

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2892**

BY DELEGATES CANESTRARO, MILLER, D. KELLY, N. BROWN,

STEELE AND FAST

[Passed March 7, 2020; in effect from passage.]



1 AN ACT to amend and reenact §62-1A-2 of the Code of West Virginia, 1931, as amended, relating  
2 to including electronic and digital information in the definition of property that can be  
3 searched and seized by a search warrant and clarifying that a search warrant issued for  
4 a computer, computer network, or other device containing electronic or digital information  
5 includes the search of the contents of that device; requiring particularity regarding items,  
6 applications, property and information to be served; clarifying that search warrants for  
7 electronic or digital information may be served or executed in any county of this state or  
8 in any state where the information to be seized is stored or where the person or entity  
9 storing the information does business or resides.

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

**ARTICLE 1A. SEARCH AND SEIZURE.**

**§62-1A-2. Same — Grounds for issuance; property defined.**

1 (1) A warrant may be issued under this article to search for and seize any property

2 (a) Stolen, embezzled, or obtained by false pretenses;

3 (b) Designed or intended for use or which is or has been used as a means of committing  
4 a criminal offense; or

5 (c) Manufactured, sold, kept, concealed, possessed, controlled, or designed or intended  
6 for use or which is or has been used, in violation of the criminal laws of this state.

7 (2) As used in this section, the term “property” includes documents, books, papers,  
8 electronic and digital information, including, but not limited to, social media accounts, and any  
9 other tangible objects.

10 (a) For purposes of this section, “electronic and digital information” means any transfer of  
11 signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or  
12 in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not  
13 include (1) any wire or oral communication; (2) any communication made through a tone-only

14 paging device; or (3) the radio portion of a cordless telephone communication that is transmitted  
15 between the cordless telephone handset and the base unit.

16 (b) A search warrant issued for the search and seizure of a computer, computer network,  
17 or other device containing electronic or digital information shall state with particularity the item,  
18 application, program, or information sought.

19 (c) A search warrant issued pursuant to this section or Rule 41 of the Rules of Criminal  
20 Procedure may be executed or served to the extent it is constitutionally permissible anywhere the  
21 electronic or digital information is stored, capable of being produced or where the person or entity  
22 in possession of the electronic or digital information does business or resides.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2020.

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*Governor*