

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4845**

By Delegates Hillenbrand, Chiarelli, McGeehan,  
C.Pritt, Phillips, Brooks, Shamblin, Thorne, Maynor,  
Ridenour, and Hanshaw (Mr.Speaker)

[Introduced January 17, 2024; Referred to the  
Committee on Technology and Infrastructure then the  
Judiciary]

1 A BILL to amend and reenact §61-3C-3 of the Code of West Virginia, 1931, as amended; to amend  
2 said code by adding thereto new section, designated §61-3C-14d, both relating to creating  
3 the West Virginia Anti-Swatting Act.

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

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

**§61-3C-3. Definitions.**

1 As used in this article, unless the context clearly indicates otherwise:

2 (1) "Access" means to instruct, communicate with, store data in, retrieve data from,  
3 intercept data from, or otherwise make use of any computer, computer network, computer  
4 program, computer software, computer data, or other computer resources.

5 (2) "Authorization" means the express or implied consent given by a person to another to  
6 access or use said person's computer, computer network, computer program, computer software,  
7 computer system, password, identifying code, or personal identification number.

8 (3) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-  
9 speed data processing device performing logical, arithmetic, or storage functions and includes any  
10 data storage facility or communication facility directly related to, or operating in conjunction with,  
11 such device. The term "computer" includes any connected or directly related device, equipment, or  
12 facility which enables the computer to store, retrieve, or communicate computer programs,  
13 computer data, or the results of computer operations to or from a person, another computer, or  
14 another device, file servers, mainframe systems, desktop personal computers, laptop personal  
15 computers, tablet personal computers, cellular telephones, game consoles, and any other  
16 electronic data storage device or equipment, but such term does not include an automated  
17 typewriter or typesetter, a portable hand-held calculator, or other similar device.

18 (4) "Computer contaminant" means any set of computer instructions that are designed to  
19 damage or destroy information within a computer, computer system, or computer network without  
20 the consent or permission of the owner of the information. They include, but are not limited to, a

21 group of computer instructions commonly called viruses or worms that are self-replicating or self-  
22 propagating and are designed to contaminate other computer programs or computer data,  
23 consume computer resources, or damage or destroy the normal operation of the computer.

24 (5) "Computer data" means any representation of knowledge, facts, concepts, instruction,  
25 or other information computed, classified, processed, transmitted, received, retrieved, originated,  
26 stored, manifested, measured, detected, recorded, reproduced, handled, or utilized by a  
27 computer, computer network, computer program, or computer software, and may be in any  
28 medium, including, but not limited to, computer printouts, microfilm, microfiche, magnetic storage  
29 media, optical storage media, punch paper tape, or punch cards, or it may be stored internally in  
30 read-only memory or random access memory of a computer or any other peripheral device.

31 (6) "Computer network" means a set of connected devices and communication facilities,  
32 including more than one computer, with the capability to transmit computer data among them  
33 through such communication facilities.

34 (7) "Computer operations" means arithmetic, logical, storage, display, monitoring, or  
35 retrieval functions or any combination thereof and includes, but is not limited to, communication  
36 with, storage of data in or to, or retrieval of data from any device, and the human manual  
37 manipulation of electronic magnetic impulses. A "computer operation" for a particular computer  
38 shall also mean any function for which that computer was designed.

39 (8) "Computer program" means an ordered set of computer data representing instructions  
40 or statements, in a form readable by a computer, which controls, directs, or otherwise influences  
41 the functioning of a computer or computer network.

42 (9) "Computer software" means a set of computer programs, procedures, and associated  
43 documentation concerned with computer data or with the operation of a computer, computer  
44 program, or computer network.

45 (10) "Computer services" means computer access time, computer data processing, or  
46 computer data storage, and the computer data processed or stored in connection therewith.

47 (11) "Computer supplies" means punch cards, paper tape, magnetic tape, magnetic disks  
48 or diskettes, optical disks or diskettes, disk or diskette packs, paper, microfilm, and any other  
49 tangible input, output, or storage medium used in connection with a computer, computer network,  
50 computer data, computer software, or computer program.

51 (12) "Computer resources" includes, but is not limited to, information retrieval; computer  
52 data processing, transmission, and storage; and any other functions performed, in whole or in part,  
53 by the use of a computer, computer network, computer software, or computer program.

54 (13) "Financial instrument" includes, but is not limited to, a check, draft, warrant, money  
55 order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction  
56 authorization mechanism, marketable security, or any computerized representation thereof.

57 (14) "Owner" means any person who owns or leases or is a licensee of a computer,  
58 computer network, computer data, computer program, computer software, computer resources, or  
59 computer supplies.

60 (15) "Person" means any natural person, general partnership, limited partnership, trust,  
61 association, corporation, joint venture, or any state, county, or municipal government and any  
62 subdivision, branch, department, or agency thereof.

63 (16) "Property" includes:

64 (A) Real property;

65 (B) Computers and computer networks;

66 (C) Financial instruments, computer data, computer programs, computer software, and all  
67 other personal property regardless of whether they are:

68 (i) Tangible or intangible;

69 (ii) In a format readable by humans or by a computer;

70 (iii) In transit between computers or within a computer network or between any devices  
71 which comprise a computer; or

72 (iv) Located on any paper or in any device on which it is stored by a computer or by a

73 human; and

74 (D) Computer services.

75 (17) "Ransomware" means a computer contaminant, or lock placed or introduced without  
76 authorization into a computer, computer system, or computer network that restricts access by an  
77 authorized user to the computer, computer system, computer network, or any data therein under  
78 circumstances in which the person responsible for the placement or introduction of the  
79 ransomware demands payment of money or other consideration to remove the computer  
80 contaminant, restore access to the computer, computer system, computer network, or data, or  
81 otherwise remediate the impact of the computer contaminant or lock.

82 (18) "Value" means having any potential to provide any direct or indirect gain or advantage  
83 to any person.

84 (19) "Value of property or computer services" shall be: (A) The market value of the property  
85 or computer services at the time of a violation of this article; or (B) if the property or computer  
86 services are unrecoverable, damaged, or destroyed as a result of a violation of §61-3C-6 or §61-  
87 3C-7 of this code, the cost of reproducing or replacing the property or computer services at the  
88 time of the violation.

89 (20) "Telecommunications device" means any instrument, equipment, machine, or other  
90 device that facilitates telecommunication, including, but not limited to, a computer, computer  
91 network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal  
92 communications device, transponder, receiver, radio, modem, or device that enables the use of a  
93 modem.

94 (21) "Telecommunications service" means the providing, allowing, facilitating, or  
95 generating of any form of telecommunication through the use of a telecommunications device over  
96 a telecommunications system.

**§61-3C-14d. The West Virginia Anti-Swatting Act**

97 (a) "Telecommunications device" and "telecommunications service" have the same

98 meanings as in section §61-3C-3 of this Code.

99 (b) No person by means of a telecommunications device or telecommunications service  
100 shall report or cause to be reported false or misleading information to a law enforcement agency,  
101 emergency service provider, or public safety answering point, knowing the information to be false  
102 or misleading, with reckless disregard as to whether the report may cause bodily harm to any  
103 individual as a direct result of an emergency response to the report, and under circumstances  
104 where the report is reasonably likely to cause an emergency response from a law enforcement  
105 agency, emergency service provider, or public safety answering point and the report does cause  
106 an emergency response. Whoever violates this section is guilty of swatting.

107 (c) This section does not apply to any person conducting an authorized emergency drill.

108 (d)(1) Swatting will be a felony offense.

109 (2) Prior to the sentencing of a person who has been convicted of or pleaded guilty to a  
110 violation of this section, the court shall enter an order that directs any law enforcement agency or  
111 emergency service provider involved in the emergency response that wishes to be reimbursed for  
112 the costs incurred by the agency or provider during the emergency response, to file with the court  
113 within a specified time an itemized statement of those costs. The court may then order the offender  
114 to reimburse the agency for all or a portion of those costs.

115 (3) Any act that is a violation of this section and any other section of this Code may be  
116 prosecuted under this section, the other section, or both sections.

NOTE: The purpose of this bill is to create the West Virginia Anti-Swatting Act.

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