

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 441

BY SENATOR TRUMP

[Passed March 12, 2022; in effect 90 days from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §15A-4-8a, relating to the confidentiality of video, incident reports, or
3 investigation reports of a correctional or juvenile facility; providing that the commissioner's
4 agents, representatives, or other designees may view any video, incident report, or
5 investigation report of a correctional or juvenile facility; permitting the disclosure of video,
6 incident reports, or investigation reports to law enforcement under certain conditions;
7 requiring the law enforcement agency to treat the records as confidential pursuant to §49-
8 5-101(a); permitting the disclosure of such items in a civil or administrative proceeding
9 upon and appropriate order; providing that release of records from a juvenile facility related
10 to an employee grievance shall be in accordance with §49-5-101; permitting the viewing
11 of facility video to any licensed state attorney investigating a potential claim against the
12 division; preventing the disclosure to any licensed state attorney unless a protective order
13 is entered; and extending the confidentiality provisions of this section to any person
14 receiving copies of the video, incident report, or investigation report.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-8a. Facility video and security records confidential; exceptions.

1 (a) The contents of any correctional or juvenile facility video, incident report, or
2 investigation report related to the safe and secure management of inmates and residents may be
3 disclosed or released to the commissioner's agents, representatives, and designees, but such
4 records are otherwise confidential and not subject to public disclosure or release except as set
5 forth in this section.

6 (b) Notwithstanding any provision of this code to the contrary, the contents of any
7 correctional or juvenile facility video, incident report, or investigation report related to the safe and
8 secure management of inmates and residents may be disclosed or released to an appropriate
9 law-enforcement agency, when disclosure or release is necessary for the investigation,

10 prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional
11 institution: *Provided*, That, with respect to records relating to juvenile residents, the law-
12 enforcement agency in receipt of any such records shall treat the records as confidential pursuant
13 to the provisions set forth in §49-5-101(a) of this code.

14 (c) Disclosure or release may also be made in civil or administrative proceedings pursuant
15 to an order of a court or an administrative tribunal with the entry of an appropriate protective order
16 prohibiting the misuse and reproduction of disclosed or released records: *Provided*, That the
17 disclosure or release of records from a juvenile facility required for an employee grievance shall
18 be made strictly in accordance with the provisions of §49-5-101 of this code.

19 (d) The commissioner may authorize an attorney, licensed before the bar of this state and
20 who is representing a person with a potential claim for personal injury or a violation of the United
21 States Constitution or West Virginia Constitution allegedly caused by the division, to view facility
22 video, incident reports, or investigation reports related to the safe and secure management of
23 inmates and residents for purposes of determining the validity of a claim against the division, but
24 such video, incident reports, or investigation reports related to the safe and secure management
25 of inmates and residents shall not be released to the licensed attorney prior to institution of a suit
26 or petition for pre-suit discovery in the appropriate forum and after the entry of an appropriate
27 protective order prohibiting the misuse and reproduction of disclosed records.

28 (e) The confidentiality provisions of this section shall extend to any person receiving such
29 records and may not be used for any unauthorized purpose except upon order of a court of record.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2022.

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Governor