

**WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**Senate Bill 616**

BY SENATOR WELD

[Passed March 09, 2022; in effect 90 days from passage]

FILED

2022 MAR 23 P 5:28

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SB616

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1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §61-8B-19, relating to the confidentiality of certain court files and law-  
3 enforcement records regarding victim identity in enumerated offenses; providing  
4 mechanisms for release of otherwise confidential information; permitting the examination  
5 or copying of certain files by court order; and obtaining certain files by the issuance of a  
6 subpoena duces tecum.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 8B. SEXUAL OFFENSES.**

### **§61-8B-19. Court files and law-enforcement records; confidentiality.**

1 (a) *Records confidential.*— All records and information maintained by the courts of this  
2 state or any law enforcement agency of this state or any of its political subdivisions, which contain  
3 identifying information of a victim in an arrest, investigation, or complaint for the offenses  
4 enumerated in §61-8A-1 *et seq.*, §61-8B-1 *et seq.*, §61-8C-1 *et seq.*, or §61-14-1 *et seq.* of this  
5 code, or for the offenses included in §61-8D-3a, §61-8D-5, and §61-8DB-6 of this code, shall be  
6 kept confidential and withheld from inspection, except: (1) When required by law; (2) when  
7 necessary for law-enforcement purposes or preparation for court proceedings; or (3) pursuant to  
8 an order of a court issued in accordance with subsection (c) of this section.

9 (b) *Orders permitting examination or copying of file contents.*— Upon written motion filed  
10 in the circuit court of the county where the criminal action is pending or has been prosecuted, a  
11 circuit court, for good cause shown, may enter an order allowing a person who is precluded  
12 access to a court file or law-enforcement record pursuant to subsection (a) of this section the  
13 authority to examine and copy documents in a file. The order shall set forth specific findings which  
14 demonstrate why the interests of justice necessitate the examination, specify the particular  
15 documents to be examined or copied, or both examined and copied and the circumstances under  
16 which such action or actions shall take place.

17           (c) *Obtaining confidential records.*— Absent a waiver of confidentiality by the subject of  
18 the confidential records, the records are only subject to subpoena pursuant to subsection (d) of  
19 this section.

20           (d) *Subpoena Duces Tecum.*— Any court file or law-enforcement record in the offenses  
21 included in subsection (a) of this section may be supplied to any person presenting a valid  
22 subpoena duces tecum issued by a state or federal court in any criminal action. Any file or record  
23 obtained under this subsection shall be used only in the context of the case in which the subpoena  
24 was issued and not for any other purpose.

25           (e) *Victim request.*— Upon a written request of a victim, decisions of the West Virginia  
26 Intermediate Court of Appeals and the West Virginia Supreme Court of Appeals issued on or after  
27 July 1, 2022, involving the offenses enumerated in subsection (a) of this section shall not contain  
28 the first and last names of the victim.

29           (f) *Supreme Court authorization.*— The Supreme Court of Appeals is requested to  
30 promulgate rules prior to July 1, 2022, to the extent necessary to comply with the provisions of  
31 this article that become effective on that date.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

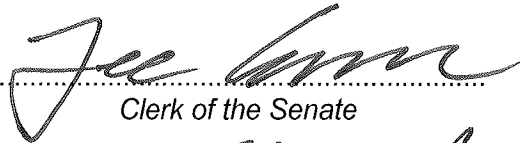
  
.....  
Chairman, Senate Committee

  
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Chairman, House Committee


Originated in the Senate.

In effect 90 days from passage.

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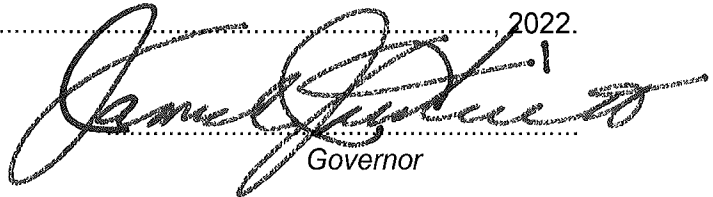
  
.....  
Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 23rd  
Day of March ..... 2022.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 15 2022

Time 11:46am