

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 2982

BY DELEGATE UPSON

[Reported Down February 22, 2018; Referred to the
Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §29-22-15a; and to amend and reenact §29B-1-4 of said code, all relating to
3 allowing draw game winners to remain anonymous; providing that a person entitled to
4 collect proceeds exceeding one million dollars from a winning draw game ticket may
5 remain anonymous in regards to his or her name, personal contact information, and
6 likeness; providing that if a person entitled to collect proceeds exceeding one million
7 dollars from a draw game wishes to remain anonymous, then he or she shall contact the
8 State Lottery Director in writing or appear at the state lottery headquarters in person;
9 providing where such request to remain anonymous may be mailed or emailed; providing
10 that upon such a request, the director will contact the person requesting anonymity and
11 schedule an appointment to meet; providing that a draw game winner who elects to remain
12 anonymous must remit 5% of his or her winnings to the State Lottery Fund; establishing
13 an effective date of January 1, 2019; and providing for new exemptions under the Freedom
14 of Information Act.

Be it enacted by the Legislature of West Virginia:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-15a. Option for winners of draw games to remain anonymous.

1 (a) A person entitled to collect proceeds exceeding one million dollars from a winning draw
2 game ticket may remain anonymous: *Provided*, That such anonymity only applies to the person's
3 name, personal contact information, and likeness.

4 (b) If the person entitled to collect proceeds exceeding one million dollars from a winning
5 draw game ticket desires to remain anonymous, he or she shall contact the State Lottery Director
6 in writing or appear at the state lottery headquarters in person, concerning his or her desire to
7 remain anonymous: *Provided*, That such a request only permits that the person's name, personal

8 contact information, and likeness remain anonymous. At the time of his or her request to remain
9 anonymous, the person shall provide his or her contact information, including any personal
10 telephone number, residential address, and electronic mail address.

11 (c) Any request to remain anonymous may be by certified mail addressed to the West
12 Virginia State Lottery Director, P.O. Box 2067, Charleston, West Virginia 25327, by electronic
13 mail to an email address that is to be established by West Virginia State Lottery the prior to this
14 bill's effective date, or in person at the state lottery headquarters. Once established, the secure
15 email address shall be posted on the West Virginia Lottery's website prior to this bill's effective
16 date.

17 (d) Upon receiving a request, the director shall contact the person requesting anonymity
18 and schedule an appointment to meet at any county, regional or state lottery office to confirm the
19 winning number and to otherwise secure the anonymity of the requesting person:

20 (e) If a person under this section elects to remain anonymous, he or she shall remit 5% of
21 his or her winnings to the State Lottery Fund.

22 (f) The requirements of this article shall become effective on January 1, 2019.

CHAPTER 29B. FREEDOM OF INFORMATION.

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) (A) Records of law-enforcement agencies that deal with the detection and investigation
18 of 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 (B) Records identifying motor vehicles used, and the agencies using them, for undercover
21 investigation activities conducted by state law-enforcement agencies or other agencies that are
22 authorized by this code to use undercover or unmarked vehicles;

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

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

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

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

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

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

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

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

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

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

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

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

58 (17) Specific engineering plans and descriptions of existing public utility plants and
59 equipment;

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

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

68 (20) Information related to applications under section four, article seven, chapter sixty-one
69 of this code, including applications, supporting documents, permits, renewals, or any other
70 information that would identify an applicant for or holder of a concealed weapon permit: *Provided,*
71 That information in the aggregate that does not identify any permit holder other than by county or
72 municipality is not exempted: *Provided, however,* That information or other records exempted
73 under this subdivision may be disclosed to a law-enforcement agency or officer: (i) To determine
74 the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful
75 law-enforcement purposes; ~~and~~

76 (21) Personal information of law-enforcement officers maintained by the public body in the
77 ordinary course of the employer-employee relationship. As used in this paragraph, "personal
78 information" means a law-enforcement officer's social security number, health information, home
79 address, personal address, personal telephone numbers and personal email addresses and those
80 of his or her spouse, parents and children as well as the names of the law-enforcement officer's
81 spouse, parents and children; and

82 (22) Information provided by a person when he or she elects to avail themselves of the
83 provisions of section fifteen-a, article twenty-two, chapter twenty-nine of this code.

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

- 87 (1) Intimidate or coerce the civilian population;
88 (2) Influence the policy of a branch or level of government by intimidation or coercion;
89 (3) Affect the conduct of a branch or level of government by intimidation or coercion; or
90 (4) Retaliate against a branch or level of government for a policy or conduct of the
91 government.

92 (c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section
93 do not make subject to the provisions of this chapter any evidence of an immediate threat to public
94 health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the
95 attention of a public entity in the course of conducting a vulnerability assessment response or
96 similar activity.

NOTE: The purpose of this bill is to allow a powerball winner to be anonymous if they elect to be anonymous. The bill also provides an exemption under FOIA if a person elects anonymity.

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