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HOUSE BILL NO. 445

Offered January 17, 2000

A BILL to amend and reenact §§ 2.1-342.2 and 2.1-343 of the Code of Virginia, relating to the Freedom of Information Act; disclosure of criminal records; notice of meetings.

Patrons—Woodrum, Day and May; Senators: Bolling and Houck

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.1-342.2 and 2.1-343 of the Code of Virginia are amended and reenacted as follows:**

§ 2.1-342.2. Disclosure of criminal records; limitations.

A. As used in this section:

"Criminal incident information" means a general description of the criminal activity reported, the date and general location the alleged crime was committed, the identity of the investigating officer, and a general description of any injuries suffered or property damaged or stolen.

"Law-enforcement official" includes the attorneys for the Commonwealth.

B. Law-enforcement officials shall make available upon request criminal incident information relating to felony offenses. However, where the release of criminal incident information is likely to jeopardize an ongoing investigation or prosecution, or the safety of an individual; cause a suspect to flee or evade detection; or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in this subsection shall be construed to prohibit the release of those portions of such information that are not likely to cause the above-referenced damage.

C. Information in the custody of law-enforcement officials relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest shall be released.

D. The identity of any victim, witness or undercover officer, or investigative techniques or procedures need not but may be disclosed unless disclosure is prohibited or restricted under § 19.2-11.2.

E. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

F. The following records are excluded from the provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

1. Complaints, memoranda, correspondence and evidence relating to a criminal investigation or prosecution, other than criminal incident information as defined in subsection A;

2. Adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;

3. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to § 53.1-16 or § 66-3.1, and (iii) campus police departments of public institutions of higher education established pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23;

4. Portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity;

5. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity; and

6. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment.

G. Records kept by law-enforcement agencies as required by § 15.2-1722 shall be subject to the provisions of this ~~section~~ chapter except:

1. Those portions of noncriminal incident or other investigative reports or materials containing identifying information of a personal, medical or financial nature provided to a law-enforcement agency where the release of such information would jeopardize the safety or privacy of any person;

2. Those portions of any records containing information related to plans for or resources dedicated to undercover operations; or

3. Records of background investigations of applicants for law-enforcement agency employment or other confidential administrative investigations conducted pursuant to law.

H. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

§ 2.1-343. Meetings to be public; notice of meetings; recordings; minutes.

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60 A. All meetings of public bodies shall be open, except as provided in § 2.1-344.

61 B. No meeting shall be conducted through telephonic, video, electronic or other communication
62 means where the members are not physically assembled to discuss or transact public business, except as
63 provided in §§ 2.1-343.1, 2.1-343.1:1 or as may be specifically provided in Title 54.1 for the summary
64 suspension of professional licenses.

65 C. Every public body shall give notice of the date, time, and location of its meetings by placing the
66 notice in a prominent public location at which notices are regularly posted; *and* in the office of the clerk
67 of the public body, or in the case of a public body which has no clerk, in the office of the chief
68 administrator. Publication of meeting notices by electronic means shall be encouraged. The notice shall
69 be posted at least three working days prior to the meeting. Notices for meetings of state public bodies
70 on which there is at least one member appointed by the Governor shall state whether or not public
71 comment will be received at the meeting and, if so, the approximate point during the meeting when
72 public comment will be received.

73 D. Notice, reasonable under the circumstance, of special or emergency meetings shall be given
74 contemporaneously with the notice provided members of the public body conducting the meeting.

75 E. Any person may annually file a written request for notification with a public body. The request
76 shall include the requester's name, address, zip code, daytime telephone number, electronic mail address
77 (if available), and organization, if any. The public body receiving such request shall provide notice of all
78 meetings directly to each such person. Without objection by the person, the public body may provide
79 electronic notice of all meetings in response to such requests.

80 F. At least one copy of all agenda packets and, unless exempt, all materials furnished to members of
81 a public body for a meeting shall be made available for public inspection at the same time such
82 documents are furnished to the members of the public body.

83 G. Nothing in this chapter shall be construed to prohibit the gathering or attendance of two or more
84 members of a public body (i) at any place or function where no part of the purpose of such gathering or
85 attendance is the discussion or transaction of any public business, and such gathering or attendance was
86 not called or prearranged with any purpose of discussing or transacting any business of the public body
87 or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the
88 electorate and not to transact public business or to hold discussions relating to the transaction of public
89 business, even though the performance of the members individually or collectively in the conduct of
90 public business may be a topic of discussion or debate at such public meeting. The notice provisions of
91 this chapter shall not apply to informal meetings or gatherings of the members of the General Assembly.

92 H. Any person may photograph, film, record or otherwise reproduce any portion of a meeting
93 required to be open. The public body conducting the meeting may adopt rules governing the placement
94 and use of equipment necessary for broadcasting, photographing, filming or recording a meeting to
95 prevent interference with the proceedings.

96 I. Minutes shall be recorded at all open meetings. However, minutes shall not be required to be taken
97 at deliberations of (i) standing and other committees of the General Assembly, (ii) legislative interim
98 study commissions and committees, including the Virginia Code Commission, (iii) study committees or
99 commissions appointed by the Governor, or (iv) study commissions or study committees, or any other
100 committees or subcommittees appointed by the governing bodies or school boards of counties, cities and
101 towns, except where the membership of any such commission, committee or subcommittee includes a
102 majority of the governing body of the county, city or town or school board. Minutes, including draft
103 minutes, and all other records of open meetings, including audio or audio/visual records, shall be
104 deemed public records and subject to the provisions of this chapter. Audio or audio/visual records of
105 open meetings shall be public records which shall be produced in accordance with § 2.1-342.