

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2550**

4
5 (By Delegates Hunt, Craig, Lane, Barill, Miley, Paxton,
6 Faircloth, Hamilton, Smith, P., Perry and Moore)

7 (Originating in the Committee on the Judiciary)

8 (March 27, 2013)

9
10 A BILL to amend and reenact §61-8C-3 of the Code of West Virginia,
11 1931, as amended, relating to crimes; distribution and
12 exhibiting of material depicting minors in sexually explicit
13 conduct; creating an enhanced felony offense and penalty for
14 possessing, receiving or distributing more than five hundred
15 separate files and materials containing digital, photographed
16 or video images depicting minors in sexually explicit conduct;
17 providing enhanced criminal penalties when the offender was
18 previously convicted of a sexual offense when the victim was
19 a child; and establishing criminal penalties for second or
20 subsequent violations.

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

22 That §61-8C-3 of the Code of West Virginia, 1931, as amended,
23 be amended and reenacted to read as follows:

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

25 **§61-8C-3. Distribution and exhibiting of material depicting minors**
26 **engaged in sexually explicit conduct prohibited;**

1 **penalty.**

2 (a) Any person who, with knowledge, sends or causes to be
3 sent, or distributes, exhibits, possesses or displays, or
4 transports any material visually portraying a minor engaged in any
5 sexually explicit conduct is guilty of a felony and, upon
6 conviction thereof, shall be imprisoned in ~~the penitentiary,~~ a
7 correctional facility, not more than two years, and fined not more
8 than \$2,000, or both fined and imprisoned.

9 (b) Any person who, with knowledge, sends or causes to be
10 sent, or distributes, exhibits, possesses or displays, or
11 transports more than five hundred separate files or materials
12 containing digital, photographic or video images visually
13 portraying a minor engaged in any sexually explicit conduct is
14 guilty of a felony and, upon conviction thereof, shall be
15 imprisoned in a correctional facility, not less than eighteen
16 months nor more than five years, and fined not more than \$10,000,
17 or both fined and imprisoned.

18 (c) Any person who violates the provisions of this section and
19 has been previously convicted of a felony for a sexual offense
20 committed against a victim who was under the age of eighteen at the
21 time of offense shall be imprisoned in a correctional facility, not
22 less than two nor more than ten years, and fined not more than
23 \$10,000, or both fined and imprisoned.

24 (d) Any person convicted of a second or subsequent violation
25 or the provisions of this section is guilty of a felony, and upon
26 conviction, shall be imprisoned in a correctional facility, not

1 less than two nor more than ten years, and fined not more than
2 \$10,000, or both fined and imprisoned.