

1 **ENROLLED**

2 **Senate Bill No. 596**

3 (BY SENATORS PALUMBO, JENKINS, BEACH AND KLEMPA)

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5 [Passed March 10, 2012; in effect ninety days from passage.]
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10 AN ACT to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §61-8C-3a, relating
12 to prohibiting child erotica; creating a misdemeanor offense
13 for producing, possessing, displaying or distributing child
14 erotica; providing criminal penalty; and defining terms.

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 §61-8C-3a, to read as
18 follows:

19 **ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.**

20 **§61-8C-3a. Prohibiting child erotica; penalties.**

21 (a) Any person age eighteen or over who knowingly and
22 intentionally produces, possesses, displays or distributes, in any
23 form, any visual portrayals of minors who are partially clothed,

1 where the visual portrayals are: (1) Unrelated to the sale of a
2 commercially available legal product; and (2) used for purely
3 prurient purposes, is guilty of a misdemeanor and, upon conviction
4 thereof, shall be confined in jail for not more than one year or
5 fined not more than \$1,000, or both confined and fined.

6 (b) As used in this section only:

7 (1) "Purely prurient purposes" means for the specific purpose
8 of sexual gratification or sexual arousal from viewing the visual
9 portrayals prohibited by this section; and

10 (2) "Commercially available" means for sale to the general
11 public.

12 (3) A "minor" is a child under the age of sixteen years, or a
13 person who is sixteen years of age or older but less than eighteen
14 years old and who is mentally defective or mentally incapacitated.