

2006 SESSION

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SENATE BILL NO. 608

Offered January 11, 2006

A BILL for the relief of Rufus Thomas, Jr.

Patron—Lambert

Referred to Committee on Finance

Whereas, in December 2002, a Sergeant of the Sheriff's Department of the City of Richmond, (Sheriff's Department) individually and acting in his capacity as an employee of the Sheriff's Department in violation of §§ 2.2-3803, 9.1-128, and 19.2-389 of the Code of Virginia, intentionally ran a background check on Plaintiff Rufus Thomas, Jr. (Mr. Thomas) on either the Virginia Criminal Information Network (VCIN) system, the National Crime Information Center (NCIC) system, or both; and

Whereas, at the time of the background check, Mr. Thomas was employed as a Deputy Sheriff in the Sheriff's Department; and

Whereas, the background check was not conducted for any professional reason whatsoever, as required by law, but rather for personal reasons; and

Whereas, the Sergeant's action of running the criminal background check on Mr. Thomas for personal reasons and not for reasons or purposes associated with Mr. Thomas' job as Deputy Sheriff and repeated dissemination the results of the background check to other deputy sheriffs of the Sheriff's Department were grossly negligent and intentional; and

Whereas, in December 2002 and in January through June 2003, Mr. Thomas reported this violation to a Captain, a Lieutenant, and a Major of the Sheriff's Department and requested that they take corrective action; and

Whereas, these officers provided absolutely no response to Mr. Thomas, but rather disregarded him and took no corrective action; and

Whereas, in December of 2002 and in January of 2003, Mr. Thomas reported this violation to a Captain, a Lieutenant, a Major, a First Sergeant, a Sergeant and a Colonel of the Virginia State Police and asked that they take corrective action; and

Whereas, these officers did not respond to Mr. Thomas, but rather disregarded him and took no corrective action; and

Whereas, the superior officers in the Sheriff's Department and the officers of the Virginia State Police contacted by Mr. Thomas had a duty to take action pursuant to §§ 2.2-3803 and 9.1-130 of the Code of Virginia; and

Whereas, such duties include (i) establishment and enforcement of rules of conduct for the proper operation of the VCIN and NCIC systems, (ii) informing individuals using the systems of such rules for proper usage, and (iii) taking affirmative action to impose penalties for noncompliance to ensure that no dissemination of information from the VCIN and NCIC systems or any criminal history record information located in the Central Records Exchange are made for any improper reasons; and

Whereas, the superior officers of the Sheriff's Department and the officers contacted at the Virginia State Police had a duty to investigate and take corrective actions for reported violations of use of the VCIN system; and

Whereas, despite repeated reports to these officers of the improper and intentional use by the Sergeant of the VCIN or NCIC system for personal reasons, these officers intentionally and with gross negligence ignored the reports and failed to take an action to correct the improper dissemination of VCIN or NCIC information or to take any actions to maintain the security of the criminal background information; and

Whereas, as a result of the actions of the Sergeant and the superior officers in the Sheriff's Department and the officers of the Virginia State Police who were contacted regarding the improper usage to act to prevent the improper dissemination of Mr. Thomas' criminal history from the VCIN or NCIC, and as a result of their intentional and willful breaches of duty to take affirmative action, the dissemination continued for a much longer period of time than it would have had affirmative action been taken; and

Whereas, Mr. Thomas filed a Motion for Judgment for damages in the Circuit Court of Richmond, Virginia, pursuant to § 9.1-135; and

Whereas, an opinion was issued by the Honorable Melvin R. Hughes, Jr., in November 2005 finding that Rufus Thomas, Jr., had no legal remedy for damages and dismissed all legal actions against the Sergeant and all supervising officers from the Sheriff's Department and the Virginia State Police; and

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59 Whereas, Mr. Thomas is unable to find an attorney to represent him on appeal due to the novelty of
60 this issue, the complexity of the Virginia statutes, and the cost of such representation; and

61 Whereas, Mr. Thomas has no other means to obtain relief except by action of this body; now
62 therefore,

63 **Be it enacted by the General Assembly of Virginia:**

64 **1. § 1. *That there is hereby appropriated from the general fund of the state treasury the sum of***
65 ***\$10,000 for the relief of Rufus Thomas, Jr., to be paid by check issued by the State Treasurer on***
66 ***warrant of the Comptroller to Rufus Thomas, Jr., upon a release by him of all claims he may have***
67 ***against the Commonwealth and its political subdivisions, agencies, instrumentalities, officers,***
68 ***employees in connection with, or arising out of, the aforesaid occurrence.***