

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Enrolled

Committee Substitute

for

Committee Substitute

for

Senate Bill 470

BY SENATORS WOELFEL, IHLENFELD, RUCKER, LINDSAY,

CAPUTO, ROMANO, AND WOODRUM

[Passed April 10, 2021; in effect 90 days from

passage (July 9, 2021)]

1 AN ACT to amend and reenact §5A-8-21 and §5A-8-22 of the Code of West Virginia, 1931, as
2 amended; and to amend said code by adding thereto a new section, designated §5A-8-
3 24, all relating to certain disclosures of certain personal information; clarifying that certain
4 personal information which is maintained by state agencies regarding persons in their
5 capacity as state officers, employees, retirees, or legal dependents thereof is confidential
6 and exempt from disclosure to non-governmental entities as an unreasonable invasion of
7 privacy; protecting confidentiality of the former legal name of certain individuals associated
8 with state agencies; clarifying that certain personal information which is maintained by
9 state executive branch agencies regarding individuals and their dependents is exempted
10 from disclosure as an unreasonable invasion of privacy; creating Daniel's Law; providing
11 for liberal construction to accomplish certain purposes and public policies; defining terms;
12 prohibiting certain disclosures regarding certain persons in the judicial system; authorizing
13 a civil action against certain private persons and entities; authorizing relief to be granted
14 by the court; providing for certain individuals to request that certain persons or entities
15 refrain from disclosing certain information and that the disclosed information be removed;
16 requiring immediate removal of certain disclosed information; authorizing a civil action for
17 failure to comply with request to refrain from and remove certain disclosed information;
18 providing for misdemeanor crime for willful refusal to remove certain disclosed information
19 and establishing penalties therefor; and clarifying that Daniel's Law does not prohibit
20 disclosures required by state or federal law.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5A. DEPARTMENT OF ADMINISTRATION.

§5A-8-21. Limitation on release of certain personal information maintained by state agencies and entities regarding state employees.

1 (a) The following personal information maintained by executive, legislative, or judicial
2 branch agencies of the State of West Virginia regarding persons in their capacity as state officers,

3 employees, retirees, or the legal dependents thereof is hereby deemed to be confidential and
4 exempt from disclosure, as an unreasonable invasion of privacy, to non-governmental entities in
5 documents otherwise subject to disclosure under the provisions of §29B-1-1 *et seq.* of this code:

- 6 (1) An individual's home address;
- 7 (2) An individual's Social Security number;
- 8 (3) An individual's credit or debit card numbers;
- 9 (4) An individual's driver's license identification number; and
- 10 (5) An individual's marital status or former legal name.

11 (b) It is the policy of the State of West Virginia that the information enumerated in
12 subsection (a) of this section is personal and confidential and should only be released to non-
13 governmental entities for such purposes as are authorized by federal law or regulation, a provision
14 of this code, or a legislative rule promulgated pursuant to the provisions of §29A-1-1 *et seq.* of
15 this code.

§5A-8-22. Personal information maintained by state entities.

1 (a) The following information maintained by state executive branch agencies with respect
2 to individuals and their dependents is personal information exempted from disclosure as an
3 unreasonable invasion of privacy under the provisions of §29B-1-1 *et seq.* of this code, and may
4 not be released to non-governmental entities:

- 5 (1) An individual's Social Security number; or
- 6 (2) An individual's credit or debit card number.

7 (b) Notwithstanding the provisions of subsection (a) of this section, the information
8 enumerated in said subsection may be released for such purposes as are authorized by federal
9 law or regulation, a provision of this code, or a legislative rule promulgated pursuant to the
10 provisions of §29A-1-1 *et seq.*

**§5A-8-24. Protection of personal information relating to judicial officers, prosecutors, and
law-enforcement officers.**

1 (a) This section shall be known as Daniel's Law.

2 (b) This act shall be liberally construed in order to accomplish its purpose and the public
3 policy of this state, which is to enhance the safety and security of certain public officials in the
4 justice system, including judicial officers, prosecutors, federal and state public defenders, federal
5 and state assistant public defenders, and law-enforcement officers, who serve or have served the
6 citizens of West Virginia, and the immediate family members of these individuals, to foster the
7 ability of these public servants who perform critical roles in the justice system, and to carry out
8 their official duties without fear of personal reprisal from affected individuals related to the
9 performance of their public functions.

10 (c) *Definitions.* — As used in this section:

11 (1) “Disclose” means to publish, publicly display, distribute, deliver, circulate, post, lend,
12 provide, advertise, or disseminate by any means including, but not limited to, electronic
13 transmission and on any medium including, but not limited to, the Internet.

14 (2) “Immediate family member” means spouse, child, parent, or any other family member
15 related by blood or by law to the judicial officer, prosecutor, or law-enforcement officer, and who
16 resides in the same residence as the judicial officer, prosecutor, federal or state public defender,
17 federal or state assistant public defender, or law-enforcement officer.

18 (3) “Judicial officer” means the chief justice or an associate justice of the United States
19 Supreme Court, a judge of the United States Court of Appeals, a judge of a federal district court,
20 a magistrate judge of a federal district court, any other judge for a court established by federal
21 law, the chief justice or a justice of the Supreme Court of Appeals of West Virginia, a circuit judge,
22 a family law judge, a magistrate, an administrative law judge, a municipal court judge, or any other
23 judge established by state law.

24 (4) “Law-enforcement officer” shall have the same definition as that term is defined in
25 §29B-1-2 of this code.

26 (5) “Prosecutor” means United States Attorney or his or her assistant United States
27 attorneys, any other prosecutor established by federal law, the Attorney General of the State of

28 West Virginia or his or her assistant attorneys general, a county prosecuting attorney or his or her
29 assistant prosecuting attorneys, or any other prosecutor established by state law.

30 (d) Unless written permission is first obtained from the individual, a state or local
31 government agency shall not knowingly disclose, redisclose, or otherwise make available the
32 home address or unpublished home or personal telephone number of any active, formerly active,
33 or retired judicial officer, prosecutor, federal or state public defender, federal or state assistant
34 public defender, or law-enforcement officer.

35 (e) Unless written permission is first obtained from the individual, a person, business, or
36 association shall not disclose, redisclose, or otherwise make available the home address or
37 unpublished home or personal telephone number of any active, formerly active, or retired judicial
38 officer, prosecutor, federal or state public defender, federal or state assistant public defender, or
39 law-enforcement officer under circumstances in which a reasonable person would believe that
40 providing such information would expose another to harassment or risk of harm to life or property.

41 (1) A civil action may be maintained by the active, formerly active, or retired judicial officer,
42 prosecutor, federal or state public defender, federal or state assistant public defender, or law-
43 enforcement officer, or any other person residing at the home address of the active, formerly
44 active, or retired judicial officer, prosecutor, federal or state public defender, federal or state
45 assistant public defender, or law-enforcement officer, for any violation of subsection (e) of this
46 section.

47 (2) The court may award:

48 (A) Actual damages, but not less than \$1,000, for each violation of this act;

49 (B) Punitive damages, if applicable, in accordance with §55-7-29 of this code;

50 (C) Reasonable attorney's fees and other litigation costs reasonably incurred; and

51 (D) Any other preliminary or equitable relief as the court deems appropriate.

52 (f) Any active, formerly active, or retired judicial officer, prosecutor, federal or state public
53 defender, federal or state assistant public defender, or law-enforcement officer whose home

54 address or unpublished home or personal telephone number is disclosed, redisclosed, or
55 otherwise made available by any person, business, or association may request that the person,
56 business, or association in violation of subsection (e) of this section that disclosed, redisclosed,
57 or otherwise made available the information to refrain from that action and remove the information.

58 (g) Any immediate family member of any active, formerly active, or retired judicial officer,
59 prosecutor, federal or state public defender, federal or state assistant public defender, or law-
60 enforcement officer whose name, home address, or unpublished home or personal telephone
61 number, which may be used alone or in conjunction with any other information to identify the
62 person as the family member of an active, formerly active, or retired judicial officer, prosecutor,
63 federal or state public defender, federal or state assistant public defender, or law-enforcement
64 officer, is disclosed, redisclosed, or otherwise made available by any person, business, or
65 association in violation of subsection (e) of this section may request that the person, business, or
66 association that disclosed, redisclosed, or otherwise made available the information to refrain
67 from that action and remove the information.

68 (h) A request to refrain and remove information pursuant to subsection (f) or (g) of this
69 section shall be made in writing to the person, business, or association that disclosed,
70 redisclosed, or otherwise made available the information.

71 (1) Upon receipt of a written request to refrain and remove information, the person,
72 business, or association that disclosed, redisclosed, or otherwise made available the information
73 shall immediately remove the information from any location where the information has been
74 disclosed which is within the control of the person, business, or association.

75 (2) A civil action may be maintained by the individual whose information is disclosed,
76 redisclosed, or otherwise made available for failure to comply with a request to refrain and remove
77 the information made pursuant to subdivision (1) of this subsection, and the court may award
78 injunctive or declaratory relief. If the court grants injunctive or declaratory relief, the person,
79 business, or association responsible for the violation shall be required to pay reasonable

80 attorney's fees and other litigation costs reasonably incurred by the judicial officer, prosecutor,
81 federal or state public defender, federal or state assistant public defender, law-enforcement
82 officer, or immediate family member thereof, as applicable and appropriate.

83 (3) A person who willfully refuses to remove information within 24 hours of receipt of the
84 written request pursuant to subdivision (1), subsection (h) of this section is guilty of a
85 misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined for
86 up to six months, or both fined and confined.

87 (i) This section does not prohibit disclosures required by state or federal law.

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

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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 this the.....
Day of, 2021.

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Governor