

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 343**

BY SENATORS COLE (MR. PRESIDENT), HALL, KESSLER

AND TRUMP

[Introduced January 21, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §52-2-11, relating to grand juries; authorizing prosecuting attorneys to  
3 designate law-enforcement officers and investigators as custodians of records,  
4 documents and other evidence subpoenaed by a grand jury; authorizing designated  
5 custodians to use subpoenaed records, documents and other evidence for investigative  
6 purposes prior to such records, documents or other evidence being presented to a grand  
7 jury; requiring presentation of subpoenaed materials held by custodian be presented to  
8 the next session of the grand jury meeting after receipt; and limiting law enforcement use  
9 of such subpoenaed materials to legitimate investigation and prosecuted purposes  
10 relevant to the investigation underlying issuance of subpoena.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §52-2-11, to read as follows:

**ARTICLE 2. GRAND JURIES.**

**§52-2-11. Materials subpoenaed by a grand jury; authorizing custodian possession and  
use thereof.**

1 (a) Notwithstanding any provision of this code to the contrary, records, items or other  
2 evidence subpoenaed before a grand jury may, in the discretion of the prosecuting attorney, be  
3 permitted to be delivered to a law-enforcement officer or investigator as the custodian of the  
4 records, items or other evidence. The officer or investigator conducting an investigation to which  
5 the subpoenaed records, items or other evidence are relevant may keep, review and analyze the  
6 records. The records, items or other evidence shall be presented by the officer or investigator to  
7 the next session of the grand jury.

8 (b) Prior to providing a subpoenaed record, item or other evidence to a custodian as  
9 authorized by subsection (a) of this section, the prosecuting attorney shall prepare and have the  
10 law-enforcement officer or investigator execute a disclosure statement indicating that the record,

11 item or other evidence is secret under Rule 6(e) of the West Virginia Rules Of Criminal Procedure.  
12 The prosecuting attorney shall file disclosure statements, under seal, with the clerk of the circuit  
13 court. The existence or contents of any record, item or other evidence subject to the provisions of  
14 this section may not be disclosed to any other officer or investigator without authorization of the  
15 prosecuting attorney and the subsequent officer's or investigator's execution of a disclosure  
16 statement.

17 (c) The law-enforcement officer or investigator may retain the record, item or other  
18 evidence in his or her possession, care, custody or control until the termination of the investigation  
19 or prosecution.

NOTE: The purpose of this bill is to authorize prosecuting attorneys to designate law-enforcement officers and investigators as custodians of records, documents and other evidence subpoenaed by a grand jury.

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