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SENATE JOINT RESOLUTION NO. 238

Offered January 24, 2000

Establishing a joint subcommittee to study discovery of electronic data.

Patrons—Mims; Delegates: Black and May

Referred to Committee on Rules

WHEREAS, Virginia is the center of the Internet, with numerous multi-state and multi-national Internet businesses located in the Commonwealth; and

WHEREAS, numerous motions regarding discovery of electronic data are being heard in the circuit courts of the Commonwealth; and

WHEREAS, many of these motions arise out of cases pending in other states but are being heard in the Commonwealth only because the Internet service providers (ISPs), which may be the custodians of such electronic data, are located in the Commonwealth; and

WHEREAS, the Code of Virginia provides a statutory scheme in governing the discovery of such electronic data for criminal cases but not for civil cases; and

WHEREAS, to strengthen the Commonwealth's position as the leader of technology and relevant laws and to facilitate further growth of Internet industries, a legal procedure governing discovery of electronic data, whether by statute or by rules of evidence, is necessary; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established to study and develop a statutory scheme or rules of evidence governing the discovery of electronic data in civil cases. The joint subcommittee shall be composed of thirteen members, which shall include seven legislative members and six nonlegislative citizens and ex officio members as follows: three members of the Senate, to be appointed by the Senate Committee on Privileges and Elections, two of whom shall be members of the Senate Committee on Courts of Justice and one of whom shall be a member of the Joint Commission on Technology and Science; four members of the House of Delegates, to be appointed by the Speaker, three of whom shall be members of the House Committee on Courts of Justice and one of whom shall be a member of the Joint Commission on Technology and Science; three members of the Virginia State Bar with expertise in rules of evidence and electronic data, to be appointed by the Senate Committee on Privileges and Elections upon recommendations by the Governor; two circuit court judges familiar with electronic data, to be appointed by the Speaker upon recommendations by the Chief Justice of the Supreme Court of Virginia; and the Attorney General or his designee to serve ex officio.

In conducting its study, the joint subcommittee shall study the feasibility of providing circuit court judges the authority to appoint special commissioners to hear and resolve complex disputes regarding discovery of electronic data.

The direct costs of this study shall not exceed \$8,200.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

INTRODUCED

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