

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 2655

BY DELEGATES UPSON, BLAIR, ESPINOSA,
HOUSEHOLDER, LONGSTRETH, ROBINSON, SOBONYA,
PHILLIPS, HILL AND HIGGINBOTHAM

[Introduced January 31, 2018; Originating in the
Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-3C-14c, relating to defining and establishing the crime of cyberbullying;
3 defining terms; providing exceptions; and establishing a criminal penalty.

Be it enacted by the Legislature of West Virginia:

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

**§61-3C-14c. Cyberbullying or specific acts of electronic harassment of minors and others;
definitions; penalties; exceptions.**

1 (a) It is unlawful for a person to knowingly and intentionally use a computer or computer
2 network, as defined in §61-3C-3, to:

3 (1) To engage in conduct with the intent to harass, intimidate, or bully a minor, including
4 by:

5 (A) Building a fake profile or website for a minor;

6 (B) Posing as a minor or imitating a minor in:

7 (i) An electronic chat room;

8 (ii) An electronic mail message;

9 (iii) An instant message;

10 (iv) A social media platform; or

11 (C) Repeatedly following the minor online or into an electronic chat room;

12 (D) Posting or disseminating or encouraging others to post or disseminate private,
13 personal, or sexual information pertaining to the minor on the Internet; or

14 (E) Posting obscene material, as defined in §61-3C-14a, in a real or doctored image of
15 the minor on the Internet;

16 (b) For the purposes of this section:

17 (1) "Electronic chat room" means a computer service allowing two or more users to
18 communicate with each other in real time.

19 (2) “Harass, intimidate, or bully” means any intentional gesture, or any intentional
20 electronic, written, verbal, or physical act, communication, transmission, or threat that:

21 (A) A reasonable person under the circumstances should know will have the effect of any
22 one or more of the following:

23 (i) Physically harming a minor;

24 (ii) Damaging a minor’s property;

25 (iii) Placing a minor in reasonable fear of harm to his or her person; or

26 (iv) Placing a minor in reasonable fear of damage to his or her property; or

27 (B) Is sufficiently severe, persistent, or pervasive that it creates an intimidating,
28 threatening, or emotionally abusive environment for a minor.

29 (3) “Minor” means an individual under the age of 18 years old.

30 (4) “Profile” means:

31 (A) A configuration of user data required to be entered into a computer so that the user
32 may access programs or services and have the desired functionality on that computer; or

33 (B) A website user’s personal page or section of a page made up of data, in text or
34 graphical form, which displays significant, unique, or identifying information, including listing
35 acquaintances, interests, associations, activities, or personal statements.

36 (c) This section does not apply to a peaceful activity intended to (i) express a political view,
37 or (ii) provide information to others with no intent to harass, intimidate, or bully.

38 (d) A person who violates this section is guilty of a misdemeanor and, upon conviction,
39 may be confined in jail for a period not to exceed one year, a fine not to exceed \$500, or both
40 confined and fined.

NOTE: The purpose of this bill is to define and establish the crime of cyberbullying. The bill defines terms. The bill establishes a criminal penalty.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.