

1 **H. B. 4004**

2
3 (By Delegates L. Phillips, Rowan, Fleischauer,
4 Border, Lawrence, Guthrie, P. Smith,
5 Marshall and Poore)

6 [Introduced January 8, 2014; referred to the
7 Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

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10 A BILL to amend and reenact §61-8D-3 of the Code of West Virginia,
11 1931, as amended, relating to criminal offenses for child
12 abuse by a parent, guardian or custodian; creating a
13 misdemeanor offense for child abuse by a parent, guardian or
14 custodian which creates a substantial threat of bodily injury;
15 establishing a misdemeanor penalty for a first offense and
16 requiring those convicted to complete a parenting plan and
17 parenting education class; increasing penalties for a second
18 conviction; making a conviction for a third or subsequent
19 offense a felony; establishing criminal penalties; and
20 providing that a parent, guardian or custodian convicted of a
21 misdemeanor is not required to register as a person convicted
22 of child abuse or neglect.

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

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

1 **ARTICLE 8D. CHILD ABUSE.**

2 **§61-8D-3. Child abuse resulting in injury; child abuse creating**
3 **risk of injury; criminal penalties.**

4 (a) If any parent, guardian or custodian shall abuse a child
5 and by such abuse cause such child bodily injury as such term is
6 defined in section one, article eight-b of this chapter, then such
7 parent, guardian or custodian shall be guilty of a felony and, upon
8 conviction thereof, shall be fined not less than \$100 nor more than
9 \$1,000 and committed to the custody of the Division of Corrections
10 for not less than one nor more than five years, or in the
11 discretion of the court, be confined in ~~the county or regional~~ jail
12 for not more than one year.

13 (b) If any parent, guardian or custodian shall abuse a child
14 and by such abuse cause said child serious bodily injury as such
15 term is defined in section one, article eight-b of this chapter,
16 then such parent, guardian or custodian shall be guilty of a felony
17 and, upon conviction thereof, shall be fined not less than \$1,000
18 nor more than \$5,000 and committed to the custody of the Division
19 of Corrections not less than two nor more than ten years.

20 (c) Any ~~person~~ parent, guardian or custodian who abuses a
21 child and by the abuse creates a substantial risk of death or
22 serious bodily injury, or of death as that term is defined in
23 section one, article eight-b of this chapter, to the child is
24 guilty of a felony and, upon conviction thereof, shall be fined not

1 more than \$3,000 and confined to the custody of the Division of
2 Corrections for not less than one nor more than five years.

3 (d) Any parent, guardian or custodian who abuses a child and
4 by the abuse creates a substantial risk of bodily injury, as that
5 term is defined in section one, article eight-b of this chapter, to
6 the child is guilty of a misdemeanor and, upon conviction thereof,
7 for a first offense, shall be fined not less than \$100 nor more
8 than \$1,000 or confined in jail not less than thirty days nor more
9 than six months, or both fined and confined. Any person convicted
10 of a first offense under this subsection shall also be required to
11 complete a parenting plan and parenting education class. For a
12 second offense under this subsection, the parent, guardian or
13 custodian is guilty of a misdemeanor and, upon conviction thereof,
14 shall be fined not more than \$1,500 and confined in jail not less
15 than thirty days nor more than one year. Any person convicted of a
16 third or subsequent offense under this subsection is guilty of a
17 felony and, upon conviction thereof, shall be fined not more than
18 \$2,000 and imprisoned in a state correctional facility not less
19 than one year nor more than three years. Any person convicted of
20 a misdemeanor offense under this subsection is not required to
21 register pursuant to article thirteen, chapter fifteen of this
22 code.

NOTE: The purpose of this bill is to create a misdemeanor offense for child abuse by a parent, guardian or custodian which creates a substantial threat of bodily injury. The bill establishes a misdemeanor penalty for a first offense and requires those convicted to complete a parenting plan and parenting education class. The bill increases penalties for a second conviction. The bill makes a conviction for a third or subsequent offense a felony. The bill establishes criminal penalties. The bill also provides that parents, guardians or custodians convicted of a misdemeanor are not required to register as person convicted of child abuse or neglect.

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

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the House Select Committee for Crimes Against Children.