

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4498

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

[By the Request of the Governor and the Department
of Homeland Security]

[Introduced February 02, 2022; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-3C-4 of the Code of West Virginia, 1931, as amended, relating
2 to increasing the financial penalties in regard to any person who, knowingly and willfully,
3 directly or indirectly, accesses or causes to be accessed any computer, computer
4 services, or computer network for purposes of executing any scheme or artifice to defraud
5 or obtaining money, property, or services by means of fraudulent pretenses,
6 representations, or promises and increasing the financial penalties in regard to any person
7 who, with intent to extort money or other consideration from another, that introduces
8 ransomware into any computer, computer system or computer network, and providing for
9 restitution to the state, state agencies, and political subdivisions for damages.

Be it enacted by the Legislature of West Virginia:

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

§61-3C-4. Computer fraud; access to Legislature computer; restitution; criminal penalties.

1 (a) Any person who, knowingly and willfully, directly or indirectly, accesses or causes to
2 be accessed any computer, computer services, or computer network for the purpose of: (1)
3 Executing any scheme or artifice to defraud; or (2) obtaining money, property, or services by
4 means of fraudulent pretenses, representations, or promises is guilty of a felony and, upon
5 conviction thereof, shall be fined not ~~more~~ less than \$10,000 and, when damage greater than
6 \$10,000 is caused, the fine will be based upon a calculation of damages caused and loss by the
7 entity or imprisoned in a state correctional facility for a determinate sentence of not more than 10
8 years, or both fined and imprisoned.

9 (b) Any person who, with intent to extort money or other consideration from another,
10 introduces ransomware into any computer, computer system, or computer network is guilty of a
11 felony and, upon conviction thereof, shall be fined not ~~more~~ less than \$100,000 and, when
12 damage greater than \$100,000 is caused, the fine will be based upon a calculation of damages
13 caused and loss by the entity or imprisoned in a state correctional facility for a determinate
14 sentence of not more than 10 years, or both fined and imprisoned.

15 (c) A person is criminally responsible for placing or introducing ransomware into a
16 computer, computer system, or computer network if the person directly places or introduces the
17 ransomware or directs or induces another person to do so, with the intent of demanding payment
18 or other consideration for removing, restoring access, or other remediation of the impact of the
19 ransomware.

20 (d) (1) Any person who, knowingly and willfully, directly or indirectly, accesses, attempts
21 to access, or causes to be accessed any data stored in a computer owned by the Legislature
22 without authorization is guilty of a felony and, upon conviction thereof, shall be fined not more
23 than \$5,000 or imprisoned in a state correctional facility for a determinate sentence of not more
24 than five years, or both fined and imprisoned.

25 (2) Notwithstanding the provisions of §61-3C-17 of this code to the contrary, in any criminal
26 prosecution under this subsection against an employee or member of the Legislature, it shall not
27 be a defense: (A) That the defendant had reasonable grounds to believe that he or she had
28 authorization to access the data merely because of his or her employment or membership; or (B)
29 that the defendant could not have reasonably known he or she did not have authorization to
30 access the data: *Provided*, That the Joint Committee on Government and Finance shall
31 promulgate rules for the respective houses of the Legislature regarding appropriate access of
32 members and staff and others to the legislative computer system.

33 (e) Any person convicted of a felony enumerated in this section may be ordered to pay
34 restitution to the state, any agency of the state, or any political subdivision thereof, for the costs
35 to remediate, correct, repair, or replace any damage caused by the commission of the offense,
36 including, but not limited to, costs for the personal services rendered by any employees of the
37 state, state agency, or any political subdivision of state.

NOTE: The purpose of this bill is to increase the financial penalties in regard to any person who, knowingly and willfully, directly or indirectly, accesses or causes to be accessed any computer, computer services, or computer network for purposes of executing any scheme

or artifice to defraud or obtaining money, property, or services by means of fraudulent pretenses, representations, or promises and increasing the financial penalties in regard to any person who, with intent to extort money or other consideration from another, that introduces ransomware into any computer, computer system or computer network, and providing a mechanism for restitution to the state, state agencies, and political subdivisions for damages caused by ransomware attacks.

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