

**ENROLLED**

**H. B. 4006**

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(By Delegates L. Phillips, Rowan, Fleischauer, Sobonya,  
Guthrie, Sumner, Lawrence, Miller, Poore, Border and Arvon)  
[Passed March 8, 2014; in effect ninety days from passage.]

**FISCAL  
NOTE**

10 AN ACT to amend and reenact §61-8C-3 of the Code of West Virginia,  
11 1931, as amended, relating to crimes pertaining to the  
12 possession, transmission, transportation, distribution and  
13 exhibiting of material depicting minors in sexually explicit  
14 conduct; adding the accessing of such materials with intent to  
15 view as a defined offense; creating an enhanced penalties for  
16 possessing, accessing with intent to view, transporting,  
17 receiving or distributing files or materials based on the  
18 number of images in a digital, photographic or video format  
19 which depict minors engaging in sexually explicit conduct or  
20 depict acts of bestiality involving a child; and setting a  
21 number of images based on length for video film or similar  
22 media.

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

24 That §61-8C-3 of the Code of West Virginia, 1931, as amended,  
25 be amended and reenacted to read as follows:

26 **ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.**

27 **§61-8C-3. Distribution and exhibiting of material depicting minors**

1           **engaged in sexually explicit conduct prohibited;**  
2           **penalty.**

3           (a) Any person who, knowingly and willfully, sends or causes  
4 to be sent or distributes, exhibits, possesses, electronically  
5 accesses with intent to view or displays or transports any material  
6 visually portraying a minor engaged in any sexually explicit  
7 conduct is guilty of a felony.

8           (b) Any person who violates the provisions of subsection (a)  
9 of this section when the conduct involves fifty or fewer images  
10 shall, upon conviction, be imprisoned in a state correctional  
11 facility for not more than two years or fined not more than \$2,000  
12 or both.

13           (c) Any person who violates the provisions of subsection (a)  
14 of this section when the conduct involves more than fifty but fewer  
15 than six hundred images shall, upon conviction, be imprisoned in a  
16 state correctional facility for not less than two nor more than ten  
17 years or fined not more than \$5,000, or both.

18           (d) Notwithstanding the provisions of subsections (b) and (c)  
19 of this section any person who violates the provisions of  
20 subsection (a) of this section when the conduct involves six  
21 hundred or more images or depicts violence against a child or a  
22 child engaging in bestiality shall, upon conviction, be imprisoned  
23 in a state correctional facility for not less than five nor more  
24 than fifteen years or fined not more than \$25,000, or both.

25           (e) For purposes of this section each video clip, movie or  
26 similar recording of five minutes or less shall constitute seventy-  
27 five images. A video clip, movie or similar recording of a duration

1 longer than five minutes shall be deemed to constitute seventy-five  
2 images for every two minutes in length it exceeds five minutes.