WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2001

(By Delegates Stemple, Kominar, Pino, Pethtel, Mahan, Amores and Craig)

Passed March 8, 2003

In Effect Ninety Days from Passage
A BILL to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-II, relating to restricting public access to military discharge forms recorded in the county clerks office.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-II, to read as follows:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.
§7-1-3ll. Clerk of the county commission duties relating to record keeping of military discharge forms.

(a) The county commission shall order that the clerk of the county commission wherein a person discharged from the armed forces of the United States resides record, upon presentation, free of charge, the original or a properly authenticated copy of either the discharge certificate or the report of separation from active duty (Department of Defense Document DD-214), or both, and maintain the discharge certificate or report, or both, in the clerk’s office in a secure manner, rendering the records unavailable to the public.

(b) Notwithstanding the provisions of article one, chapter twenty-nine-b, discharge certificates and reports of separation from active duty recorded pursuant to this section may be copied or inspected only by the following:

1. The person of the record;
2. The duly qualified conservator or guardian of the person of the record;
3. The duly qualified executor or administrator of the estate of the person of the record, if deceased, or, in the event no executor or administrator has qualified, the next of kin of the deceased person;
4. An attorney, attorney-in-fact, or other agent or representative of any of the persons described in subdivision (1), (2) or (3), subsection (b) of this section, acting pursuant to a written power of attorney or other written authorization; or
(5) A duly authorized representative of an agency or instrumentality of federal, state, or local government seeking the record in the ordinary course of performing its official duties.

(c) Under the circumstances where time is of the essence, including, but not limited to, requests for copies of records attendant to the making of funeral arrangements or arrangements for medical care, the clerk, in ascertaining whether a person seeking access to discharge certificates or reports of separation from active duty is qualified to do so pursuant to subsection (b) of this section, may rely upon the sworn statement of the requestor made in person before the clerk or his deputy.

(d) Notwithstanding the provisions of subsection (b) of this section, the clerk may permit access to discharge certificates or reports of separation from active duty of deceased persons for bona fide genealogical or other research purposes.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 18th day of March 2003.

Governor
PRESENTED TO THE GOVERNOR

Date 3/2/03

Time 11:00am