

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2163

BY DELEGATE PACK

[Introduced February 10, 2021; 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 article,
 2 designated §55-7L-1, relating to the disclosure of nonpublic personal information required
 3 in employment cases; and providing a civil penalty.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7L. DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION
REQUIRED IN EMPLOYMENT CASES.

§55-7L-1. Notice and disclosure.

1 (a) Each employer shall provide, within 30 days of its receipt of a written request from an
 2 employee or former employee’s legal representative who has given written notice that he or she
 3 represents the employee or former employee in a potential civil action regarding the individual’s
 4 employment or separation from employment:

5 (1) A response providing the following information relating to the employee:

6 (2) A full copy of the employee’s personnel file;

7 (3) A full copy of the employee’s medical file;

8 (4) A full copy of the employee’s payroll records.

9 (b) The declarations page of an employer liability insurance policy applicable at the time
 10 of the events that are the subject of the claim appropriately redacted to comply with applicable
 11 privacy laws or rules.

12 (c) Any written request by the employee or former employee’s attorney under this section
 13 shall include:

14 (1) The date and location of the events that are the subject of the claim;

15 (2) The name and address of the employee or former employee;

16 (3) A signed employment record release;

17 (4) Where medical information is requested, a signed medical record release.

18 (d) Disclosure of the information required by subsection (a)(2) of this section is not an

19 admission that the alleged injury or damage is subject to any policy of insurance, nor does the
20 disclosure waive any reservation of rights an insurer may have.

21 (e) The information disclosed by any party pursuant to this section, by reason of the
22 disclosure alone, is not admissible as evidence at trial.

23 (f) An employer that fails to comply with this section is subject to a penalty of \$500, plus
24 reasonable attorney's fees and expenses incurred in obtaining disclosure of information required
25 by subsection (a) of this section. This penalty is the sole and exclusive remedy for an employer's
26 failure to comply with this section before suit is filed.

NOTE: The purpose of this bill is to require disclosure of nonpublic personal information required in employment cases. It provides for a civil penalty for failure to comply.

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