

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

Senate Bill 616

BY SENATOR WELD

[Originating in the Committee on the Judiciary;

reported on February 22, 2022]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-8B-19, relating to the confidentiality of certain court files and law-
3 enforcement records regarding victim identity in enumerated offenses; providing
4 mechanisms for release of otherwise confidential information; permitting the examination
5 or copying of certain files by court order; and obtaining certain files by the issuance of a
6 subpoena duces tecum.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-19. Court files and law-enforcement records; confidentiality.

1 (a) Records confidential.—All records and information maintained by the courts of this
2 state or any law enforcement agency of this state or any of its political subdivisions, which contain
3 identifying information of a victim in an arrest, investigation, or complaint for the offenses
4 enumerated in §61-8A-1 et seq., §61-8B-1 et seq., §61-8C-1 et seq., or §61-14-1 et seq. of this
5 code, or for the offenses included in §61-8D-3a, §61-8D-5, and §61-8DB-6 of this code, shall be
6 kept confidential and withheld from inspection, except: (1) When required by law; (2) when
7 necessary for law-enforcement purposes or preparation for court proceedings; or (3) pursuant to
8 an order of a court issued in accordance with subsection (c) of this section.

9 (b) Orders permitting examination or copying of file contents.—Upon written motion filed
10 in the circuit court of the county where the criminal action is pending or has been prosecuted, a
11 circuit court, for good cause shown, may enter an order allowing a person who is precluded
12 access to a court file or law-enforcement record pursuant to subsection (a) of this section the
13 authority to examine and copy documents in a file. The order shall set forth specific findings which
14 demonstrate why the interests of justice necessitate the examination, specify the particular
15 documents to be examined or copied, or both examined and copied and the circumstances under
16 which such action or actions shall take place.

17 (c) Obtaining confidential records.—Absent a waiver of confidentiality by the subject of the
18 confidential records, the records are only subject to subpoena pursuant to subsection (d) of this
19 section.

20 (d) Subpoena Duces Tecum.—Any court file or law-enforcement record in the offenses
21 included in subsection (a) of this section may be supplied to any person presenting a valid
22 subpoena duces tecum issued by a state or federal court in any criminal action. Any file or record
23 obtained under this subsection shall be used only in the context of the case in which the subpoena
24 was issued and not for any other purpose.

25 (e) Victim request.—Upon a written request of a victim, decisions of the West Virginia
26 Intermediate Court of Appeals and the West Virginia Supreme Court of Appeals issued on or after
27 July 1, 2022, involving the offenses enumerated in subsection (a) of this section shall not contain
28 the first and last names of the victim.

29 (f) Supreme Court authorization.—The Supreme Court of Appeals is requested to
30 promulgate rules prior to July 1, 2022, to the extent necessary to comply with the provisions of
31 this article that become effective on that date.