

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2923**

By Delegates Chiarelli, Hanna, C. Pritt, and Pinson

[Introduced January 23, 2023; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §61-8A-3 of the Code of West Virginia, 1931, as amended, relating  
2 to clarifying exemptions from criminal liability for obscene material.

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

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

**§61-8A-3. Exemptions from criminal liability.**

1 The criminal provisions of section two of this article do not apply to:

2 (a) A bona fide school, in the presentation of local or state approved science or health  
3 curriculum related to biological lessons regarding reproduction;

4 (b) ~~A public library, or~~ Or a museum, which is displaying or distributing any obscene matter  
5 to a minor only when the minor was accompanied by his or her parent;

6 (c) A licensed medical or mental health care provider, or judicial or law-enforcement officer,  
7 during the course of medical, psychiatric, or psychological treatment or judicial or law-enforcement  
8 activities;

9 (d) A person who did not know or have reason to know, and could not reasonably have  
10 learned, that the person to whom the obscene matter was distributed or displayed was a minor and  
11 who took reasonable measures to ascertain the identity and age of the minor;

12 (e) A person who routinely distributes obscene matter by the use of telephone, computer  
13 network or the Internet and who distributes such matter to any minor under the age of eighteen  
14 years after the person has taken reasonable measures to prevent access by minors to the  
15 obscene matter; or

16 (f) A radio or television station, cable television service or other telecommunications  
17 service regulated by the federal communications commission.

NOTE: The purpose of this bill is to clarify exemptions from criminal liability for obscene material.

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