

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **Senate Bill 441**

BY SENATOR TRUMP

[Introduced January 20, 2022; 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 §15A-4-8a, relating to the confidentiality of video, incident reports, or other  
 3 records of a correctional or juvenile facility; providing that the commissioner's agents,  
 4 representatives, or other designees may view any video, incident report, or other record  
 5 of a correctional or juvenile facility; permitting the disclosure of video, incident reports, or  
 6 other record to law enforcement and the Fusion Center; permitting the disclosure of such  
 7 items in a civil proceeding upon and appropriate order; permitting the viewing of facility  
 8 video to any licensed state attorney investigating a potential claim against the division;  
 9 preventing the disclosure to any licensed state attorney unless a protective order is  
 10 entered; and extending the confidentiality provisions of this section to any person receiving  
 11 copies of the video, incident report, or other record.

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

#### **ARTICLE 4. CORRECTIONS MANAGEMENT.**

##### **§15A-4-8a. Facility video and security records confidential; exceptions.**

1 (a) The contents of any correctional or juvenile facility video, incident reports, or other  
 2 records related to the safe and secure management of inmates and residents may be disclosed  
 3 to the commissioner's agents, representatives, and designees, but such records are otherwise  
 4 confidential and not subject to public disclosure except as set forth in this section.

5 (b) The contents of any correctional or juvenile facility video, incident reports, or other  
 6 records related to the safe and secure management of inmates and residents may be disclosed  
 7 to an appropriate law-enforcement agency, or the West Virginia Intelligence Fusion Center, when  
 8 disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard  
 9 the orderly operation of the correctional institution. Disclosure may also be made in civil or  
 10 administrative proceedings pursuant to an order of a court or an administrative tribunal when the  
 11 disclosure is:

12 (1) Necessary to safeguard and protect the orderly operation of the correctional institution;

13 or

14 (2) Necessary to protect persons from physical harm or the threat of physical harm;

15 (c) The commissioner may authorize an attorney licensed before the bar of the state and  
16 retained to represent a person who may be subject to facility video monitoring to view facility video  
17 for purposes of investigating a claim against the division, but such video shall not be disclosed  
18 prior to institution of a suit or petition for pre-suit discovery in the appropriate forum and after the  
19 entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed  
20 records.

21 (d) The confidentiality provisions of this section shall extend to any person receiving such  
22 records and may not be used for any unauthorized purpose except upon order of a court of record.

NOTE: The purpose of this bill is to make confidential any video, incident reports, or other record related to the management of inmates or juveniles at any correctional or juvenile facility while also creating exceptions for viewing such items by the staff of the commissioner, law enforcement, the Fusion Center, and attorneys investigating claims against the division.

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