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

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

1. Make contact with another 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;

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.

For purposes of this section, “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 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.

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

(d) Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or confined in a county or regional jail not more than six months, or both. For a second or subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars or confined in a county or regional jail for not more than one year, or both.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In 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 Day of March, 2002. Governor