

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 504

By Senators Clements, Grady, Woelfel, and Deeds

[Passed March 6, 2024; in effect 90 days from

passage]

1 AN ACT to amend and reenact §61-8B-11b of the Code of West Virginia, 1931, as amended,
2 relating to felony offense involving sexual intercourse, intrusion, or contact with a student;
3 clarifying that the offense applies to a school resource officer; clarifying that the offense
4 applies to a student of any private or public elementary or secondary school; clarifying the
5 definition of private elementary or secondary school; providing an exception for certain
6 secondary school students participating in wage-earning registered youth apprenticeship
7 programs; and creating criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-11b. Prohibiting sexual intercourse, sexual intrusion, or sexual contact, against students by school employees; exception; penalties.

1 (a) Any teacher, principal, counselor, coach, other employee, volunteer, or school resource
2 officer of any private or public elementary or secondary school who engages in sexual intercourse,
3 sexual intrusion, or sexual contact, as those terms are defined in §61-8B-1 of this code, with any
4 student enrolled in any private or public elementary or secondary school regardless of the age of
5 the student is guilty of a felony and upon conviction thereof, shall be imprisoned in a state
6 correctional facility for not less than one nor more than five years or fined not more than \$5,000 or
7 both imprisoned and fined. The fact that the student may have consented to the act or that the act
8 did not occur on school property or during a school function is not a defense.

9 (b) For purposes of this section:

10 (1) A private elementary or secondary school means any private school or other entity
11 authorized to provide an elementary or secondary education to students who are exempt from
12 compulsory school attendance pursuant to §18-8-1 of this code; and

13 (2) A public elementary or secondary school means any school under the general
14 supervision of the West Virginia Board of Education pursuant to section two, article XII of the West
15 Virginia Constitution.

16 (c) Any student under the age of 18 years currently enrolled in a secondary school and
17 engaged in a wage-earning registered youth apprenticeship program, as authorized under §18A-
18 3-1 of this code or approved by the state board, may not be prosecuted for a violation of subsection
19 (a) of this section, including those secondary school students under the age of 18 years
20 participating in the Grow Your Own teacher pathway or any Career Technical Education school
21 service personnel training programs.

22 (d) This is a separate and distinct criminal offense from any other applicable offense under
23 this code. The penalties set forth in this section are in addition to any other penalties for any other
24 applicable offense.

25 (e) A final conviction under this section shall cause the permanent forfeiture of any
26 teaching or other certificate issued pursuant to §18A-3-2a of this code.