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**SENATE BILL NO. 914**

Offered January 14, 2015

Prefiled January 8, 2015

*A BILL to amend and reenact §§ 16.1-69.55 and 17.1-213 of the Code of Virginia, relating to retention of court records; sexually violent predator offenses.*

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Patron—Wexton

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Referred to Committee for Courts of Justice

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

**1. That §§ 16.1-69.55 and 17.1-213 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-69.55. Retention of case records; limitations on enforcement of judgments; extensions.**

A. Criminal and traffic infraction proceedings:

1. In misdemeanor and traffic infraction cases, except misdemeanor cases under § 16.1-253.2, 18.2-57.2, or 18.2-60.4, all documents shall be retained for 10 years, including cases sealed in expungement proceedings under § 19.2-392.2. In misdemeanor cases under § 16.1-253.2, 18.2-57.2, or 18.2-60.4, all documents shall be retained for 20 years. In misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1 *and in all cases involving sexually violent offenses, as defined in § 37.2-900*, all documents shall be retained for 50 years. Documents in misdemeanor and traffic infraction cases for which an appeal has been made shall be returned to and filed with the clerk of the appropriate circuit court pursuant to § 16.1-135;

2. In felony cases that are certified to the grand jury, all documents shall be certified to the clerk of the appropriate circuit court pursuant to §§ 19.2-186 and 19.2-190. All other felony case documents shall be handled as provided in subdivision 1;

3. Dockets and indices shall be retained for 10 years.

B. Civil proceedings:

1. All documents in civil proceedings in district court that are dismissed, including dismissal under § 8.01-335, shall be retained until completion of the Commonwealth's audit of the court records. Notwithstanding § 8.01-275.1, the clerks of the district courts may destroy documents in civil proceedings in which no service of process is had 24 months after the last return date;

2. In civil actions that result in a judgment, all documents in the possession of the general district court shall be retained for 10 years and, unless sooner satisfied, the judgment shall remain in force for a period of 10 years;

3. In civil cases that are appealed to the circuit court pursuant to § 16.1-112, all documents pertaining thereto shall be transferred to the circuit court in accordance with those sections;

4. The limitations on enforcement of general district court judgments provided in § 16.1-94.1 shall not apply if the plaintiff, prior to the expiration of that period for enforcement, pays the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. However, a judgment debtor wishing to discharge a judgment pursuant to the provisions of § 8.01-456, when the judgment creditor cannot be located, may, prior to the expiration of that period for enforcement, pay the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. After the expiration of the period provided in § 16.1-94.1, executions on such docketed civil judgments may issue from the general district court wherein the judgment was obtained upon the filing in the general district court of an abstract from the circuit court. In all other respects, the docketing of a general district court judgment in a circuit court confers upon such judgment the same status as if the judgment were a circuit court judgment;

5. Dockets for civil cases shall be retained for 10 years;

6. Indices in civil cases shall be retained for 10 years.

C. Juvenile and domestic relations district court proceedings:

1. In adult criminal cases, all records shall be retained as provided in subdivision A 1;

2. In juvenile cases, all documents and indices shall be governed by the provisions of § 16.1-306;

3. In all cases involving support arising under Title 16.1, 20, or 63.2, all documents and indices shall be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have elapsed from either dismissal or termination of the case by court order or by operation of law. Financial records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

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SB914

59 4. In all cases involving sexually violent offenses, as defined in § 37.2-900, and in all misdemeanor  
60 cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370,  
61 18.2-370.01, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained for 50  
62 years;

63 5. In cases transferred to circuit court for trial as an adult or appealed to circuit court, all documents  
64 pertaining thereto shall be transferred to circuit court;

65 6. All dockets in juvenile cases shall be governed by the provisions of subsection F of § 16.1-306.

66 D. At the direction of the chief judge of a district court, the clerk of that court may cause any or all  
67 papers or documents pertaining to civil and criminal cases that have been ended for a period of three  
68 years or longer to be destroyed if such records, papers, or documents will no longer have administrative,  
69 fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or  
70 documents have been microfilmed or converted to an electronic format. Such microfilm and  
71 microphotographic processes and equipment shall meet state archival microfilm standards pursuant to  
72 § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records,  
73 papers, or documents so converted shall be placed in conveniently accessible files and provisions made  
74 for examining and using the same. The provisions of this subsection shall not apply to the documents  
75 for misdemeanor cases under §§ 16.1-253.2, 18.2-57.2, 18.2-60.4, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2,  
76 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374, 18.2-386.1, 18.2-387, and  
77 18.2-387.1, *nor to the documents for cases involving sexually violent offenses, as defined in § 37.2-900*,  
78 which shall be retained as provided in subsection A.

79 **§ 17.1-213. Disposition of papers in ended cases.**

80 A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in  
81 hardcopy form, either in the locality served by the circuit court where such files originated or in The  
82 Library of Virginia in accordance with the provisions of § 42.1-86 and subsection C of § 42.1-87.

83 B. The following records for cases ending on or after January 1, 1913, shall be retained for 10 years  
84 after conclusion:

85 1. Conditional sales contracts;

86 2. Concealed weapons permit applications;

87 3. Minister appointments;

88 4. Petitions for appointment of trustee;

89 5. Name changes;

90 6. Nolle prosequi cases;

91 7. Civil actions that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled  
92 and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed  
93 under § 8.01-335, and district court appeals dismissed under § 16.1-113 prior to 1988;

94 8. Misdemeanor and traffic cases, except as provided in subdivision C 3, including those which were  
95 commenced on a felony charge but concluded as a misdemeanor;

96 9. Suits to enforce a lien;

97 10. Garnishments;

98 11. Executions except for those covered in § 8.01-484;

99 12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in  
100 the appropriate order book; and

101 13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving  
102 privileges.

103 C. All other records or cases ending on or after January 1, 1913, shall be retained subject to the  
104 following:

105 1. All civil case files to which subsection D does not pertain shall be retained 20 years from the  
106 court order date.

107 2. All criminal cases dismissed, including those not a true bill, acquittals, and not guilty verdicts,  
108 shall be retained 10 years from the court order date.

109 3. ~~All~~ *Except as otherwise provided in this subdivision*, criminal case files involving a felony  
110 conviction and all criminal case files involving a misdemeanor conviction under § 16.1-253.2, 18.2-57.2,  
111 or 18.2-60.4 shall be retained (i) 20 years from the sentencing date or (ii) until the sentence term ends,  
112 whichever comes later. *Case files involving a sexually violent offense as defined in § 37.2-900 shall be*  
113 *retained for 50 years from the sentencing date.*

114 D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk  
115 of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall  
116 be retained permanently as shall all cases in which the title to real estate is established, conveyed or  
117 condemned by an order or decree of the court. The final order for all cases in which the title to real  
118 estate is so affected shall include an appropriate notification thereof to the clerk.

119 E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all papers or  
120 documents pertaining to civil and criminal cases; (ii) any unexecuted search warrants and affidavits for

121 unexecuted search warrants, provided at least three years have passed since issued; (iii) any abstracts of  
122 judgments; and (iv) original wills, to be destroyed if such records, papers, documents, or wills no longer  
123 have administrative, fiscal, historical, or legal value to warrant continued retention, provided such  
124 records, papers, or documents have been microfilmed or converted to an electronic format. Such  
125 microfilm and microphotographic processes and equipment shall meet state archival microfilm standards  
126 pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such  
127 records, papers, or documents so converted shall be placed in conveniently accessible files and  
128 provisions made for examining and using same. The clerk shall further provide security negative copies  
129 of any such microfilmed materials for storage in The Library of Virginia.