

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 390

(By Senators Kessler (Acting President), Snyder, McCabe,
Stollings, Beach, Klempa, Minard, Yost and Wells)

[Originating in the Committee on the Judiciary;
reported February 16, 2011.]

A BILL to amend and reenact §61-3C-12 of the Code of West Virginia, 1931, as amended, relating to adding web-enabled mobile devices to crime of invasion of privacy by computer; adding definitions and exceptions; and providing a criminal penalty.

Be it enacted by the Legislature of West Virginia:

That §61-3C-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

**§61-3C-12. Invasion of privacy by computer or web-enabled
mobile device.**

1 (a) Except as otherwise specifically provided in this
2 section, Any person who knowingly, willfully and without
3 authorization accesses a computer, or computer network, or
4 web-enabled mobile device and examines any employment,
5 salary, credit or any other financial or personal information
6 relating to any other person, after the time at which the
7 offender knows or reasonably should know that he or she is
8 without authorization to view the information displayed,
9 ~~shall be~~ is guilty of a misdemeanor, and, upon conviction
10 thereof, shall be fined not more than \$500 or confined in the
11 county jail for not more than six months, or both.

12 (b) For the purposes of this subsection, “personal informa-
13 tion” includes any e-mail account, social networking
14 account, or any personal computer file. For the purposes of
15 this subsection, “web-enabled mobile device” includes any
16 cell phone, text-messaging device, or mobile device that can
17 access the Internet.

18 (c) The provisions of this section do not apply to:

19 (1) The parent or guardian of a minor child accessing a
20 computer, computer network, or web-enabled mobile device
21 solely for purposes of supervising his or her minor child or
22 children or minor child or children in his or her charge.

23 (2) An employer accessing a computer network utilized
24 by, or a computer or web-enabled mobile device owned or
25 provided by the employer solely for purposes of supervising
26 the work activity of an employee.

(NOTE: The purpose of this bill is to add web-enabled mobile devices to the crime of invasion of personal privacy on a computer, and to create exemptions for parents and employers.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)