

COMMITTEE SUBSTITUTE

FOR

H. B. 2550

(BY DELEGATE(S) HUNT, CRAIG, LANE, BARILL, MILEY, PAXTON,
FAIRCLOTH, HAMILTON, SMITH, P., PERRY AND MOORE)

(Originating in the Committee on the Judiciary)

(March 27, 2013)

A BILL to amend and reenact §61-8C-3 of the Code of West Virginia, 1931, as amended, relating to crimes; distribution and exhibiting of material depicting minors in sexually explicit conduct; creating an enhanced felony offense and penalty for possessing, receiving or distributing more than five hundred separate files and materials containing digital, photographed or video images depicting minors in sexually explicit conduct; providing enhanced criminal penalties when the offender was previously convicted of a sexual offense

when the victim was a child; and establishing criminal penalties for second or subsequent violations.

Be it enacted by the Legislature of West Virginia:

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

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

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

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

8 (b) Any person who, with knowledge, sends or causes to be
9 sent, or distributes, exhibits, possesses or displays, or transports
10 more than five hundred separate files or materials containing
11 digital, photographic or video images visually portraying a minor
12 engaged in any sexually explicit conduct is guilty of a felony

13 and, upon conviction thereof, shall be imprisoned in a correc-
14 tional facility, not less than eighteen months nor more than five
15 years, and fined not more than \$10,000, or both fined and
16 imprisoned.

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

23 (d) Any person convicted of a second or subsequent viola-
24 tion or the provisions of this section is guilty of a felony, and
25 upon conviction, shall be imprisoned in a correctional facility,
26 not less than two nor more than ten years, and fined not more
27 than \$10,000, or both fined and imprisoned.

