

COMMITTEE SUBSTITUTE

FOR

H. B. 2366

(BY DELEGATE(S) ROWAN, L. PHILLIPS,
MILLER, SOBONYA, P. SMITH, BORDER,
ARVON AND STORCH)

(Originating in the Committee on the Judiciary)
[February 18, 2015]

A BILL to amend and reenact §61-3C-14b of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8A-4 of said code, all relating generally to the solicitation of minors; clarifying the law pertaining to the use of a computer to solicit a minor; deleting reference to offenses defined in the Uniform Controlled Substances Act; defining a new felony offense of soliciting a minor through use of a computer and traveling to

engage in prohibited sexual activity with the minor; setting a new criminal penalty; and prohibiting the use or distribution of obscene materials by an adult to solicit or seduce a minor, or a person believed to be a minor, for unlawful sexual activity.

Be it enacted by the Legislature of West Virginia:

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

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

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

1 (a) Any person over the age of eighteen, who knowingly
2 uses a computer to solicit, entice, seduce or lure, or attempt to
3 solicit, entice, seduce or lure, a minor known or believed to be
4 at least four years younger than the person using the computer or
5 a person he or she believes to be such a minor, ~~to commit in~~
6 order to engage in any illegal act proscribed by the provisions of
7 article eight, eight-b, eight-c or eight-d of this chapter, or any
8 felony offense under section four hundred one, article four,
9 chapter sixty-a of this code, is guilty of a felony and, upon

10 conviction thereof, shall be fined not more than \$5,000 or
11 imprisoned in a state correctional facility not less than two nor
12 more than ten years, or both.

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

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

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

1 Any adult, having knowledge of the character of the matter,
2 who knows or believes that a person is a minor and distributes,
3 offers to distribute or displays by any means any obscene matter
4 to the person who is known or believed to be a minor, and such

5 distribution, offer to distribute, or display is undertaken with the
6 intent or for the purpose of facilitating the sexual seduction or
7 abuse of the minor, is guilty of a felony and, upon conviction
8 thereof, shall be fined not more than \$25,000, or ~~confined~~
9 imprisoned in a state correctional facility for not more than five
10 years, or both. For a second and each subsequent commission of
11 such offense, such person is guilty of a felony and, upon
12 conviction, shall be fined not more than \$50,000 or ~~confined~~
13 imprisoned in a state correctional facility for not more than ten
14 years, or both.