

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 213

An Act to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 38.1, consisting of sections numbered 2.2-3815 and 2.2-3816, relating to the Protection of Social Security Numbers Act; penalties.

[H 2427]

Approved March 27, 2009

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 38.1, consisting of sections numbered 2.2-3815 and 2.2-3816, as follows:

CHAPTER 38.1.

PROTECTION OF SOCIAL SECURITY NUMBERS ACT.

§ 2.2-3815. Access to social security numbers prohibited; exceptions.

A. Except as otherwise provided in this chapter, the first five digits of a social security number contained in a public record shall be confidential and exempt from disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.).

For the purposes of this chapter:

"Agency" means the same as that term is defined in § 2.2-3801, unless the context requires otherwise.

"Data subject" means the same as that term is defined in § 2.2-3801.

"Public record" means the same as that term is defined in § 2.2-3701, but shall not include any records required by law to be maintained by the clerks of the courts of record, as defined in § 1-212, or courts not of record, as defined in § 16.1-69.5.

"Regional agency" means a unit of government organized as provided by law whose members are appointed by the participating local governing bodies, and such unit includes two or more counties, cities, or towns.

B. The provisions of this section shall not be construed to prevent the release of a social security number:

1. In accordance with a proper judicial order;

2. To any federal, state or local law-enforcement or correctional personnel, including a law-enforcement officer, probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his official duties;

3. By one agency to another agency in Virginia or to an agency in another state, district, or territory of the United States where such information is requested by such agencies in connection with (i) the application of the data subject therein for a service, privilege, or right under the laws thereof, (ii) the transmittal of information to family advocacy representatives of the United States Armed Forces in accordance with subsection N of § 63.2-1503, or (iii) the performance of such agency's official duties;

4. To any data subject exercising his rights under § 2.2-3806, or if the data subject is less than 18 years of age, to his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access;

5. To any other agency in Virginia or to a federal agency in order to comply with any applicable law or regulation; or

6. To a person or entity when necessary to administer any program of the agency, to perform a service or function of the agency, or to conduct or complete the transaction for which the social security number was submitted to the agency.

§ 2.2-3816. Proceedings for enforcement of chapter.

A. Any aggrieved person may institute a proceeding for injunction or mandamus against any agency that has engaged, is engaged, or is about to engage in any acts in violation of the provisions of this chapter. Venue for the petition shall be addressed as follows:

1. In a case involving a local agency, to the general district court or circuit court of the county or city from which the agency has been elected or appointed to serve;

2. In a case involving a regional agency, to the general district or circuit court of the county or city where the principal business office of such agency is located; and

3. In a case involving a state agency, including a public institution of higher education, to the general district court or the circuit court of the residence of the aggrieved party or of the City of Richmond.

B. If the court finds a violation of the provisions of this chapter, the petitioner shall be entitled to recover reasonable costs and attorney fees from the agency if the petitioner substantially prevails on the

merits of the case, unless special circumstances would make an award unjust. In making this determination, a court may consider, among other things, the reliance of the agency on an opinion of the Attorney General or a decision of a court that substantially supports the agency's position.