

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3140

**FISCAL
NOTE**

By Delegate T. Howell

[Introduced March 04, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §29B-1-3 of the Code of West Virginia, 1931, as amended, relating
2 to amending the Freedom of Information Act provisions of the Public Records article of the
3 code; requiring custodians of any public records to maintain a public accessible database;
4 protection of identity of persons FOIA requests; requiring updates of public online data
5 bases; and criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. PUBLIC RECORDS.

§29B-1-3. Inspection and copying of public record; requests of Freedom of Information Act requests registry.

1 (a) Every person has a right to inspect or copy any public record of a public body in this
2 state, except as otherwise expressly provided by section four of this article. Public records shall
3 be open for inspection and copying: *Provided*, That the name, contact information, and personally
4 identifying details of any individual submitting a FOIA request shall be considered confidential and
5 exempt from public disclosure, except as provided in subsection (b) of this section.

6 (b) A request to inspect or copy any public record of a public body shall be made directly to
7 the custodian of such the public record who shall protect the identity of the requester.

8 (1) Any publicly accessible FOIA log, database, or similar record maintained by the
9 Secretary of State may not include the requester's name or personally identifiable information.

10 (2) If a FOIA request is made seeking copies of previous FOIA requests or logs, the names
11 of original requesters shall be redacted prior to disclosure.

12 (3) The only exceptions to this confidentiality provision are:

13 (A) Requests submitted by government officials in an official capacity;

14 (B) Requests made where public interest outweighs privacy concerns, as determined by
15 the Secretary of State or a court of law; or

16 (C) Cases where the requester explicitly consents to the disclosure of his or her identity.

17 (c) The custodian of any public records, unless otherwise expressly provided by statute,

shall furnish proper and reasonable opportunities for inspection and examination of the records in his or her office and reasonable facilities for making memoranda or abstracts therefrom, during the usual business hours, to all persons having occasion to make examination of them. The custodian of the records may make reasonable rules and regulations necessary for the protection of the records and to prevent interference with the regular discharge of his or her duties. If the records requested exist in magnetic, electronic or computer form, the custodian of the records shall make copies available on magnetic or electronic media, if so requested.

(d) All requests for information must state with reasonable specificity the information sought. The custodian, upon demand for records made under this statute, shall as soon as is practicable but within a maximum of five days not including Saturdays, Sundays or legal holidays:

(1) Furnish copies of the requested information;

(2) Advise the person making the request of the time and place at which he or she may inspect and copy the materials; or

(3) Deny the request stating in writing the reasons for such denial. A denial shall indicate that the responsibility of the custodian of any public records or public body to produce the requested records or documents is at an end, and shall afford the person requesting them the opportunity to institute proceedings for injunctive or declaratory relief in the circuit court in the county where the public record is kept.

(e) The public body may establish fees reasonably calculated to reimburse it for its actual cost in making reproductions of records. A public body may not charge a search or retrieval fee or otherwise seek reimbursement based on a man-hour basis as part of costs associated with making reproduction of records.

(f) The Secretary of State shall maintain an electronic data base of notices of requests as required by §29B-1-3a of this code. The database shall be made available to the public via the Internet and shall list each freedom of information request received and the outcome of the request. The Secretary of State shall provide on the website a form for use by a public body to

44 report the results of the freedom of information request, providing the nature of the request and the
45 public body's response thereto, whether the request was granted, and if not, the exemption
46 asserted under section four of this article to deny the request.

47 (g) (1) The Secretary of State shall update all online FOIA databases within 90 days of the
48 enactment of this law to comply with subsection (b) of this section.

49 (2) Any failure to redact a requester's identity from public records shall be considered a
50 violation of this article, subject to penalties as provided in §29B-1-6 of this code.

51 (3) Affected requesters may seek injunctive relief and damages up to \$5,000 per violation if
52 their personal information is unlawfully disclosed.

NOTE: The purpose of this bill is to require custodians of any public records to maintain a public accessible database; protect the identity of persons with FOIA requests; and requiring updates of public online data bases.

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