WEST VIRGINIA CODE: §61-8C-3c

§61-8C-3c. Confidentiality; exemption from prosecution.

(a) Nothing in this article shall be construed to prevent the lawful investigation and/or prosecution of the criminal offenses described in this article: *Provided*, That prohibited media or visual portrayal described in this article shall not be published to the public at any time.

(b) It does not constitute an offense of the crimes set forth in this article when the following persons possess or distribute prohibited media or material, or visual portrayal while acting in the performance of their official duties:

(1) Law enforcement officials, including those entities with specialized investigatory experience with whom law enforcement agencies regularly contract for the purpose of providing investigatory services and assistance;

(2) Prosecuting attorneys;

(3) Attorneys acting as officers of the court and while acting in the performance of their official duties;

(4) Judges and magistrates;

(5) Jurors hearing a case involving an alleged violation of offenses in this article;

(6) Support personnel for the persons listed in this section; and

(7) Any person acting in accordance and in compliance with a valid order issued by a circuit court of this state or the Supreme Court of Appeals.

(c) The Supreme Court of Appeals is hereby requested to promulgate such rules, protocols, and forms which are necessary to regulate access to, use, and handling of prohibited media and visual portrayals described in this article, giving due consideration to the privacy rights of victims and the due process rights of defendants in criminal proceedings.

(d)(1) Any person not listed in subsection (b) of this section who, in the course and scope of employment or business, views an image or images on a computer or electronic device that is or appears to be material visually portraying a minor engaged in any sexually explicit conduct shall immediately report the discovery of the image or images to a local or state law-enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. The report must include the name and address of the owner or person claiming a right to possession of the computer or electronic device, if known, and as permitted by federal law. For purposes of this subdivision, such reporting may include furnishing the law enforcement officer with any image, information, or data that the person

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reasonably believes to be evidence of material visually portraying a minor engaged in any sexually explicit conduct, transmission of material visually portraying a minor engaged in any sexually explicit conduct, or an image, information, or data that is harmful to minors.

(2) Except in a case of willful or wanton misconduct, compliance with subdivision (1) of this subsection is an affirmative defense to an alleged violation of this section.

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