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HOUSE BILL NO. 2630

Offered January 23, 2009

A BILL to amend the Code of Virginia by adding in Title 9.1 a chapter numbered 14, consisting of sections numbered 9.1-1400, 9.1-1401, and 9.1-1402, relating to the Law-Enforcement Officers' Privacy Protection Act.

Patrons—Crockett-Stark, Byron, Carrico, Hargrove, Marshall, D.W., Merricks and Nutter

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 9.1 a chapter numbered 14, consisting of sections numbered 9.1-1400, 9.1-1401, and 9.1-1402, as follows:

CHAPTER 14.**LAW-ENFORCEMENT OFFICERS' PRIVACY PROTECTION ACT.****§ 9.1-1400. Definitions.**

As used in this chapter:

"Agency" means any agency, authority, board, department, division, commission, institution, bureau, or like governmental entity of the Commonwealth or of any unit of local government including counties, cities, towns, regional governments, and the departments thereof, and includes constitutional officers, courts of record as defined in § 1-212, and courts not of record as defined in § 16.1-69.5. "Agency" shall also include any entity, whether public or private, with which any of the foregoing has entered into a contractual relationship for the operation of a system of personal information to accomplish an agency function. Any such entity included in this definition by reason of a contractual relationship shall only be deemed an agency as it relates to services performed pursuant to that contractual relationship.

"Law-enforcement officer" means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

"Personal information" means the name, social security number, address, phone number, or any other information that could reasonably be used to physically locate a law-enforcement officer while off duty.

"Record" means all writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of an agency or its officers, employees, or agents in the transaction of public business.

§ 9.1-1401. Release of personal information.

A. Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or any provision of law requiring that records maintained by the clerks of courts of record and courts not of record be open for public inspection, no agency shall release any personal information concerning a law-enforcement officer contained in a record otherwise required to be open to public inspection, if such law-enforcement officer has requested that his personal information be withheld from public disclosure pursuant to subsection B.

B. Any law-enforcement officer may request, in writing, that an agency withhold his personal information from records otherwise required to be open to public inspection. The request shall be made directly to each agency that the law-enforcement officer requests to withhold the personal information. The request shall include the name and contact information of the chief law-enforcement officer of the police department or sheriff's office that employs the requesting law-enforcement officer, for verification purposes. The request shall also include contact information for the requesting law-enforcement officer. Any request to withhold personal information pursuant to this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. If an agency receives a request for the personal information of a law-enforcement officer, and that law-enforcement officer has requested that his personal information be withheld, the agency shall notify the law-enforcement officer of the request, using the law-enforcement officer's contact information provided pursuant to subsection B.

§ 9.1-1402. Exceptions.

Nothing in this chapter shall be construed to prohibit release of personal information:

1. To any other federal, state, or local agency in the course of conducting the regular business of the

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59 *agency, including any law-enforcement officer in the course of official business;*
60 *2. Pursuant to a court order that such personal information be released; or*
61 *3. To an authorized agent of the requesting law-enforcement officer.*
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