

1 **H. B. 2239**

2
3 (By Delegates Iaquinta, Fragale and Givens)
4 [Introduced January 12, 2011; referred to the
5 Committee on the Judiciary then Finance.]
6

7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend and reenact §61-8D-3 of the Code of West Virginia,
11 1931, as amended, relating to increasing the minimum prison
12 sentence from two years to five years without the possibility
13 of parole for a parent, guardian or custodian who abuses a
14 child that results serious bodily injury.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §61-8D-3 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 8D. CHILD ABUSE.**

19 **§61-8D-3. Child abuse resulting in injury; child abuse or neglect**
20 **creating risk of injury; criminal penalties.**

21 (a) If any parent, guardian or custodian shall abuse a child
22 and by such abuse cause such child bodily injury as such term is
23 defined in section one, article eight-b of this chapter, then such
24 parent, guardian or custodian shall be guilty of a felony and, upon

1 conviction thereof, shall be fined not less than \$100 nor more than
2 \$1,000 and committed to the custody of the Division of Corrections
3 for not less than one nor more than five years, or in the
4 discretion of the court, be confined in ~~the county or regional~~ jail
5 for not more than one year.

6 (b) If any parent, guardian or custodian shall abuse a child
7 and by such abuse cause said child serious bodily injury as such
8 term is defined in section one, article eight-b of this chapter,
9 then such parent, guardian or custodian shall be guilty of a felony
10 and, upon conviction thereof, shall be fined not less than \$1,000
11 nor more than \$5,000 and committed to the custody of the Division
12 of Corrections not less than ~~two~~ five nor more than ten years:
13 Provided, That notwithstanding any provision in the code to the
14 contrary, a parent, guardian or custodian so convicted is not
15 eligible for parole unless he or she has served a full five years
16 of the original sentence.

17 (c) Any person who abuses a child and by the abuse creates a
18 substantial risk of serious bodily injury or of death to the child
19 is guilty of a felony and, upon conviction thereof, shall be fined
20 not more than \$3,000 and confined to the custody of the Division of
21 Corrections for not less than one nor more than five years.

NOTE: The purpose of this bill increases the minimum prison sentence from two years to five years without the possibility of parole for a parent, guardian or custodian who abuses a child that results serious bodily injury.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.