

Senate Bill No. 352

(By Senators Edgell, Tucker, Chafin, Fanning, Jenkins, Minard,
Williams, Wills, Barnes, Boley, Nohe, Foster, Prezioso, Snyder,
Kessler (Mr. President), Unger, Stollings, Yost and Sypolt)

**Interim
Bill**

[Introduced January 19, 2012; referred to the Committee on the
Judiciary.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §61-2-31, relating to
establishing criminal penalties for failure to report a
missing child by the child's custodian.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new section, designated §61-2-31, to read as
follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-31. Failure to report missing child by custodian.

(a) A custodian of a child who knowingly fails to report to a
law-enforcement agency the disappearance of a child twelve years or
older in his or her custody within twenty-four hours of the time he
or she has knowledge that the child is missing is guilty of a
misdemeanor and, upon conviction thereof, shall be fined not less

1 than \$100 nor more than \$500 or confined in jail for not more than
2 one year, or both fined and confined.

3 (b) A custodian of a child who knowingly fails to report to a
4 law-enforcement agency the disappearance of a child eleven years or
5 younger in his or her custody within twenty-four hours of the time
6 he or she has knowledge that the child is missing is guilty of a
7 felony and, upon conviction thereof, shall be fined not more than
8 \$3,000 and committed to the custody of the Division of Corrections
9 for not less than one nor more than five years.

10 (c) A custodian of a child who knowingly fails to report to a
11 law-enforcement agency the disappearance of a child in his or her
12 custody within twelve hours of the time he or she has knowledge of
13 the disappearance of the child and that the child's disappearance
14 creates a substantial risk of serious bodily injury or death to the
15 child is guilty of a felony and, upon conviction thereof, shall be
16 fined not more than \$3,000 and committed to the custody of the
17 Division of Corrections for not less than one nor more than three
18 years.

19 (d) A custodian of a child who knowingly fails to report to a
20 law-enforcement agency the disappearance of a child in his or her
21 custody within twenty-four hours of the time he or she has
22 knowledge that the child is missing, and the failure to report is
23 for the purpose of concealing a criminal act or other criminal
24 activity, is guilty of a felony and, upon conviction thereof, shall

1 be fined not less than \$1,000 nor more than \$5,000 and committed to
2 the custody of the Division of Corrections for not less than three
3 nor more than thirteen years.

4 (e) For purposes of this section, the meaning of the word
5 "custodian" is as defined pursuant to section one, article eight-d
6 of this chapter. No provision of this section is intended to
7 limit, modify or abrogate any duty of a caregiver otherwise
8 required pursuant to this code. It is the intention of the
9 Legislature in enacting this section that all criminal offenses and
10 penalties provided in this section are in addition to any other
11 offenses and penalties provided by law.

NOTE: The purpose of this bill is to criminalize the failure
of a custodian to report to law-enforcement officials a missing
child. The penalties vary based on age and circumstances with
enhanced penalties for failure to report when the custodian knows
the child's disappearance creates a risk or harm or death to the
child, or when a custodian fails to report the missing child to
conceal criminal conduct.

This section is new; therefore, strike-throughs and
underscoring have been omitted.

This bill was recommended for introduction and passage during
the 2012 Regular Session of the Legislature by the Select Committee
on Children, Juveniles and Other Issues.