

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-25-79

Time 1:15 p.m.

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1979



# ENROLLED

Committee substitutes for  
HOUSE BILL No. 926

(By Mrs. Spears + Mr. Brown)



Passed March 8, 1979

In Effect Ninety Days From Passage



No. 926

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 926**

(By MRS. SPEARS and MR. BROWN)

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[Passed March 8, 1979; in effect ninety days from passage.]

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AN ACT to amend chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eight-c, relating to the filming or photographing of minors engaging in sexually explicit conduct; defining certain terms with respect thereto; prohibiting the filming or photographing for financial gain of minors engaged in sexually explicit conduct and the using or permitting the use of minors for such purposes; prohibiting the exhibition or distribution of such films or photographs for financial gain; and providing for criminal penalties for violations of the article.

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

That chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eight-c, to read as follows:

**ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.**

**§61-8C-1. Definitions.**

- 1 For the purposes of this article:
- 2 (a) "Minor" means any child under eighteen years of age.

3 (b) "Knowledge" means knowing or having reasonable  
4 cause to know which warrants further inspection or inquiry.

5 (c) "Sexually explicit conduct" includes any of the fol-  
6 lowing, whether actually performed or simulated:

7 (1) Genital to genital intercourse;

8 (2) Fellatio;

9 (3) Cunnilingus;

10 (4) Anal intercourse;

11 (5) Oral to anal intercourse;

12 (6) Bestiality;

13 (7) Masturbation;

14 (8) Sadoomasochistic abuse, including, but not limited to,  
15 flagellation, torture or bondage; or

16 (9) Excretory functions in a sexual context.

17 (d) "Person" means an individual, partnership, firm, asso-  
18 ciation, corporation or other legal entity.

**§61-8C-2. Use of minors in filming sexually explicit conduct pro-  
hibited; penalties.**

1 (a) Any person who for financial gain causes or knowingly  
2 permits, uses, persuades, induces, entices or coerces such  
3 minor to engage in or uses such minor to do or assist in any  
4 sexually explicit conduct shall be guilty of a felony when such  
5 person has knowledge that any such act is being photographed  
6 or filmed. Upon conviction thereof, such person shall be fined  
7 not more than ten thousand dollars, or imprisoned in the  
8 penitentiary not more than ten years, or both fined and im-  
9 prisoned.

10 (b) Any person who for financial gain photographs or  
11 films such minor engaging in any sexually explicit conduct  
12 shall be guilty of a felony, and, upon conviction thereof, shall  
13 be fined not more than ten thousand dollars, or imprisoned in  
14 the penitentiary not more than ten years, or both fined and  
15 imprisoned.

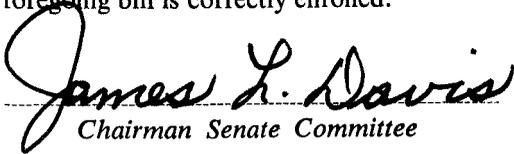
16 (c) Any parent, legal guardian or person having custody  
17 and control of a minor, who photographs or films such minor  
18 in any sexually explicit conduct or causes or knowingly per-  
19 mits, uses, persuades, induces, entices or coerces such minor  
20 child to engage in or assist in any sexually explicit act shall  
21 be guilty of a felony when such person has knowledge that any  
22 such act may be photographed or filmed. Upon conviction  
23 thereof, such person shall be fined not more than ten thou-  
24 sand dollars, or imprisoned in the penitentiary not more than  
25 ten years, or both fined and imprisoned.

**§61-8C-3. Distribution and exhibiting of material depicting minors  
engaged in sexually explicit conduct prohibited; pen-  
alties.**

1 (a) Any person who, for financial gain, with knowledge,  
2 sends or causes to be sent, or distributes, exhibits, or displays  
3 or transports with the intent to distribute, exhibit or display  
4 any material visually portraying a minor engaged in any sex-  
5 ually explicit conduct shall be guilty of a misdemeanor, and,  
6 upon conviction thereof, shall be imprisoned in the county  
7 jail not more than twelve months and fined not more than two  
8 thousand dollars.

9 (b) Any person previously convicted under this section and  
10 who is again convicted under this section, shall be guilty of a  
11 felony, and, upon conviction thereof, shall be imprisoned in  
12 the penitentiary for not more than two years, and fined not  
13 more than four thousand dollars.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

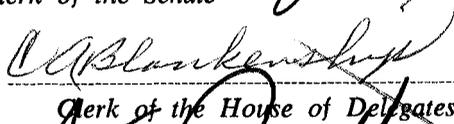
  
Chairman Senate Committee

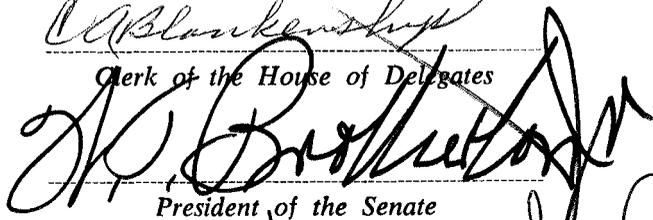
  
Chairman House Committee

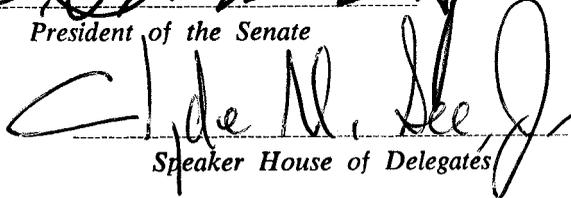
Originated in the House.

Takes effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker House of Delegates

The within is approved this the 25  
day of March, 1979.

  
Governor

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OFFICE OF THE GOVERNOR

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