control of such parent,
21 guardian, custodian, or person in a position of trust when such child is less than 16 years
22 of age or any age if the child is a disabled child; creating the crime of when any parent,
23 guardian, custodian, or other person in a position of trust in relation to the child who
24 knowingly attempts to procure, authorize, or induce another person to engage in or
25 attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or
26 sexual contact with, a child under the care, custody, or control of such parent, guardian,
27 custodian or person in a position of trust when such child is 16 years of age or older and

28 establishing criminal penalties; increasing criminal penalties for the crime of when any
29 parent, guardian, custodian or other person in a position of trust in relation to the child who
30 knowingly procures, authorizes, or induces another person to engage in or attempt to
31 engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact
32 with, a child under the care, custody or control of such parent, guardian, custodian or
33 person in a position of trust when such child is 16 years of age or older; and increasing
34 criminal penalties and fines for knowingly sending, distributing, exhibiting, possessing,
35 displaying, or transporting material by a parent, guardian, or custodian, or person in a
36 position of trust, depicting a child engaged in sexually explicit conduct.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8B. SEXUAL OFFENSES.

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

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

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

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

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

§61-8B-9. Sexual abuse in the third degree.

1 (a) A person is guilty of sexual abuse in the third degree when he or she subjects another
2 person to sexual contact without the latter's consent, when the lack of consent is due to the
3 victim's incapacity to consent by reason of being less than 16 years old.

4 (b) In any prosecution under this section it is a defense that:

(1) The defendant was less than 16 years old; or

(2) The defendant was less than four years older than the victim.

(c) Any person who violates 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 one year nor more than three years, or fined not more than \$1,000 and imprisoned in a state correctional facility not less than one year nor more than three years.

ARTICLE 8D. CHILD ABUSE.

§61-8D-4a. Child neglect resulting in death; criminal penalties.

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child shall neglect a child under his or her care, custody or control and by such neglect cause the death of said child, then such parent, guardian or custodian, or person in a position of trust in relation to a child shall be guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,000 nor more than \$10,000 or committed to the custody of the Division of Corrections and Rehabilitation for not less than 10 nor more than 40 years, or both fined and imprisoned.

(b) No child who in lieu of medical treatment was under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing with a reasonable proven record of success shall, for that reason alone, be considered to have been neglected within the provisions of this section. A method of religious healing shall be presumed to be a recognized method of religious healing if fees and expenses incurred in connection with the treatment are permitted to be deducted from taxable income as "medical expenses" pursuant to regulations or rules promulgated by the United States Internal Revenue Service: *Provided*, That the provisions of this subsection do not apply to a person in a position of trust in relation to a child who, by virtue of his or her occupation or position, is charged with any duty or responsibility for the health, education, welfare, or supervision of a child.

(c) A child whose parent, guardian or legal custodian, or person in a position of trust in relation to that child has inhibited or interfered with the provision of medical treatment in

19 accordance with a court order may be considered to have been neglected for the purposes of this
20 section.

**§61-8D-5. Sexual abuse by a parent, guardian, custodian or person in a position of trust to
a child; parent, guardian, custodian or person in a position of trust allowing sexual
abuse to be inflicted upon a child; displaying of sex organs by a parent, guardian,
or custodian; penalties.**

1 (a) In addition to any other offenses set forth in this code, the Legislature hereby declares
2 a separate and distinct offense under this subsection, as follows: If any parent, guardian or
3 custodian of or other person in a position of trust in relation to a child under his or her care, custody
4 or control, engages in or attempt to engage in sexual exploitation of, or in sexual intercourse,
5 sexual intrusion or sexual contact with, a child under his or her care, custody or control,
6 notwithstanding the fact that the child may have willingly participated in the conduct, or the fact
7 that the child may have consented to such conduct or the fact that the child may have suffered no
8 apparent physical injury or mental or emotional injury as a result of such conduct, then such
9 parent, guardian, custodian or person in a position of trust shall be guilty of a felony and, upon
10 conviction thereof, shall be imprisoned in a correctional facility not less than 20 nor more than 40
11 years, or fined not less than \$1,000 nor more than \$10,000 and imprisoned in a correctional facility
12 not less than 20 years nor more than 40 years.

13 (b) Any parent, guardian, custodian or other person in a position of trust in relation to the
14 child who knowingly procures, authorizes, or induces or attempts to procure, authorize, or induce
15 another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse,
16 sexual intrusion or sexual contact with, a child under the care, custody or control of such parent,
17 guardian, custodian or person in a position of trust when such child is less than 16 years of age
18 or any age if the child is a disabled child, as identified in §61-8F-2 of this code, notwithstanding
19 the fact that the child may have willingly participated in such conduct or the fact that the child may
20 have suffered no apparent physical injury or mental or emotional injury as a result of such conduct,

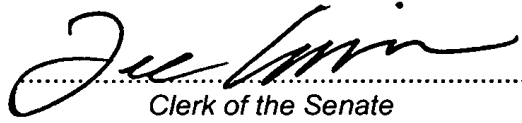
21 such parent, guardian, custodian or person in a position of trust shall be guilty of a felony and,
22 upon conviction thereof, shall be imprisoned in a correctional facility not less than 10 years nor
23 more than 30 years, or fined not less than \$2,000 nor more than \$20,000 and imprisoned in a
24 correctional facility not less than 10 years nor more than 30 years.

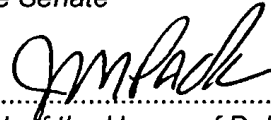
25 (c) Any parent, guardian, custodian or other person in a position of trust in relation to the
26 child who knowingly procures, authorizes, or induces or attempts to procure, authorize, or induce
27 another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse,
28 sexual intrusion or sexual contact with, a child under the care, custody or control of such parent,
29 guardian, custodian or person in a position of trust when such child is 16 years of age or older,
30 notwithstanding the fact that the child may have willingly participated in such conduct or the fact
31 that the child may have suffered no apparent physical injury or mental or emotional injury as a
32 result of such conduct, then such parent, guardian, custodian or person in a position of trust shall
33 be guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not
34 less than two years nor more than 10 years.

**§61-8D-6. Sending, distributing, exhibiting, possessing, displaying or transporting
material by a parent, guardian or custodian, or person in a position of trust,
depicting a child engaged in sexually explicit conduct; penalty.**

1 Any parent, guardian or custodian, or person in a position of trust who, with knowledge,
2 sends or causes to be sent, or distributes, exhibits, possesses, displays or transports, any
3 material visually portraying a child under his or her care, custody or control engaged in any
4 sexually explicit conduct, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in
5 the penitentiary not more than four years, and fined not less than \$800 nor more than \$8,000.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

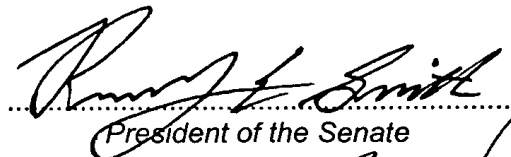

Clerk of the Senate

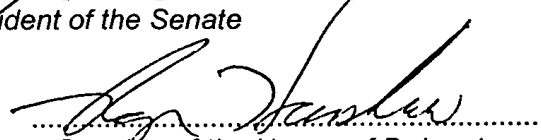

Clerk of the House of Delegates

FILED
2026 APR - 1 P 10:32
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the Senate.

In effect 90 days from passage.


President of the Senate


Speaker of the House of Delegates

The within is approved this the 1st
April
Day of _____, 2026.


Governor

PRESENTED TO THE GOVERNOR

MAR 13 2018

Time 1:20pm