

H. B. 2947

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(By Delegate L. Phillips)
[Introduced January 31, 2011; referred to the
Committee on the Judiciary then Finance.]

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §61-3C-14c, relating
12 to making it a crime to put certain types of invasive software
13 on mobile devices; providing penalties; and providing
14 exceptions.

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

16 That the Code of West Virginia, 1931, as amended, be amended
17 by adding thereto a new section, designated §61-3C-14c, to read as
18 follows:

19 **ARTICLE 3C. WEST VIRGINIA COMPUTER CRIME AND ABUSE ACT.**

20 **§61-3C-14c. Invasive computer software on mobile devices;**
21 **exceptions; penalties.**

22 (a) It is unlawful for any person to cause software, spyware,
23 a virus, a trojan or similar programs to be installed in the mobile
24 phone, personal digital assistant or other mobile device of another
25 person without that person's knowledge and consent which program
26 allows or causes transmission of voice or nonvoice content,
27 conversation, text message, electronic mail or the location of the

1 non-consenting person's computer, mobile phone or digital assistant
2 or other mobile device at any particular time. The provisions of
3 this subsection do not apply to:

4 (1) Global positioning system software installed in mobile
5 devices by the device's manufacturer;

6 (2) Installation, modification or maintenance of software or
7 programs by a telecommunications service provider on a mobile,
8 personal digital assistant, or other mobile device owned or leased
9 by its customer; or

10 (3) A parent of a minor child or an adult acting in that
11 capacity.

12 (b) Any person who violates this section is guilty of a
13 misdemeanor and, upon conviction thereof, shall be fined not more
14 than \$500, or confined in jail not more than six months, or both
15 fined and confined.

NOTE: The purpose of this bill is to make it a crime to put certain types of invasive software on mobile devices not belonging to their owners. The bill provides for penalties and exceptions.

This section is new; therefore, it has been completely underscored.