

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4310**

BY DELEGATES ELDRIDGE, MAYNARD, R. MILLER,  
LOVEJOY, A. EVANS, DISERIO, CANESTRARO, FERRO,  
HAMILTON, UPSON AND PAYNTER

[Introduced January 26, 2018; Referred  
to the Committee on Health and Human Resources  
then 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 §61-8C-3 of said code, all relating to mandating cognitive behavioral  
 3 therapy for persons convicted of distribution and exhibiting of material depicting minors  
 4 engaged in sexually explicit conduct and soliciting or soliciting and travelling to engage a  
 5 minor in prohibited sexual activity.

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

**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 18, 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, in order to engage in any illegal act proscribed by the provisions of article eight,  
 5 eight-b, eight-c or eight-d of this chapter, or any felony offense under section §60-A-8-401 of this  
 6 code, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or  
 7 imprisoned in a state correctional facility not less than two nor more than 10 years, or both.

8 (b) Any person over the age of 18 who uses a computer in the manner proscribed by the  
 9 provisions of subsection (a) of this section and who additionally engages in any overt act designed  
 10 to bring himself or herself into the minor's, or the person believed to be a minor's, physical  
 11 presence with the intent to engage in any sexual activity or conduct with such a minor that is  
 12 prohibited by law, is guilty of a felony and shall be fined not more than \$25,000 or imprisoned in  
 13 a state correctional facility for a determinate sentence of not less than five nor more than 30 years,  
 14 or both: *Provided*, That subsection (a) shall be deemed a lesser included offense to that created  
 15 by this subsection.

16 (c) Any person who violates the provisions of subsection (a) or (b) of this section shall be  
 17 required to undergo cognitive behavioral therapy while in the custody or control of the Department

18 of Corrections for such violation.

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

### **§61-8C-3. Distribution and exhibiting of material depicting minors engaged in sexually explicit conduct prohibited; penalty.**

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

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

7 (c) Any person who violates the provisions of subsection (a) of this section when the  
8 conduct involves more than 50 but fewer than 600 images shall, upon conviction, be imprisoned  
9 in a state correctional facility for not less than two nor more than 10 years or fined not more than  
10 \$5,000, or both.

11 (d) Notwithstanding the provisions of subsections (b) and (c) of this section any person  
12 who violates the provisions of subsection (a) of this section when the conduct involves 600 or  
13 more images or depicts violence against a child or a child engaging in bestiality shall, upon  
14 conviction, be imprisoned in a state correctional facility for not less than five nor more than 15  
15 years or fined not more than \$25,000, or both.

16 (e) For purposes of this section each video clip, movie or similar recording of five minutes  
17 or less shall constitute 75 images. A video clip, movie or similar recording of a duration longer  
18 than five minutes shall be deemed to constitute 75 images for every two minutes in length it  
19 exceeds five minutes.

20 (f) Any person who violates the provisions of subsection (a) of this section shall be required  
21 to undergo cognitive behavioral therapy while in the custody or control of the Department of  
22 Corrections for such violation.

NOTE: The purpose of this bill is to require cognitive behavioral therapy for those who have violated the law for computer sex crimes.

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