

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2366**

4 (By Delegates Rowan, L. Phillips, Miller, Sobonya
5 P. Smith, Border, Arvon, Storch and Frich)

6
7 (Originating in the Committee on the Judiciary)

8 [February 18, 2015]

9
10 A BILL to amend and reenact §61-3C-14b of the Code of West Virginia, 1931, as amended; and to
11 amend and reenact §61-8A-4 of said code, all relating generally to the solicitation of minors;
12 clarifying the law pertaining to the use of a computer to solicit a minor; deleting reference
13 to offenses defined in the Uniform Controlled Substances Act; defining a new felony offense
14 of soliciting a minor through use of a computer and traveling to engage in prohibited sexual
15 activity with the minor; setting a new criminal penalty; and prohibiting the use or distribution
16 of obscene materials by an adult to solicit or seduce a minor, or a person believed to be a
17 minor, for unlawful sexual activity.

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

19 That §61-3C-14b of the Code of West Virginia, 1931, as amended, be amended and
20 reenacted; and that §61-8A-4 of said code be amended and reenacted, all to read as follows:

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

22 **§61-3C-14b. Soliciting, etc. a minor via computer; soliciting a minor and traveling to engage**
23 **the minor in prohibited sexual activity; penalties.**

24 (a) Any person over the age of eighteen, who knowingly uses a computer to solicit, entice,

1 seduce or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at least
2 four years younger than the person using the computer or a person he or she believes to be such a
3 minor, ~~to commit~~ in order to engage in any illegal act proscribed by the provisions of article eight,
4 eight-b, eight-c or eight-d of this chapter, or any felony offense under section four hundred one,
5 article four, chapter sixty-a of this code, is guilty of a felony and, upon conviction thereof, shall be
6 fined not more than \$5,000 or imprisoned in a state correctional facility not less than two nor more
7 than ten years, or both.

8 (b) Any person who uses a computer in the manner proscribed by subsection (a) of this
9 section and who also travels to meet with the individual, known or believed to be a minor at least
10 four years younger than the person using the computer, with the intent to engage in any sexual
11 activity or conduct with a minor that is prohibited by law, is guilty of a felony and shall be fined not
12 more than \$25,000 or imprisoned in a state correctional facility not less than five nor more than thirty
13 years, or both: *Provided*, That subsection (a) shall be deemed a lesser included offense to this
14 subsection.

15 **ARTICLE 8A. PREPARATION, DISTRIBUTION OR EXHIBITION OF OBSCENE**
16 **MATTER TO MINORS.**

17 **§61-8A-4. Use of obscene matter with intent to seduce minor.**

18 Any adult, having knowledge of the character of the matter, who knows or believes that a
19 person is a minor and distributes, offers to distribute or displays by any means any obscene matter
20 to the person who is known or believed to be a minor, and such distribution, offer to distribute, or
21 display is undertaken with the intent or for the purpose of facilitating the sexual seduction or abuse
22 of the minor, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$25,000,
23 or ~~confined~~ imprisoned in a state correctional facility for not more than five years, or both. For a

1 second and each subsequent commission of such offense, such person is guilty of a felony and, upon
2 conviction, shall be fined not more than \$50,000 or ~~confined~~ imprisoned in a state correctional
3 facility for not more than ten years, or both.

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