

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4119

**FISCAL
NOTE**

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AND D. KELLY

[Introduced January 13, 2020; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §61-2-10c, relating to establishing the crime of torture; establishing criminal
 3 penalties; and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-10c. Torture.

1 (a) A person who, with the intent to cause cruel or extreme physical or mental pain and
 2 suffering, inflicts serious bodily injury or severe mental pain or suffering upon another person
 3 within his or her custody or physical control commits the crime of torture is guilty of a felony and,
 4 upon conviction, shall be confined in a state correctional facility for not less than 15 years nor
 5 more than for life.

6 (b) As used in this section:

7 (1) "Cruel" means brutal, inhuman, sadistic, or that which torments.

8 (2) "Custody or physical control" means the forcible restriction of a person's movements
 9 or forcible confinement of the person so as to interfere with that person's liberty, without that
 10 person's consent or without lawful authority.

11 (3) "Serious bodily injury" means either of the following:

12 (A) Bodily injury that creates a substantial risk of death, which causes prolonged
 13 disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of
 14 any bodily organ; or

15 (B) Bodily injury that creates one or more of the following conditions:

16 (i) Serious impairment of a body function substantial physical pain;

17 (ii) Permanent impairment of physical condition;

18 (iii) Internal injury;

19 (iv) Poisoning;

20 (v) Deprivation of water and food;

- 21 (vi) Serious burns or scalding; or
22 (vii) Severe cuts, fractures, life threatening or multiple puncture wounds.
23 (4) "Severe mental pain or suffering" means a mental injury that results in a substantial
24 alteration of mental functioning that is manifested in a visibly demonstrable manner caused by or
25 resulting from any of the following:
26 (A) The intentional infliction or threatened infliction of great bodily injury;
27 (B) The administration or application, or threatened administration or application, of mind-
28 altering substances or other procedures calculated to disrupt the senses or the personality;
29 (C) The threat of imminent death; or
30 (D) The threat that another person will imminently be subjected to death, great bodily
31 injury, or the administration or application of mind-altering substances or other procedures
32 calculated to disrupt the senses or personality.
33 (c) Proof that a victim suffered pain is not an element of the crime under this section.
34 (d) A conviction or sentence under this section does not preclude a conviction or sentence
35 for a violation of any other law of this state arising from the same transaction.

NOTE: The purpose of this bill is to establish the crime of torture. The bill establishes criminal penalties. The bill defines terms.

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