

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 206

BY SENATOR WELD

[Originating in the Committee on the Judiciary;

reported on March 6, 2017]

1 A BILL to amend and reenact §61-2-14a of the Code of West Virginia, 1931, as amended, relating
2 generally to the criminal offense of kidnapping; making unlawful the taking, gaining
3 custody of, confining, concealing or restraining of another person by force or threat of
4 force, duress, fraud, deceit, inveiglement, misrepresentation or enticement; and providing
5 penalties.

Be it enacted by the Legislature of West Virginia:

1 That §61-2-14a of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-14a. Kidnapping; penalty.

1 (a) Any person who unlawfully ~~restrains~~ takes custody of, conceals, confines or restrains
2 another person against his or her will by means of force, threat of force, duress, fraud, deceit,
3 inveiglement, misrepresentation or enticement ~~another person~~ with the intent:

4 (1) To hold another person for ransom, reward or concession;

5 (2) To transport another person with the intent to inflict bodily injury or to terrorize the
6 victim or another person; or

7 (3) To use another person as a shield or hostage, ~~shall be~~ is guilty of a felony and, upon
8 conviction, shall be punished by confinement by the Division of Corrections for life, and,
9 notwithstanding the provisions of article twelve, chapter sixty-two of this code, ~~shall~~ is not be
10 eligible for parole.

11 (b) The following exceptions ~~shall~~ apply to the penalty contained in subsection (a):

12 (1) A jury may, in their discretion, recommend mercy, and if ~~such~~ the recommendation is
13 added to their verdict, ~~such~~ the person ~~shall be~~ is eligible for parole in accordance with the
14 provisions of article twelve, chapter sixty-two of this code;

15 (2) If ~~such~~ the person pleads guilty, the court may, in its discretion, provide that
16 ~~such~~ the person ~~shall be~~ is eligible for parole in accordance with the provisions of article twelve,

17 chapter sixty-two of this code and, if the court so provides, ~~such~~ the person ~~shall be~~ is eligible for
18 parole in accordance with the provisions of said article in the same manner and with like effect as
19 if ~~such~~ the person had been found guilty by the verdict of a jury and the jury had recommended
20 mercy;

21 (3) In all cases where the person against whom the offense is committed is returned, or is
22 permitted to return, alive, without bodily harm having been inflicted upon him, but after ransom,
23 money or other thing, or any concession or advantage of any sort has been paid or yielded, the
24 punishment shall be confinement by the Division of Corrections for a definite term of years not
25 less than twenty nor more than fifty; or

26 (4) In all cases where the person against whom the offense is committed is returned, or is
27 permitted to return, alive, without bodily harm having been inflicted upon him or her, but without
28 ransom, money or other thing, or any concession or advantage of any sort having been paid or
29 yielded, the punishment shall be confinement by the Division of Corrections for a definite term of
30 years not less than ten nor more than thirty.

31 (c) For purposes of this section, "to use another as a hostage" means to seize or detain
32 and threaten to kill or injure another in order to compel a third person or a governmental
33 organization to do, or abstain from doing, any legal act as an explicit or implicit condition for the
34 release of the person detained.

35 (d) Notwithstanding any other provision of this section, if a violation of this section is
36 committed by a family member of a minor abducted or held hostage and he or she is not motivated
37 by monetary purposes, but rather intends to conceal, take, remove the child or refuse to return
38 the child to his or her lawful guardian in the belief, mistaken or not, that it is in the child's interest
39 to do so, he or she ~~shall be~~ is guilty of a felony and, upon conviction thereof, be confined in a
40 correctional facility for not less than one nor more than five years or fined not more than \$1,000,
41 or both confined and fined.

42 (e) Notwithstanding any provision of this code to the contrary, where a law-enforcement
43 agency of this state or a political subdivision thereof receives a complaint that a violation of the
44 provisions of this section has occurred, the receiving law-enforcement agency shall notify any
45 other law-enforcement agency with jurisdiction over the offense, including, but not limited to, the
46 State Police and each agency so notified, shall cooperate in the investigation forthwith.

47 (f) It ~~shall be~~ is a defense to a violation of subsection (d) of this section, that the accused's
48 action was necessary to preserve the welfare of the minor child and the accused promptly
49 reported his or her actions to a person with lawful custody of the minor, to law enforcement or to
50 the Child Protective Services Division of the Department of Health and Human Resources.