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HOUSE BILL NO. 1304

Offered January 20, 2004

A BILL to require public bodies to conduct a privacy impact analysis when authorizing or prohibiting the use of invasive technologies and require the Joint Commission on Technology and Science to propose guidelines for conducting the analysis.

Patrons—Lingamfelter, Athey, Griffith and O'Bannon

Referred to Committee on Science and Technology

Whereas, the balance between civil liberties and security has been a long-established principle embedded in the constitutions of the United States and the Commonwealth of Virginia; and

Whereas, the development of new technologies has challenged that balance; and

Whereas, the legislature has been asked to authorize, limit or prohibit the use of many new technologies such as facial recognition and photo monitoring systems; and

Whereas, the needs of legitimate law enforcement must be balanced against the preservation of the American way of life and our inalienable freedoms; and

Whereas, technologies available today can track a person's movement, listen to his conversations, assess the speed of his vehicle and look inside his house all from a remote location and without his knowledge; and

Whereas, as these technologies become more invasive and their use more clandestine, the potential for unchecked abuse threatens to impinge civil liberties; and

Whereas, Benjamin Franklin cautioned "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety"; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. Beginning July 1, 2006, public bodies shall be required to conduct a privacy impact analysis when authorizing or prohibiting the use of invasive technologies. For purposes of this section, "invasive technologies" include, but is not limited to, radio frequency identification, tracking systems, facial recognition systems, hidden cameras, spyware, photo monitoring systems and Internet wiretaps.

§ 2. By the first day of the 2006 Regular Session of the General Assembly, the Joint Commission on Technology and Science (JCOTS) shall propose to the Governor and the 2006 General Assembly policies and guidelines for public bodies to follow in conducting the privacy impact analysis. In developing the policies and guidelines, JCOTS shall review the invasive technologies available for use, the current legal requirements of their use, the reasons for their use, their impact on civil liberties, and any safeguards that are or should be used to mitigate negative impacts. The Office of the Attorney General, the Virginia State Police, the Virginia Division of Forensic Science and the Office of Commonwealth Preparedness shall provide technical assistance to JCOTS.

INTRODUCED

HB1304