ENROLLED

House Bill No. 2475

(By Delegates Perry and Ellem)

Passed February 16, 2011

In Effect Ninety Days From Passage
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H. B. 2475

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[Passed February 16, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §29B-1-4 of the Code of West Virginia, 1931, as amended, relating to including certain records of the Division of Juvenile Services in the exemptions from disclosure under the Freedom of Information Act.

Be it enacted by the Legislature of West Virginia:

That §29B-1-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. PUBLIC RECORDS.

§29B-1-4. Exemptions.

1 (a) The following categories of information are specifically exempt from disclosure under the provisions of this article:
(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance: Provided, That nothing in this article shall be construed as precluding an individual from inspecting or copying his or her own personal, medical or similar file;

(3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;

(4) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law-enforcement;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or
constituting gifts to any public body upon which the donor
has attached restrictions on usage or the handling of which
could irreparably damage such record, archive, document or
manuscript;

(7) Information contained in or related to examination,
operating or condition reports prepared by, or on behalf of, or
for the use of any agency responsible for the regulation or
supervision of financial institutions, except those reports
which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by
any public body;

(9) Records assembled, prepared or maintained to
prevent, mitigate or respond to terrorist acts or the threat of
terrorist acts, the public disclosure of which threaten the
public safety or the public health;

(10) Those portions of records containing specific or
unique vulnerability assessments or specific or unique
response plans, data, databases and inventories of goods or
materials collected or assembled to respond to terrorist acts;
and communication codes or deployment plans of law-
enforcement or emergency response personnel;

(11) Specific intelligence information and specific
investigative records dealing with terrorist acts or the threat
of a terrorist act shared by and between federal and
international law-enforcement agencies, state and local law-
enforcement and other agencies within the Department of
Military Affairs and Public Safety;

(12) National security records classified under federal
executive order and not subject to public disclosure under
federal law that are shared by federal agencies and other
records related to national security briefings to assist state
and local government with domestic preparedness for acts of
terrorism;

(13) Computing, telecommunications and network
security records, passwords, security codes or programs used
to respond to or plan against acts of terrorism which may be
the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments,
tests or the results of those tests;

(15) Architectural or infrastructure designs, maps or other
records that show the location or layout of the facilities where
computing, telecommunications or network infrastructure
used to plan against or respond to terrorism are located or
planned to be located;

(16) Codes for facility security systems; or codes for
secure applications for such facilities referred to in
subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of
existing public utility plants and equipment;

(18) Customer proprietary network information of other
telecommunications carriers, equipment manufacturers and
individual customers, consistent with 47 U.S.C. §222; and

(19) Records of the Division of Corrections, Regional Jail
Authority and the Division of Juvenile Services relating to
design of corrections, jail and detention facilities owned or
operated by the agency, and the policy directives and
operational procedures of personnel relating to the safe and
secure management of inmates or residents, that if released,
could be utilized by an inmate or resident to escape a facility,
or to cause injury to another inmate, resident or to facility personnel.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term "terrorist act" means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliating against a branch or level of government for a policy or conduct of the government.

(c) Nothing in the provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section should be construed to make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat thereof which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 2nd day of March, 2011.

Governor
PRESENTED TO THE GOVERNOR

FEB 24 2011

Time