

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 527

By Senators Trump, Azinger, Grady, Rucker, Stover,
Stuart, Takubo, Tarr, Taylor, Weld, Woodrum, Caputo,

Deeds, Smith, Clements, Hamilton, and Maynard

[Passed March 10, 2023; in effect 90 days from
passage]

1 AN ACT to amend and reenact §7-1-3II of the Code of West Virginia, 1931, as amended, relating to
2 extending the right to receive copies or view, free of charge, copies of the discharge
3 certificate or report of separation from active duty to the family members of persons
4 discharged from the United States Armed Forces.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3II. Clerk of the county commission duties relating to record keeping of military discharge forms.

1 (a) The county commission shall order that the clerk of the county commission wherein a
2 person discharged from the Armed Forces of the United States resides record, upon presentation,
3 free of charge, the original or a properly authenticated copy of either the discharge certificate or
4 the report of separation from active duty (Department of Defense Document DD-214), or both, and
5 maintain the discharge certificate or report, or both, in the clerk's office in a secure manner,
6 rendering the records unavailable to the public.

7 (b) Notwithstanding the provisions of §29B-1-1 *et seq.* of this code, discharge certificates
8 and reports of separation from active duty recorded pursuant to this section may be copied or
9 inspected only by the following:

- 10 (1) The person of the record, their spouse, child, grandchild, parent, or sibling;
- 11 (2) The duly qualified conservator or guardian of the person of the record;
- 12 (3) The duly qualified executor or administrator of the estate of the person of the record, if
13 deceased, or, in the event no executor or administrator has qualified, the next of kin of the
14 deceased person;
- 15 (4) An attorney, attorney-in-fact, or other agent or representative of any of the persons
16 described in subdivision (1), (2) or (3), subsection (b) of this section, acting pursuant to a written
17 power of attorney or other written authorization; or
- 18 (5) A duly authorized representative of an agency or instrumentality of federal, state, or

19 local government seeking the record in the ordinary course of performing its official duties.

20 (c) Under the circumstances where time is of the essence, including, but not limited to,
21 requests for copies of records attendant to the making of funeral arrangements or arrangements
22 for medical care, the clerk, in ascertaining whether a person seeking access to discharge
23 certificates or reports of separation from active duty is qualified to do so pursuant to subsection (b)
24 of this section, may rely upon the sworn statement of the requestor made in person before the
25 clerk or his or her deputy.

26 (d) Notwithstanding the provisions of subsection (b) of this section, the clerk may permit
27 access to discharge certificates or reports of separation from active duty of deceased persons for
28 bona fide genealogical or other research purposes: *Provided*, That in accordance with federal law,
29 the clerk shall permit access to discharge certificates or reports of separation from active duty of
30 military veterans who retired, were discharged, or died in service 62 years or more prior to the date
31 of such a request was made.