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**H. B. 2800**

(By Delegates Miller, Ferro, Sobonya, Border, Rohrbach, Folk,  
and Eldridge)

[Introduced February 18, 2015; referred to the  
Committee on the Judiciary.]

A BILL to amend and reenact §29B-1-4 of the Code of West Virginia, 1931, as amended, relating to adding law-enforcement officers’ contact information and names of family members to the list of exemptions from public records requests.

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

That §29B-1-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 1. PUBLIC RECORDS.**

**§29B-1-4. Exemptions.**

(a) The following categories of information are specifically exempt from disclosure under ~~the provisions of this article:~~

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a

1 service or to locate minerals or other substances, having commercial value, and which gives its users  
2 an opportunity to obtain business advantage over competitors;

3 (2) Information of a personal nature such as that kept in a personal, medical or similar file,  
4 if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the  
5 public interest by clear and convincing evidence requires disclosure in the particular instance:  
6 *Provided*, That nothing in this article shall be construed as precluding an individual from inspecting  
7 or copying his or her own personal, medical or similar file;

8 (3) Test questions, scoring keys and other examination data used to administer a licensing  
9 examination, examination for employment or academic examination;

10 (4) Records of law-enforcement agencies that deal with the detection and investigation of  
11 crime and the internal records and notations of such law-enforcement agencies which are maintained  
12 for internal use in matters relating to law enforcement;

13 (5) Information specifically exempted from disclosure by statute;

14 (6) Records, archives, documents or manuscripts describing the location of undeveloped  
15 historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any  
16 public body upon which the donor has attached restrictions on usage or the handling of which could  
17 irreparably damage such record, archive, document or manuscript;

18 (7) Information contained in or related to examination, operating or condition reports  
19 prepared by, or on behalf of, or for the use of any agency responsible for the regulation or  
20 supervision of financial institutions, except those reports which are by law required to be published  
21 in newspapers;

22 (8) Internal memoranda or letters received or prepared by any public body;

1           (9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist  
2 acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the  
3 public health;

4           (10) Those portions of records containing specific or unique vulnerability assessments or  
5 specific or unique response plans, data, databases and inventories of goods or materials collected or  
6 assembled to respond to terrorist acts; and communication codes or deployment plans of law  
7 enforcement or emergency response personnel;

8           (11) Specific intelligence information and specific investigative records dealing with terrorist  
9 acts or the threat of a terrorist act shared by and between federal and international law-enforcement  
10 agencies, state and local law enforcement and other agencies within the Department of Military  
11 Affairs and Public Safety;

12           (12) National security records classified under federal executive order and not subject to  
13 public disclosure under federal law that are shared by federal agencies and other records related to  
14 national security briefings to assist state and local government with domestic preparedness for acts  
15 of terrorism;

16           (13) Computing, telecommunications and network security records, passwords, security  
17 codes or programs used to respond to or plan against acts of terrorism which may be the subject of  
18 a terrorist act;

19           (14) Security or disaster recovery plans, risk assessments, tests or the results of those tests;

20           (15) Architectural or infrastructure designs, maps or other records that show the location or  
21 layout of the facilities where computing, telecommunications or network infrastructure used to plan  
22 against or respond to terrorism are located or planned to be located;

1 (16) Codes for facility security systems; or codes for secure applications for such facilities  
2 referred to in subdivision (15) of this subsection;

3 (17) Specific engineering plans and descriptions of existing public utility plants and  
4 equipment;

5 (18) Customer proprietary network information of other telecommunications carriers,  
6 equipment manufacturers and individual customers, consistent with 47 U.S.C. §222; ~~and~~

7 (19) Records of the Division of Corrections, Regional Jail Authority and the Division of  
8 Juvenile Services relating to design of corrections, jail and detention facilities owned or operated by  
9 the agency, and the policy directives and operational procedures of personnel relating to the safe and  
10 secure management of inmates or residents, that if released, could be utilized by an inmate or  
11 resident to escape a facility, or to cause injury to another inmate, resident or to facility personnel; and

12 (20) The names of family members and personal physical addresses, mailing addresses,  
13 telephones numbers and email addresses of law-enforcement officers.

14 (b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term  
15 “terrorist act” means an act that is likely to result in serious bodily injury or damage to property or  
16 the environment and is intended to:

17 (1) Intimidate or coerce the civilian population;

18 (2) Influence the policy of a branch or level of government by intimidation or coercion;

19 (3) Affect the conduct of a branch or level of government by intimidation or coercion; or

20 (4) Retaliate against a branch or level of government for a policy or conduct of the  
21 government.

22 (c) Nothing in the provisions of subdivisions (9) through (16), inclusive, subsection (a) of

- 1 this section should be construed to make subject to the provisions of this chapter any evidence of an
- 2 immediate threat to public health or safety unrelated to a terrorist act or the threat thereof which
- 3 comes to the attention of a public entity in the course of conducting a vulnerability assessment
- 4 response or similar activity.

NOTE: The purpose of this bill is to add law-enforcement officers' contact information and names of family members to the list of FOIA exemptions.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.