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SENATE JOINT RESOLUTION NO. 334

Offered January 10, 2001

Prefiled January 5, 2001

*Requesting the Office of the Executive Secretary of the Virginia Supreme Court, in consultation with the Joint Commission on Technology and Science, to study the discovery of electronic data.*

Patrons—Mims; Delegates: Black, Howell 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 the 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 solely 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 for 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 the 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 the Office of the Executive Secretary of the Virginia Supreme Court, in consultation with the Joint Commission on Technology and Science, be requested to study the discovery of electronic data. The Executive Secretary shall examine the development of a statutory scheme or rules of evidence to govern the discovery of electronic data in civil cases and the feasibility of providing circuit court judges the authority to appoint special commissioners to hear and resolve complex disputes regarding the discovery of electronic data.

All agencies of the Commonwealth shall provide assistance to the Executive Secretary, upon request.

The Office of the Executive Secretary of the Virginia Supreme Court shall complete its work in time to submit its findings and recommendations to the Governor and the 2002 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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