

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2366

FISCAL  
NOTE

2015 Carryover

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

[Introduced January 13, 2016; referred to 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; deleting  
 4 reference to offenses defined in the Uniform Controlled Substances Act; defining a new  
 5 felony offense of soliciting a minor through use of a computer and traveling to engage in  
 6 prohibited sexual activity with the minor; setting a new criminal penalty; and prohibiting the  
 7 use or distribution of obscene materials by an adult to solicit or seduce a minor, or a person  
 8 believed to be a minor, 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:

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

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

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

9 (b) Any person who uses a computer in the manner proscribed by subsection (a) of this  
 10 section and who also travels to meet with the individual, known or believed to be a minor at least

11 four years younger than the person using the computer, with the intent to engage in any sexual  
 12 activity or conduct with a minor that is prohibited by law, is guilty of a felony and shall be fined not  
 13 more than \$25,000 or imprisoned in a state correctional facility not less than five nor more than  
 14 thirty years, or both.

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

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

1 Any adult, having knowledge of the character of the matter, who knows or believes that a  
 2 person is a minor and distributes, offers to distribute or displays by any means any obscene matter  
 3 to the person who is known or believed to be a minor, and such distribution, offer to distribute, or  
 4 display is undertaken with the intent or for the purpose of facilitating the sexual seduction or abuse  
 5 of the minor, is guilty of a felony and, upon conviction thereof, shall be fined not more than  
 6 \$25,000, or ~~confined~~ imprisoned in a state correctional facility for not more than five years, or  
 7 both. For a second and each subsequent commission of such offense, such person is guilty of  
 8 a felony and, upon conviction, shall be fined not more than \$50,000 or ~~confined~~ imprisoned in a  
 9 state 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 Regular Session of the Legislature by the House Select Committee on Crimes Against Children.

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