

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2167**

BY DELEGATES R. MILLER AND CANESTRARO

[Introduced January 9, 2019; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §57-5-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to authorizing the prosecuting attorney to issue a subpoena duces tecum for documents  
 3 considered material to a criminal investigation.

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

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§57-5-4. Production of writings -- By person other than party.**

1 When it appears by affidavit or otherwise that a writing or document in the possession of  
 2 any person not a party to the matter in controversy is material and proper to be produced before  
 3 the court, or any person appointed by it or acting under its process or authority, or any such person  
 4 as is named in §57-5-1 of this code, such court, family law ~~master~~ court judge, judge or president  
 5 thereof may order the clerk of ~~the said~~ that court to issue a subpoena duces tecum to compel  
 6 ~~such~~ the production at a time and place to be specified in the order. Notwithstanding any other  
 7 section of this code, the prosecuting attorney may issue a subpoena duces tecum in aid of a  
 8 criminal investigation for documents the prosecuting attorney considers material to a criminal  
 9 investigation.

NOTE: The purpose of this bill is to authorize the prosecuting attorney to issue a subpoena duces tecum for documents deemed material while conducting a criminal investigation.

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