

SB 97

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2002



ENROLLED

Committee Substitute for

SENATE BILL NO. 97

(By Senator *Kessler, et al*)



PASSED February 19, 2002

In Effect ninety days from Passage

FILED

2002 MAR -7 P 5: 52

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 97

(SENATORS KESSLER, HUNTER, MCKENZIE, EDGELL, ANDERSON,
MINARD, CALDWELL, MINEAR AND SHARPE, *original sponsors*)

[Passed February 19, 2002; in effect ninety days from passage.]

AN ACT to amend article three-c, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fourteen-a, relating to creating the crime of harassing another by means of a computer and establishing penalties therefor.

Be it enacted by the Legislature of West Virginia:

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

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

FILED

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§61-3C-14a. Obscene, anonymous, harassing and threatening communications by computer; penalty.

1 (a) It is unlawful for any person, with the intent to
2 harass or abuse another person, to use a computer to:

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

5 (2) Make contact with a person after being requested by
6 the person to desist from contacting them;

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

9 (4) Cause obscene material to be delivered or transmit-
10 ted to a specific person after being requested to desist from
11 sending such material.

12 For purposes of this section, "obscene material" means
13 material that:

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

18 (B) An average person, applying contemporary adult
19 community standards, would find depicts or describes, in
20 a patently offensive way, sexually explicit conduct consist-
21 ing of an ultimate sexual act, normal or perverted, actual
22 or simulated, an excretory function, masturbation, lewd
23 exhibition of the genitals or sadomasochistic sexual abuse;
24 and

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

27 (b) It is unlawful for any person to knowingly permit a
28 computer under his or her control to be used for any
29 purpose prohibited by this section.

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

34 (d) Any person who violates a provision of this section
35 is guilty of a misdemeanor and, upon conviction thereof,
36 shall be fined not more than five hundred dollars or
37 confined in a county or regional jail not more than six
38 months, or both. For a second or subsequent offense, the
39 person is guilty of a misdemeanor and, upon conviction
40 thereof, shall be fined not more than one thousand dollars
41 or confined in a county or regional jail for not more than
42 one year, or both.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *is* approved this the *7th*
Day of *March*, 2002.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/1/02

Time 11:20am