WEST VIRGINIA CODE: §61-3C-14a

§61-3C-14a. Obscene, anonymous, harassing and threatening communications by computer, cell phones and electronic communication devices; penalty.

(a) It is unlawful for any person, with the intent to harass or abuse another person, to use a computer, mobile phone, personal digital assistant or other electronic communication device to:

(1) Make contact with another person without disclosing his or her identity with the intent to harass or abuse;

(2) Make contact with a person after being requested by the person to desist from contacting them: Provided, That a communication made by a lender or debt collector to a consumer, regarding an overdue debt of the consumer that does not violate chapter forty-six-a of this code, does not violate this subsection;

(3) Threaten to commit a crime against any person or property; or

(4) Cause obscene material to be delivered or transmitted to a specific person after being requested to desist from sending such material.

(b) For purposes of this section:

(1) "Electronic communication device" means and includes a telephone, wireless phone, computer, pager or any other electronic or wireless device which is capable of transmitting a document, image, voice, e-mail or text message using such device in an electronic, digital or analog form from one person or location so it may be viewed or received by another person or persons at other locations.

(2) "Use of a computer, mobile phone, personal digital assistant or other electronic communication device" includes, but is not limited to, the transmission of text messages, electronic mail, photographs, videos, images or other nonvoice data by means of an electronic communication system, and includes the transmission of such data, documents, messages and images to another's computer, e-mail account, mobile phone, personal digital assistant or other electronic communication device.

(3) "Obscene material" means material that:

(A) An average person, applying contemporary adult community standards, would find, taken as a whole, appeals to the prurient interest, is intended to appeal to the prurient interest, or is pandered to a prurient interest;

(B) An average person, applying contemporary adult community standards, would find, depicts or describes, in a patently offensive way, sexually explicit conduct consisting of an

WV Legislature

ultimate sexual act, normal or perverted, actual or simulated, an excretory function, masturbation, lewd exhibition of the genitals, or sadomasochistic sexual abuse; and

(C) A reasonable person would find, taken as a whole, lacks literary, artistic, political or scientific value.

(c) It is unlawful for any person to knowingly permit a computer, mobile phone or personal digital assistant or other electronic communication device under his or her control to be used for any purpose prohibited by this section.

(d) Any offense committed under this section may be determined to have occurred at the place at which the contact originated or the place at which the contact was received or intended to be received.

(e) Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500 or confined in jail not more than six months, or both fined and confined. For a second or subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in jail for not more than one year, or both fined and confined.

WV Legislature