

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 473

BY SENATORS MORRIS, HAMILTON, WOELFEL, AND DEEDS

[Reported February 5, 2026, from the Committee on
the Judiciary]

1 A BILL to amend and reenact §61-3C-14a of the Code of West Virginia, 1931, as amended,
2 relating to creating felony offense for using electronic communication devices to threaten
3 crimes of violence; amending definitions; creating criminal offense for person using an
4 electronic communication device to threaten a crime of violence in certain circumstances;
5 describing burden of proof; prohibiting use of certain defense; and providing penalties.

Be it enacted by the Legislature of West Virginia:

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

**§61-3C-14a. Obscene, anonymous, harassing, and threatening communications by
~~computer, cell phones and electronic communication devices; penalty.~~**

1 (a) It is unlawful for any person, with the intent to harass or abuse another person, to use
2 ~~a computer, mobile phone, personal digital assistant or other~~ an electronic communication device
3 to:

4 (1) Make contact with another person without disclosing his or her identity with the intent
5 to harass or abuse;

6 (2) Make contact with a person after being requested by the person to desist from
7 contacting them: *Provided*, That a communication made by a lender or debt collector to a
8 consumer, regarding an overdue debt of the consumer that does not violate §46A-1-1 *et seq.* of
9 this code, does not violate this subsection;

10 (3) Threaten to commit a crime against any person or property; or

11 (4) Cause obscene material to be delivered or transmitted to a specific person after being
12 requested to desist from sending such material.

13 (b) For purposes of this section:

14 (1) "Crime of violence" means any act involving the use, or threat of the use, of violent
15 force against another person.

16 ~~(4)~~ (2) "Electronic communication device" means and includes a telephone, wireless
17 phone, computer, pager, gaming device, or any other electronic or wireless device which is

capable of transmitting a document, image, voice, e-mail or text message using such device in an electronic, digital, or analog form from one person or location so it may be viewed or received by another person or persons at other locations.

~~(2)~~ (3) "Use of a computer, mobile phone, personal digital assistant, or other an electronic communication device" includes, but is not limited to, the transmission of text messages, electronic mail, photographs, videos, images or other non-voice data by means of an electronic communication system, and includes the transmission of such data, documents, messages, and images to another's computer, e-mail account, mobile phone, personal digital assistant, or other electronic communication device.

~~(3)~~ (4) "Obscene material" means material that:

(A) An average person, applying contemporary adult community standards, would find, taken as a whole, appeals to the prurient interest, is intended to appeal to the prurient interest, or is pandered to a prurient interest;

(B) An average person, applying contemporary adult community standards, would find, depicts or describes, in a patently offensive way, sexually explicit conduct consisting of an ultimate sexual act, normal or perverted, actual or simulated, an excretory function, masturbation, lewd exhibition of the genitals, or sadomasochistic sexual abuse; and

~~(C)~~ A reasonable person would find, taken as a whole, lacks literary, artistic, political, or scientific value.

(5) "Serious public alarm or inconvenience" means any act that a reasonable person would view as an act that is intended to induce panic or which causes significant disruption or fear among the public.

(c) It is unlawful for any person to knowingly permit ~~a computer, mobile phone or personal digital assistant or other~~ an electronic communication device under his or her control to be used for any purpose prohibited by this section.

(d) Any offense committed under this section may be determined to have occurred at the place at which the contact originated or the place at which the contact was received or intended to be received.

(e) Any person who violates ~~a provision~~ subsection (a) or (c) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than six months, or both fined and confined. For a second or subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

(f) Any person who uses an electronic communication device with the intent to threaten to commit any crime of violence against another person or persons that causes an evacuation of any building, place of assembly, or facility of public transportation, otherwise causes serious public alarm or inconvenience, or is made in reckless disregard of the risk of causing such serious public alarm or inconvenience, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 nor more than \$10,000 or confined in a state correctional facility for not less than one year nor more than 10 years, or both fined and confined.

(g) To prove a "threat" under subsection (f) of this section, the state must prove beyond a reasonable doubt that the defendant knew or should have known that the communication would be viewed as a threat and transmitted a communication that a reasonable person would view as a threat.

(1) It is not a defense to any prosecution under subsection (f) of this section that the offender did not have the ability to actually complete the threatened violence.

(2) It is not be a defense to any prosecution under subsection (f) of this section that the conduct charged or proven is also a crime under any other provision or provisions of this code.

(h) Notwithstanding any other provision of this code to the contrary, any person charged or convicted of an offense under subsection (f) of this section and who is released on bail, granted probation or a suspended sentence, released on parole, probation, home detention, work release,

69 conditional release, or any other type of release of confinement may not knowingly and
70 intentionally reside, be employed, or otherwise be present at any time, at any location within 3,000
71 feet of the location of either the place where the violence was threatened to occur or the individual
72 or individuals during the period of release.