

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4541**

By Delegate Young

[Introduced January 10, 2024; 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 §62-1A-12, relating to requiring a warrant for the disclosure of certain third-  
 3 party information.

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

**ARTICLE                    1A.                    SEARCH                    AND                    SEIZURE.**

**§62-1A-12. Warrant required for disclosure of certain third-party information.**

1            (a) As used in this section, "subscriber record" means a record or information of a provider  
 2 of an electronic communication service or remote computing service that reveals the subscriber's  
 3 or customer's:

- 4            (1) Name;
- 5            (2) Address;
- 6            (3) Local and long distance telephone connection record, or record of session time and  
 7 duration;
- 8            (4) Length of service, including the start date;
- 9            (5) Type of service used;
- 10           (6) Telephone number, instrument number, or other subscriber or customer number or  
 11 identification, including a temporarily assigned network address; and
- 12           (7) Means and source of payment for the service, including a credit card or bank account  
 13 number.

14           (b) Except as otherwise provided, a law-enforcement agency may not obtain, use, copy, or  
 15 disclose a subscriber record.

16           (c) A law-enforcement agency may not obtain, use, copy, or disclose, for a criminal  
 17 investigation or prosecution, any record or information, other than a subscriber record, of a  
 18 provider of an electronic communication service or remote computing service related to a  
 19 subscriber or customer without a warrant.

20           (d) Notwithstanding subsections (b) and (c), a law-enforcement agency may obtain, use,

21 copy, or disclose a subscriber record, or other record or information related to a subscriber or  
22 customer, without a warrant:

23 (1) With the informed, affirmed consent of the subscriber or customer;

24 (2) In accordance with a judicially recognized exception to warrant requirements;

25 (3) If the subscriber or customer voluntarily discloses the record in a manner that is publicly  
26 accessible; or

27 (4) If the provider of an electronic communication service or remote computing service  
28 voluntarily discloses the record:

29 (A) Under a belief that an emergency exists involving the imminent risk to an individual of:

30 (i) Death;

31 (ii) Serious physical injury;

32 (iii) Sexual abuse;

33 (iv) Live-streamed sexual exploitation;

34 (v) Kidnapping; or

35 (vi) Human trafficking;

36 (B) That is inadvertently discovered by the provider, if the record appears to pertain to the  
37 commission of:

38 (i) A felony; or

39 (ii) A misdemeanor involving physical violence, or sexual abuse; or

40 (C) As otherwise permitted under 18 U.S.C. Sec. 2702.

41 (e) A provider of an electronic communication service or remote computing service, or the  
42 provider's officers, employees, agents, or other specified persons may not be held liable for  
43 providing information, facilities, or assistance in good faith reliance on the terms of a warrant  
44 issued under this section, or without a warrant in accordance with subsection (c).

NOTE: The purpose of this bill is to require a warrant for the disclosure of certain third-party

information.

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