

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 17.1-293 and 17.1-295 of the Code of Virginia, relating to remote*
 3 *access to nonconfidential court records for date of birth verification.*

4 [H 1713]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 17.1-293 and 17.1-295 of the Code of Virginia are amended and reenacted as follows:**8 **§ 17.1-293. Posting and availability of certain information on the Internet; prohibitions.**

9 A. Notwithstanding Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 or subsection B, it shall be unlawful
 10 for any court clerk to disclose the social security number or other identification numbers appearing on
 11 driver's licenses or information on credit cards, debit cards, bank accounts, or other electronic billing and
 12 payment systems that was supplied to a court clerk for the purpose of paying fees, fines, taxes, or other
 13 charges collected by such court clerk. The prohibition shall not apply where disclosure of such
 14 information is required (i) to conduct or complete the transaction for which such information was
 15 submitted or (ii) by other law or court order.

16 B. Beginning January 1, 2004, no court clerk shall post on the Internet any document that contains
 17 the following information: (i) an actual signature, (ii) a social security number, (iii) a date of birth
 18 identified with a particular person, (iv) the maiden name of a person's parent so as to be identified with
 19 a particular person, (v) any financial account number or numbers, or (vi) the name and age of any minor
 20 child.

21 C. Each such clerk shall post notice that includes a list of the documents routinely posted on its
 22 website. However, the clerk shall not post information on his website that includes private activity for
 23 private financial gain.

24 D. Nothing in this section shall be construed to prohibit access to any original document as provided
 25 by law.

26 E. This section shall not apply to the following:

27 1. Providing access to any document among the land records via secure remote access pursuant to
 28 § 17.1-294;

29 2. Postings related to legitimate law-enforcement purposes;

30 3. Postings of historical, genealogical, interpretive, or educational documents and information about
 31 historic persons and events;

32 4. Postings of instruments and records filed or recorded that are more than 100 years old;

33 5. Providing secure remote access to any person, his counsel, or staff which counsel directly
 34 supervises to documents filed in matters to which such person is a party;

35 6. Providing official certificates and certified records in digital form of any document maintained by
 36 the clerk pursuant to § 17.1-258.3:2; and

37 7. Providing secure remote access to nonconfidential court records, subject to any fees charged by
 38 the clerk, to members in good standing with the Virginia State Bar and their authorized agents, pro hac
 39 vice attorneys authorized by the court for purposes of the practice of law, and such governmental
 40 agencies as authorized by the clerk.

41 F. Nothing in this section shall prohibit the Supreme Court or any other court clerk from providing
 42 online access to a case management system that may include abstracts of case filings and proceedings in
 43 the courts of the Commonwealth *including online access to subscribers of nonconfidential criminal case*
 44 *information to confirm the complete date of birth of a defendant.*

45 G. The court clerk shall be immune from suit arising from any acts or omissions relating to
 46 providing remote access on the Internet pursuant to this section unless the clerk was grossly negligent or
 47 engaged in willful misconduct.

48 This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity
 49 already existing in statutory or common law, or to affect any cause of action accruing prior to July 1,
 50 2005.

51 H. Nothing in this section shall be construed to permit any data accessed by secure remote access to
 52 be sold or posted on any other website or in any way redistributed to any third party, and the clerk, in
 53 his discretion, may deny secure remote access to ensure compliance with these provisions. However, the
 54 data accessed by secure remote access may be included in products or services provided to a third party
 55 of the subscriber provided that (i) such data is not made available to the general public and (ii) the
 56 subscriber maintains administrative, technical, and security safeguards to protect the confidentiality,

57 integrity, and limited availability of the data.

58 **§ 17.1-295. Definitions.**

59 As used in this title:

60 "Confidential court records" means any civil or criminal record maintained by a clerk of the circuit
61 court designated by this Code as confidential or any such record sealed pursuant to court order.

62 "Electronic filing of court records" means the networks or systems maintained by a clerk of the
63 circuit court, or the clerk's designated application service providers, for the submittal of instruments for
64 electronic filing of court records in accordance with this title, the Rules of the Supreme Court of
65 Virginia, and the secure remote access standards developed by the Virginia Information Technologies
66 Agency.

67 "Electronic recording of land records" means the networks or systems maintained by a clerk of the
68 circuit court, or the clerk's designated application service providers, for the submittal of instruments for
69 electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act
70 (§ 55-142.10 et seq.), the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55 regarding
71 the satisfaction of mortgages and the provisions of this title.

72 "Operational expenses" means expenses of the clerk of court used to maintain the clerk's office and
73 includes, but is not limited to, (i) computer support, maintenance, enhancements, upgrades, and
74 replacements and office automation and information technology equipment, including software and
75 conversion services; (ii) preserving, maintaining, and enhancing court records, including, but not limited
76 to, the costs of repairs, maintenance, consulting services, service contracts, redaction of social security
77 numbers from certain records, and system replacements or upgrades; and (iii) improving public access to
78 records maintained by the clerk, including locating technology in an offsite facility for such purposes or
79 for implementation of a disaster recovery plan.

80 "Public access" means that the clerk of the circuit court has made available to subscribers that are
81 other than governmental agencies, secure remote access to ~~land~~ records maintained by the clerk in
82 accordance with § 17.1-294.

83 "Secure remote access to court records" means public access by electronic means on a network or
84 system to ~~land~~ court records maintained by the clerk of the circuit court or the clerk's designated
85 application service providers, in compliance with this title, the Rules of the Supreme Court of Virginia,
86 and the secure remote access standards developed by the Virginia Information Technologies Agency.

87 "Secure remote access to land records" means public access by electronic means on a network or
88 system to land records maintained by the clerk of the circuit court or the clerk's designated application
89 service providers, in compliance with the Secure Remote Access Standards developed by the Virginia
90 Information Technologies Agency.

91 "Subscriber" means any person who has entered into a subscriber agreement with the clerk of the
92 circuit court authorizing the subscriber to have secure remote access to land records or secure remote
93 access to court records maintained by the clerk or the clerk's designated application service providers. If
94 the subscriber is an entity with more than one person who will use the network or system to access land
95 records maintained by the clerk, or the clerk's designated application service providers, each individual
96 user shall execute a subscriber agreement and obtain a separate "user id" and "password" from the clerk.
97 The subscriber is responsible for the fees due under this title and the proper use of the secure remote
98 access system pursuant to the subscriber agreement, applicable Virginia law, and Secure Remote Access
99 Standards developed by the Virginia Information Technologies Agency.