

1 **H. B. 4130**

2
3 (By Delegates Smith, Lawrence and Hunt)
4 [Introduced January 19, 2012; referred to the
5 Committee on the Judiciary then Finance.]

6 **FISCAL**
7 **NOTE**

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9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §61-2-14h, relating
12 to crimes against the person; creating the felony criminal
13 offense of sale or purchase of a child; and providing for
14 penalties.

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

16 That the Code of West Virginia, 1931, as amended, be amended,
17 by adding thereto a new section, designated §61-2-14h, to read as
18 follows:

19 **ARTICLE 2. CRIMES AGAINST THE PERSON.**

20 **§61-2-14h. Sale or purchase of child; penalties.**

21 (a) Any person or agency who knowingly offers, gives or agrees
22 to give to another person money, property, service or other thing
23 of value in consideration for the recipient's locating, providing

1 or procuring a minor child for any purpose which entails a transfer
2 of the legal or physical custody of the child is guilty of a felony
3 and, subject to fine and imprisonment as provided herein.

4 (b) Any person who knowingly receives, accepts or offers to
5 accept money, property, service or other thing of value to locate,
6 provide or procure a minor child for any purpose which entails a
7 transfer of the legal or physical custody of the child, is guilty
8 of a felony and, subject to fine and imprisonment as provided
9 herein.

10 © Any person who violates the provisions of this section is
11 guilty of a felony and, upon conviction thereof, shall be
12 imprisoned in a state correctional facility not less than one year
13 nor more than ten years or confined in jail not more than one year
14 and fined not less than \$2,000 nor more than \$10,000.

15 (d) A child whose parent, guardian or custodian has sold or
16 attempted to sell the child in violation of the provisions of this
17 article may be deemed an abused child as defined by section three,
18 article one, chapter forty-nine of this code. The court may place
19 the child in the custody of the Department of Health and Human
20 Resources or with a responsible person as the best interests of the
21 child dictate.

22 (e) Under no circumstances may this section be construed as
23 superseding or in any way affecting the provisions of section 803,
24 article twenty-two, chapter forty-eight of this code dealing with

1 adoption and prohibiting the purchase or sale of a child.

2 The provisions of this section shall govern and control as to
3 any offenses committed in violation of this section on and after
4 the effective date of this section, and the provisions of section
5 803, article twenty-two, chapter forty-eight of this code, shall
6 govern and control as to any offenses committed in violation of
7 this section prior to the effective date of this section, with like
8 effect as to those prior offenses as if this section had not been
9 enacted.

NOTE: The purpose of this bill is to create a separate criminal offense for the sale or purchase of a child from the offense contained in Article 22, Chapter 48 of the Code relating to adoptions. It creates a felony offense after the effective date of this section.

This section is new; therefore, it has been completely underscored.