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SENATE BILL NO. 630

Senate Amendments in [] — February 1, 2018

A BILL to amend and reenact § 2.2-3714 of the Code of Virginia, relating to the Virginia Freedom of Information Act; civil penalty.

Patron Prior to Engrossment—Senator Surovell

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3714 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3714. Violations and penalties.

A. In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3707, 2.2-3708, 2.2-3708.1, 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the State Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of this chapter because such officer, employee, or member of a public body intentionally altered or destroyed the requested public records prior to the expiration of the applicable record retention period set by the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court shall impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund.

C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a member of a public body voted to certify a closed meeting in accordance with subsection D of § 2.2-3712 and at the time of such certification such certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of § 2.2-3712, the court [shall may] impose on each member voting to certify in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of \$500, which amount shall be paid into the Literary Fund.

ENGROSSED

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