

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 310**

BY SENATOR TRUMP

[Introduced January 15, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §29B-1-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to exempting from disclosure by state officials certain personal information relating to  
 3 active and retired law-enforcement officers, judges, prosecuting attorneys, members of  
 4 the Legislature and elected officials, and their spouses and children, as protection against  
 5 false claims and suits brought by members of Sovereign Citizens.

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

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

**ARTICLE 1. PUBLIC RECORDS.**

**§29B-1-4. Exemptions.**

1 (a) There is a presumption of public accessibility to all public records, subject only to the  
 2 following categories of information which are specifically exempt from disclosure under the  
 3 provisions of this article:

4 (1) Trade secrets, as used in this section, which may include, but are not limited to, any  
 5 formula, plan pattern, process, tool, mechanism, compound, procedure, production data or  
 6 compilation of information which is not patented which is known only to certain individuals within  
 7 a commercial concern who are using it to fabricate, produce or compound an article or trade or a  
 8 service or to locate minerals or other substances, having commercial value, and which gives its  
 9 users an opportunity to obtain business advantage over competitors;

10 (2) Information of a personal nature such as that kept in a personal, medical or similar file,  
 11 if the public disclosure of the information would constitute an unreasonable invasion of privacy,  
 12 unless the public interest by clear and convincing evidence requires disclosure in this particular  
 13 instance: Provided, That this article does not preclude an individual from inspecting or copying  
 14 his or her own personal, medical or similar file;

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

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

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

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

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

29 (8) Internal memoranda or letters received or prepared by any public body.

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

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

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

41 (12) National security records classified under federal executive order and not subject to  
42 public disclosure under federal law that are shared by federal agencies and other records related

43 to national security briefings to assist state and local government with domestic preparedness for  
44 acts of terrorism;

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

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

50 (15) Architectural or infrastructure designs, maps or other records that show the location  
51 or layout of the facilities where computing, telecommunications or network infrastructure used to  
52 plan.

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

55 (17) Specific engineering plans and descriptions of existing public utility plants and  
56 equipment;

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

59 (19) Records of the Division of Corrections, Regional Jail and Correctional Facility  
60 Authority and the Division of Juvenile Services relating to design of corrections, jail and detention  
61 facilities owned or operated by the agency, and the policy directives and operational procedures  
62 of personnel relating to the safe and secure management of inmates or residents, that if released,  
63 could be used by an inmate or resident to escape a facility, or to cause injury to another inmate,  
64 resident or to facility personnel.

65 (20) Information related to applications under section four, article seven, chapter sixty-one  
66 of this code, including applications, supporting documents, permits, renewals, or any other  
67 information that would identify an applicant for or holder of a concealed weapon permit: Provided:  
68 That information in the aggregate that does not identify any permit holder other than by county or

69 municipality is not exempted: Provided, however, That information or other records exempted  
70 under this subdivision may be disclosed to a law enforcement agency or officer: (i) to determine  
71 the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful  
72 law-enforcement purposes.

73 (21) The home addresses, telephone numbers, social security numbers and photographs  
74 of active or former state or local law-enforcement personnel, including correctional and probation  
75 officers; personnel of the Department of Health and Human Resources whose duties include the  
76 investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, or whose  
77 duties support those activities; justices of the State Supreme Court; state circuit court justices;  
78 magistrates; prosecuting attorneys; assistant prosecuting attorneys; members of the Legislature;  
79 Governor; Secretary of State; Auditor; Attorney General and Treasurer.

80 (22) Home addresses, telephone numbers, social security numbers, photographs and  
81 places of employment of spouses and children of the persons identified in subdivision twenty-one  
82 of this subsection, and the names and locations of schools and day care facilities attended by the  
83 children of those identified in subdivision twenty-one of this section.

84 (b) An agency responsible for records protected from public disclosure in subdivisions  
85 twenty-one and twenty-two of subsection (a) of this section shall disclose to the public nonexempt,  
86 information regularly kept by the agency including but not limited to the names of individuals, the  
87 amount and nonidentifying description of property owned, and whether taxes are paid or  
88 delinquent. To avoid inadvertent disclosure, the agency shall maintain computerized information  
89 in such a way as to alert users to information which is blocked from disclosure to the public.  
90 Personal information exempt from disclosure pursuant to subdivisions twenty-one and twenty-two  
91 may continue to be placed on physical items issued to persons such as drivers' licenses and  
92 vehicle registration cards.

93 ~~(b)~~(c) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the  
94 term "terrorist act" means an act that is likely to result in serious bodily injury or damage to property

95 or the environment and is intended to:

96 (1) Intimidate or coerce the civilian population;

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

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

99 (4) Retaliate against a branch or level of government for a policy or conduct of the

100 government.

101 ~~(e)~~(d) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this  
102 section do not make subject to the provisions of this chapter any evidence of an immediate threat  
103 to public health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to  
104 the attention of a public entity in the course of conducting a vulnerability assessment response or  
105 similar activity.

NOTE: The purpose of this bill is to limit disclosure of certain public records to protect law enforcement officers and certain other persons from false liens and claims.

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