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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2011



**ENROLLED**

**House Bill No. 2475**

(By Delegates Perry and Ellem)



Passed February 16, 2011

In Effect Ninety Days From Passage

HB 2475

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SECRETARY OF STATE

**E N R O L L E D**

**H. B. 2475**

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(BY DELEGATES PERRY AND ELLEM)

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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
- 2 specifically exempt from disclosure under the provisions of
- 3 this article:

4 (1) Trade secrets, as used in this section, which may  
5 include, but are not limited to, any formula, plan pattern,  
6 process, tool, mechanism, compound, procedure, production  
7 data or compilation of information which is not patented  
8 which is known only to certain individuals within a  
9 commercial concern who are using it to fabricate, produce or  
10 compound an article or trade or a service or to locate  
11 minerals or other substances, having commercial value, and  
12 which gives its users an opportunity to obtain business  
13 advantage over competitors;

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

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

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

30 (5) Information specifically exempted from disclosure by  
31 statute;

32 (6) Records, archives, documents or manuscripts  
33 describing the location of undeveloped historic, prehistoric,  
34 archaeological, paleontological and battlefield sites or

35 constituting gifts to any public body upon which the donor  
36 has attached restrictions on usage or the handling of which  
37 could irreparably damage such record, archive, document or  
38 manuscript;

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

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

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

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

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

62 (12) National security records classified under federal  
63 executive order and not subject to public disclosure under  
64 federal law that are shared by federal agencies and other

65 records related to national security briefings to assist state  
66 and local government with domestic preparedness for acts of  
67 terrorism;

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

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

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

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

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

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

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

94 or to cause injury to another inmate, resident or to facility  
95 personnel.

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

100 (1) Intimidate or coerce the civilian population;

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

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

105 (4) Retaliate against a branch or level of government for  
106 a policy or conduct of the government.

107 (c) Nothing in the provisions of subdivisions (9) through  
108 (16), inclusive, subsection (a) of this section should be  
109 construed to make subject to the provisions of this chapter  
110 any evidence of an immediate threat to public health or safety  
111 unrelated to a terrorist act or the threat thereof which comes  
112 to the attention of a public entity in the course of conducting  
113 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

  
Acting President of the Senate

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

  
Governor

OFFICE OF THE CLERK OF THE SENATE  
SECRETARY OF STATE

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PRESENTED TO THE GOVERNOR

FEB 24 2011

Time 8:50am