

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4252

BY DELEGATE R. MILLER, CAMPBELL, CANESTRARO,

ELDRIDGE, MAYNARD AND ISNER

[Introduced January 22, 2018; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §57-5-4 of the Code of West Virginia, 1931, as amended, relating
 2 to authorizing the prosecuting attorney to issue a subpoena duces tecum for documents
 3 deemed material to a criminal investigation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§57-5-4. Production of writings -- By person other than party.

1 When it appears by affidavit or otherwise that a writing or document in the possession of
 2 any person not a party to the matter in controversy is material and proper to be produced before
 3 the court, or any person appointed by it or acting under its process or authority, or any such person
 4 as is named in §57-5-1 of this code, such court, family law ~~master court judge~~, judge or president
 5 thereof may order the clerk of the said court to issue a subpoena duces tecum to compel such
 6 production at a time and place to be specified in the order. Notwithstanding any other section of
 7 this code, the prosecuting attorney may issue a subpoena duces tecum in aid of a criminal
 8 investigation for documents the prosecuting attorney considers material to a criminal
 9 investigation.

NOTE: The purpose of this bill is to authorize the prosecuting attorney to issue a subpoena duces tecum for documents deemed material while conducting a criminal investigation.

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