

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 539

By Senators Helton and Fuller

[Introduced February 19, 2025; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-8A-3 of the Code of West Virginia, 1931, as amended, relating
 2 to removing bona fide schools, public libraries, and museums from the list of exemptions
 3 from criminal liability relating to distribution and display to minor of obscene matter.

Be it enacted by the Legislature of West Virginia:

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

§61-8A-3. Exemptions from criminal liability.

1 The criminal provisions of §61-8A-2 of this code do not apply to:

2 ~~(a) A bona fide school, in the presentation of local or state approved curriculum;~~

3 ~~(b) A public library, or museum, which is displaying or distributing any obscene matter to a~~
 4 ~~minor only when the minor was accompanied by his or her parent~~

5 ~~(c) (a)~~ A licensed medical or mental health care provider, or judicial or law-enforcement
 6 officer, during the course of medical, psychiatric, or psychological treatment or judicial or law-
 7 enforcement activities;

8 ~~(d) (b)~~ A person who did not know or have reason to know, and could not reasonably have
 9 learned, that the person to whom the obscene matter was distributed or displayed was a minor and
 10 who took reasonable measures to ascertain the identity and age of the minor;

11 ~~(e) (c)~~ A person who routinely distributes obscene matter by the use of telephone,
 12 computer network or the Internet and who distributes such matter to any minor under the age of 18
 13 years after the person has taken reasonable measures to prevent access by minors to the
 14 obscene matter; or

15 ~~(f) (d)~~ A radio or television station, cable television service or other telecommunications
 16 service regulated by the federal communications commission.

NOTE: The purpose of this bill is to remove schools, museums, and public libraries from the exemption which protects these types of entities from prosecution for distribution and display to minor of an obscene matter.

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