

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 390**

4 (By Senators Kessler (Acting President), Snyder, McCabe,
5 Stollings, Beach, Klempa, Minard, Yost and Wells)

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7 [Originating in the Committee on the Judiciary;
8 reported February 16, 2011.]
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12 A BILL to amend and reenact §61-3C-12 of the Code of West Virginia,
13 1931, as amended, relating to adding web-enabled mobile
14 devices to crime of invasion of privacy by computer; adding
15 definitions and exceptions; and providing a criminal penalty.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §61-3C-12 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

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

20 **§61-3C-12. Invasion of privacy by computer or web-enabled mobile**
21 **device.**

22 (a) Except as otherwise specifically provided in this section,
23 ~~Any~~ any person who knowingly, willfully and without authorization
24 accesses a computer, ~~or~~ computer network, or web-enabled mobile
25 device and examines any employment, salary, credit or any other
26 financial or personal information relating to any other person,
27 after the time at which the offender knows or reasonably should
28 know that he or she is without authorization to view the

1 information displayed, ~~shall be~~ is guilty of a misdemeanor, and,
2 upon conviction thereof, shall be fined not more than \$500 or
3 confined in ~~the county~~ jail for not more than six months, or both.

4 (b) For the purposes of this subsection, "personal
5 information" includes any e-mail account, social networking
6 account, or any personal computer file. For the purposes of this
7 subsection, "web-enabled mobile device" includes any cell phone,
8 text-messaging device, or mobile device that can access the
9 Internet.

10 (c) The provisions of this section do not apply to:

11 (1) The parent or guardian of a minor child accessing a
12 computer, computer network, or web-enabled mobile device solely for
13 purposes of supervising his or her minor child or children or minor
14 child or children in his or her charge.

15 (2) An employer accessing a computer network utilized
16 by, or a computer or web-enabled mobile device owned or provided by
17 the employer solely for purposes of supervising the work activity
18 of an employee.

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(NOTE: The purpose of this bill is to add web-enabled mobile devices to the crime of invasion of personal privacy on a computer, and to create exemptions for parents and employers.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)