WEST VIRGINIA LEGISLATURE
Regular Session, 2002

ENROLLED
Committee Substitute for

SENATE BILL NO. 435

(By Senator Mitchell et al.)

PASSED March 9, 2002

In Effect ninety days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 435

(SENATORS MITCHELL, FANNING, KESSLER, MINARD, OLIVERIO, ROWE, FACEMYER AND MCKENZIE, original sponsors)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend article six, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirteen, relating to local emergency telephone systems; providing for the confidentiality of calls received by a county answering point reporting crimes or possible criminal conduct, fire calls and calls for emergency medical dispatch; providing exceptions thereto; declaring all other calls nonconfidential; requiring promulgation of written policy of compliance; and requiring retention of records of calls.

Be it enacted by the Legislature of West Virginia:
ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

§24-6-13. Confidentiality of certain calls to county answering points and records; retention of records.

(a) Except as provided by the provisions of this section, calls for emergency service to a county answering point are not confidential. All calls for emergency service reporting alleged criminal conduct which are recorded electronically, in writing or in any other form, are to be kept confidential by the county answering point receiving the call and may be released only pursuant to an order entered by a court of competent jurisdiction, a valid subpoena or through the course of discovery in a criminal action requiring the release of the information: Provided, That nothing contained in this section may be construed as preventing the county answering point from releasing information to a responding agency as may be necessary for that agency’s response on a call or the completion of necessary reports relating to that call.

(b) Upon proper request and payment of a reasonable fee set by the center director to cover the cost of production, a person or entity may obtain, without court order or a valid subpoena, a transcription of a call for emergency service reporting alleged criminal conduct. The answering point shall exclude from the transcription any information relating to the identity of the caller including, but not limited to, the caller’s name, address, telephone number or his or her location in relation to the alleged offense or the alleged perpetrator. If the transcript of a call is such that it cannot be successfully redacted so as to protect the identity of the caller, the answering point may decline to provide the transcript. In that case, the person requesting
the transcription may apply to a court of competent jurisdiction for a court order releasing the transcript.

(c) All calls for emergency service which are recorded electronically, in writing or in any other form are to be maintained for a period of at least ninety days or longer if required by an order entered by a court of competent jurisdiction or a valid subpoena.

(d) A county answering point may release information to bonafide law-enforcement agencies, the prosecuting attorney of a county or a United States attorney pursuant to a lawful criminal investigation. Nothing in this article may be construed as prohibiting a freedom of information request under chapter twenty-nine-b of this code for information relating to the operation of the center or to calls for emergency service which do not involve reporting of alleged criminal conduct.

(e) Nothing in this article requires disclosure of any information that is specifically exempt from disclosure by statute. Except as otherwise provided in this article, nothing prohibits disclosure of information that is not specifically exempted from disclosure under a provision of this code.

(f) Every county answering point shall, within ninety days of the effective date of this section, promulgate a written policy, available to the public, reflecting its compliance with the provisions of this section.

(g) No answering point or center personnel shall be civilly liable for any injury arising from disclosure of information pursuant to the provisions of this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 27th Day of March, 2002.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/26/02
Time 2:50