

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4305

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MILLER, SUMMERS, ROHRBACH, LOVEJOY, ESPINOSA,

HOWELL, BUTLER AND GRAVES

[Introduced January 26, 2018; Referred

to the Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §6B-2-5d; and to amend said code by adding thereto a new section,
 3 designated §29B-1-6a, all relating to authorizing the West Virginia Ethics Commission to
 4 sanction persons who have violated the Freedom of Information Act; authorizing the filing
 5 of complaints with the Ethics Commission; directing the Ethics Commission to process,
 6 investigate, and render a disposition in accordance with existing procedures; authorizing
 7 sanctions for violations proven by a preponderance of the evidence; and defining terms.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 6B. PUBLIC OFFICERS AND EMPLOYEES; ETHICS;
 CONFLICTS OF INTEREST; FINANCIAL DISCLOSURE.**

**ARTICLE 2. WEST VIRGINIA ETHICS COMMISSION; POWERS AND DUTIES;
 DISCLOSURE OF FINANCIAL INTEREST BY PUBLIC OFFICIALS AND
 EMPLOYEES; APPEARANCES BEFORE PUBLIC AGENCIES; CODE OF
 CONDUCT FOR ADMINISTRATIVE LAW JUDGES.**

§6B-2-5d. Freedom of Information Act.

1 (a) Any person who is unlawfully denied access to public records pursuant to §29B-1-1 et
 2 seq. of this code may file a complaint pursuant to §6B-2-3a of this code against any custodian of
 3 the requested public records, or public employee working at the direction of the custodian, who is
 4 alleged to have intentionally violated the provisions of §29B-1-1 et seq. of this code.

5 (b) The Ethics Commission shall process, investigate, and render a disposition on the
 6 complaint in accordance with this chapter.

7 (c) If the commission finds evidence of a violation by a preponderance of the evidence,
 8 the commission may impose one or more sanctions pursuant to §6B-2-4(r) of this code.

9 (d) As used in this section, “custodian” shall have the same definition as provided in §29B-
 10 1-2 of this code.

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

§29B-1-6a. Complaint; Ethics Commission; Penalties.

1 Notwithstanding the penalties contained in §29B-1-6 of this code, any person who is
2 unlawfully denied access to public records requested pursuant to this article may file a complaint
3 with the West Virginia Ethics Commission against any custodian of the requested public records,
4 or public employee working at the direction of the custodian, who has intentionally violated the
5 provisions of this article. The Ethics Commission shall have the authority to investigate complaints
6 and render administrative penalties in accordance with §6B-1-1 *et seq.* of this code.

NOTE: The purpose of this bill is to authorize the West Virginia Ethics Commission to investigate violations of the Freedom of Information Act and to issue sanctions for intentional violations.

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