

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2366**

(BY DELEGATES ROWAN, MILLER, SOBONYA, P. SMITH,  
BORDER, ARVON, AND STORCH)

[Originating in the Committee on the Judiciary.]



1 A BILL to amend and reenact §61-3C-14b of the Code of West Virginia, 1931, as amended; and  
 2 to amend and reenact §61-8A-4 of said code, all relating generally to the solicitation of  
 3 minors; clarifying the law pertaining to the use of a computer to solicit a minor; creating a  
 4 new felony offense of soliciting a minor through use of a computer and committing any  
 5 overt act designed to bringing himself or herself within the physical presence of the minor  
 6 to engage in prohibited sexual activity with the minor; establishing penalties; establishing  
 7 the offense as a lesser included crime; and prohibiting the use or distribution of obscene  
 8 materials by an adult to solicit or seduce a person who is known or believed to be a minor  
 9 at least four years younger than the adult for unlawful sexual activity.

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

1 That §61-3C-14b of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted; and that §61-8A-4 of said code be amended and reenacted, all to read as follows:

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

4 **§61-3C-14b. Soliciting, etc. a minor via computer; soliciting a minor and traveling to**  
 5 **engage the minor in prohibited sexual activity; penalties.**

6 (a) Any person over the age of eighteen, who knowingly uses a computer to solicit, entice,  
 7 seduce or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at  
 8 least four years younger than the person using the computer or a person he or she believes to be  
 9 such a minor, ~~to commit~~ in order to engage in any illegal act proscribed by the provisions of article  
 10 eight, eight-b, eight-c or eight-d of this chapter, or any felony offense under section four hundred  
 11 one, article four, chapter sixty-a of this code, is guilty of a felony and, upon conviction thereof,  
 12 shall be fined not more than \$5,000 or imprisoned in a state correctional facility not less than two  
 13 nor more than ten years, or both.

14 (b) Any person over the age of eighteen who uses a computer in the manner proscribed  
 15 by the provisions of subsection (a) of this section and who additionally engages in any overt act  
 16 designed to bring himself or herself into the minor's, or the person believed to be a minor's,

17 physical presence with the intent to engage in any sexual activity or conduct with such a minor  
 18 that is prohibited by law, is guilty of a felony and shall be fined not more than \$25,000 or  
 19 imprisoned in a state correctional facility for a determinate sentence of not less than five nor more  
 20 than thirty years, or both: *Provided*, That subsection (a) shall be deemed a lesser included offense  
 21 to that created by this subsection.

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

24 **§61-8A-4. Use of obscene matter with intent to seduce minor.**

25 Any adult, having knowledge of the character of the matter, who knows or believes that a  
 26 person is a minor at least four years younger than the adult, and distributes, offers to distribute or  
 27 displays by any means any obscene matter to the person who is known or believed to be a minor  
 28 at least four years younger than the adult, and such distribution, offer to distribute, or display is  
 29 undertaken with the intent or for the purpose of facilitating the sexual seduction or abuse of the  
 30 minor, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$25,000, or  
 31 ~~confined~~ imprisoned in a state correctional facility for not more than five years, or both. For a  
 32 second and each subsequent commission of such offense, such person is guilty of a felony and,  
 33 upon conviction, shall be fined not more than \$50,000 or ~~confined~~—imprisoned in a state  
 34 correctional facility for not more than ten years, or both.

NOTE: The purpose of this bill is to amend the provisions of the current code that would allow law-enforcement officers to conduct undercover investigations to identify and prosecute adults who use computers to solicit minors or persons they believe to be minors for sexual activity. In addition, it creates a new felony for the offense of soliciting a minor and then traveling to meet with and engage in any prohibited sexual activity or conduct with a minor. It also incorporates parallel language into the law prohibiting the use of obscene material to solicit or seduce a minor.

This bill was recommended for introduction and passage during the 2015 Regular Session of the Legislature by the House Select Committee on Crimes Against Children.

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