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H. B. 2964

(By Delegates Weld, B. White, Sobonya, Foster, Hanshaw,
Folk, Campbell, Waxman and Byrd)

[Introduced February 24, 2015; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §31-20-5e of the Code of West Virginia, 1931, as amended, relating
to allowing e-mails and other types of electronic communications to and from regional jail
inmates be monitored, intercepted, recorded and disclosed; and providing exception for
attorney-client privileged communications.

Be it enacted by the Legislature of West Virginia:

That §31-20-5e of the Code of West Virginia, 1931, as amended, be amended and reenacted
to read as follows:

**ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY.**

**§31-20-5e. Monitoring of inmate telephone calls and electronic communications; procedures
and restrictions; attorney-client privilege protected and exempted.**

(a) The executive director or his or her designee is authorized to monitor, intercept, record
and disclose the content of telephone calls and, if available to inmates, emails and other forms of
electronic communications to or from inmates housed in regional jails in accordance with the

1 following provisions:

2 (1) All inmates housed in regional jails shall be notified in writing that their telephone
3 conversations, emails and other forms of electronic communications may be monitored, intercepted,
4 recorded and disclosed;

5 (2) Only the executive director and his or her designee shall have access to recordings of
6 inmates' telephone calls, e-mails and other forms of electronic communications unless disclosed
7 pursuant to subdivision (4) of this subsection;

8 (3) Notice shall be prominently placed on or immediately near every telephone or other
9 communication device that may be monitored;

10 (4) The contents of inmates' telephone calls, emails and other forms of electronic
11 communications may be disclosed to the appropriate law-enforcement agency only if the disclosure
12 is:

13 (A) Necessary to safeguard the orderly operation of the regional jails;

14 (B) Necessary for the investigation of a crime;

15 (C) Necessary for the prevention of a crime;

16 (D) Necessary for the prosecution of a crime;

17 (E) Required by an order of a court of competent jurisdiction; or

18 (F) Necessary to protect persons from physical harm or the threat of physical harm;

19 (5) Recordings of telephone calls may be destroyed after twelve months unless further
20 retention is required for disclosure pursuant to subdivision (4) of this subsection or, in the discretion
21 of the executive secretary, for other good cause. ~~and~~

1 ~~(6)~~ (b) To safeguard the sanctity of the attorney-client privilege, an adequate number of
2 telephone lines that are not monitored shall be made available for telephone calls between inmates
3 and their attorneys. Such calls shall not be monitored, intercepted, recorded or disclosed in any
4 matter. If inmates have access to e-mail or other forms of electronic communications, the executive
5 director shall develop a system that allows inmates to confidentially communicate with their
6 attorneys thereby safeguarding the sanctity of the attorney-client privilege.

NOTE: The purpose of this bill is to allow e-mails and other types of electronic communications to and from regional jail inmates be monitored, intercepted, recorded and disclosed. The bill provides an exception for attorney-client privileged communications.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.