
PART FIVE — GENERAL OFFENSES CODE

ARTICLE 525 Minors

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CROSS REFERENCES

See sectional histories for similar State law.
Delinquent child defined—see WV Code 49-1-4
Jurisdiction of municipal court—see WV Code 49-5-1(b)
Contributing to delinquency of a minor—see WV Code 49-7-7 *et seq.*

525.01 Contributing to delinquency or neglect of a minor.

No person shall by any act or omission contribute to, encourage or tend to cause the delinquency or neglect of any child, including, but not limited to, aiding or encouraging any such child to habitually or continually refuse to respond, without just cause, to the lawful supervision of such child's parent, guardian or custodian or to be habitually absent from school without just cause. (WV Code 49-7-7.)

525.02 Cruelty to children.

No person shall cruelly ill treat, abuse or inflict unnecessary cruel punishment upon, any infant or minor child, shall willfully abandon or neglect the minor child.
In addition to any penalty provided under this section and any restitution which may be ordered by the court, the court may order any person convicted under the provisions of this section to pay all or any portion of the cost of medical, psychological or psychiatric treatment of the victim, the need for which results from the act or acts for which the person is convicted, whether or not the victim is considered to have sustained bodily injury. (WV Code 61-8-24.)

525.03 Parental liability for acts of children.

The custodial parent or parents of any minor shall be personally liable in an amount not to exceed that specified in West Virginia Code 55-7A-2 for damages which are proximate result of any one or a combination of the following acts of such minor:

- (a) The malicious and willful injury to the person of another; or
- (b) The malicious and willful injury or damage to the property of another, whether such property be real, personal, or mixed; or
- (c) The malicious and willful setting fire to a forest or wooded area belonging to another; or
- (d) The willful taking, stealing and carrying away of the property of another, with the intent to permanently deprive the owner of possession.

For purposes of this section, "custodial parent or parents" means the parent or parents with whom the minor is living, or a divorced or separated parent who does not have legal custody but who is exercising supervisory control over the minor at the time of the minor's act.

Persons entitled to recover damages under this section shall include, but are not limited to, the State, any municipal corporation, county commission and board of education, or other political subdivision of this State or any person or organization of any kind or character. The action may be brought in magistrate or other court of competent jurisdiction. Recovery hereunder shall be limited to the actual damages, based upon direct out-of-pocket loss, taxable court costs, and

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interest from date of judgment. The right of action and remedy granted herein shall be in addition to and not exclusive of any rights of action and remedies therefor against a parent or parents for the tortuous acts of his or their children heretofore existing under the provisions of any law, statutory or otherwise, or now so existing independently of the provisions of this section. (WV Code 55-7A-2.)

525.04 Abandoned airtight containers.

No person shall abandon any refrigerator or food freezer appliance or other airtight appliance having a height or length greater than two feet without first removing all entry doors therefrom. (WV Code 61-2-26.)

525.05 Curfew.

- (a) Definitions. For the purpose of this section, the following terms, phrases, words and their derivation have the meaning given herein:
- (1) "Minor" means any person under the age of eighteen years.
 - (2) "Parent" means any person having legal custody of a minor:
 - A. As a natural or adoptive parent,
 - B. As a legal guardian,
 - C. As a person who stands in loco parentis to said minor, or
 - D. As a person to whom legal custody of a minor has been given by order of a court or competent jurisdiction.
 - (3) "Public place" means any street, highway, alley or right of way to include sidewalks; any park, playground, ground, place or building open to the public; any privately or owned place of amusement, entertainment or public accommodation, to include parking lots and other areas adjacent thereto; and any vacant lot or land without the consent of the owner, any private property.
 - (4) "Time of night" referred to herein, is based upon the prevailing standards of time, generally observed at that hour by the public in the Municipality, and prima facie the time when observed in the Municipal Administrative Offices and Police Station.
 - (5) "Year of age" continues from one birthday, such as the seventeenth, to but not including the day of the next, such as the eighteenth birthday, making it clear that seventeen or less years of age is herein treated as equivalent to the phrase "under eighteen years of age."
- (b) Curfew hours.
- (1) No person seventeen or less years of age shall be in or on any public place during the period ending at 6:00 a.m. and beginning:
 - A. At 10:00 p.m. for minors twelve or less years of age;
 - B. At 11:00 p.m. for minors thirteen through seventeen years of age; and unruliness and shall be cited to the County Prosecutor's Office for processing and prosecution of said violation.
 - (2) Any minor violating the provisions of this section shall be guilty of an act of unruliness and shall be cited to the County Prosecutor's Office for processing and prosecution of said violation.
- (c) Exceptions. In the following exceptional cases, a minor in or upon a public place during the nocturnal hours for which subsection (b) hereof is intended to provide the maximum limits of regulation shall not be considered in violation of this section:
- (1) When accompanied by a parent of such minor.
 - (2) When accompanied by an adult authorized by a parent of such minor to take the parent's place in accompanying the minor for a designated period of time and

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- purpose within a specified area.
- (3) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right to assembly. Such minor shall evidence the bona fides of such exercise by first delivering to the Police Department of the Corporation, a written communication signed by such minor and countersigned if practicable by a parent of such minor with their home address and telephone number, addressed to the Police Chief specifying when, where and for what constitutionally protected and lawful purpose the minor will be in a public place at night during the hours when this section is otherwise applicable to the minor, in the exercise of the juvenile's First Amendment rights.
- (4) In cases of reasonable necessity, but only after such minor's parent has communicated to the Police Department personnel the facts establishing such reasonable necessity and designating the minor's proposed location, route, purpose, and the period of time the minor will be in or upon a public place.
- (5) When the minor is on the sidewalk of the place where such minor resides directly abutting said residence's property, or on the sidewalk of either next door neighbor who shall not be communicating an objection to said presence to a police officer
- (6) When returning home by a directed route from, and within thirty minutes of, termination of a school activity, or an activity of a religious or other voluntary association, of which prior notice, indicating the place and probable time of termination, has been given in writing to, and duly filed for immediate reference by, the Chief of Police or the officer assigned to him on duty at the Police station.
- (7) When authorized by special permit from the Mayor, or Chief of Police, carried on the person of the minor, when necessary and lawful nighttime activities of a minor may be inadequately provided for by other provisions of this section. A written application shall be given to the Mayor, signed by a minor, and by a parent of such minor stating:
- A. The name, age and address of such minor,
 - B. The name, address and both home and work telephone number of a parent thereof;
 - C. The height, weight, sex, color of eyes and hair and other physical characteristics of such minor;
 - D. The necessity which requires such minor be in or upon a public place during the curfew hours otherwise applicable; and
 - E. The street or route and the beginning and ending of the period of time involved by date and hour.

- The Mayor may grant a permit in writing for the use by the minor of these public places at such hours as in the Mayor's or Chief's opinion may reasonably be necessary. In an emergency, this may be handled by telephone, or other effective communication, with corresponding record being made contemporaneously, either to the Mayor, or if unavailable to the Police Chief.
- (8) When authorized, by resolution or a collective permit issued by the Mayor, in other similar cases or reasonable necessity, similarly handled but adapted to necessary nighttime activities of more minors than can readily be dealt with on an individual special permit basis. Normally such resolution or collective permit by the Mayor permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through other agencies such as schools, and shall define the activity, the scope of the use of public places permitted, and

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the period of time involved not to extend more than thirty minutes beyond the time for termination of such activity.

- (9) When the minor is carrying a certified card of employment, briefly identifying employment and his hours of employment, and said minor is in a public place as a necessity for said employment, or is going directly to or is returning directly to his home from said employment.

(d) Parental Responsibility.

- (1) No parent having legal custody of a minor shall knowingly permit or by ineffective control allow such minor to be in or upon any public place under circumstances not constituting an exception to, or under circumstances otherwise beyond the scope of this section for the times of permissible juvenile presence on the public premises of the Town. "Knowingly" includes knowledge which a parent should reasonably be expected to have concerning whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall, a fortiori, be no defense that a parent was completely indifferent to, or unaware of, the activities or conduct or whereabouts of such a minor whose actions constitute a violation of this Ordinance.
- (2) A parent who violates this section is guilty of a misdemeanor and may be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). (WV Code 8-11-1 *et seq.*) (Ord. 94-02. Passed 5-16-1994.)

525.99 Penalty.

(EDITOR'S NOTE: See Section 501.99 for General Offenses Code penalty if no specific penalty is provided.)

Whoever violates Section 524-04 shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than thirty days, or both.