

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 2892

BY DELEGATES CANESTRARO, MILLER, D. KELLY, N. BROWN,

STEELE AND FAST

[Introduced January 08, 2020; Referred

to the Committee on the Judiciary.]

1 A BILL to amend and reenact §62-1A-2 of the Code of West Virginia, 1931, as amended, relating
2 to including and defining digital and virtual information in the definition of property that can
3 be searched and seized by a warrant and clarifying that a search warrant issued for a
4 computer, computer network, or other device containing electronic or digital information
5 shall include the search of the contents of that device.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. SEARCH AND SEIZURE.

§62-1A-2. Same — Grounds for issuance; property defined.

1 (1) A warrant may be issued under this article to search for and seize any property

2 (a) Stolen, embezzled or obtained by false pretenses; or

3 (b) Designed or intended for use or which is or has been used as a means of committing
4 a criminal offense; or

5 (c) Manufactured, sold, kept, concealed, possessed, controlled, or designed or intended
6 for use or which is or has been used, in violation of the criminal laws of this state heretofore or
7 hereinafter enacted.

8 (2) The term “property” shall include documents, books and papers, digital and virtual
9 information, including, but not limited to, social media accounts, and any other tangible objects.

10 (a) For purposes of this section, “digital and virtual information” means any transfer of
11 signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or
12 in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system, but does not
13 include (1) any wire or oral communication; (2) any communication made through a tone-only
14 paging device; or (3) the radio portion of a cordless telephone communication that is transmitted
15 between the cordless telephone handset and the base unit.

16 (b) A search warrant issued for the search and seizure of a computer, computer network,
17 or other device containing electronic or digital information shall be deemed to include the search
18 of the contents of any computer, computer network, or other device.

NOTE: The purpose of this bill is to include and define the term digital and virtual information in the definition of property that can be searched and seized by a warrant and to clarify that a search warrant issued for a computer, computer network, or other device containing electronic or digital information shall include the search of the contents of that device.

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