18105604D

SENATE BILL NO. 980

Senate Amendments in [ ] - February 8, 2018

A BILL to amend and reenact §§ 17.1-132, 17.1-258.3, and 17.1-293 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 8.01-271.02 and 17.1-293.1, relating to certain identifying information confidential; separate addendum required; secure remote access to nonconfidential civil case documents and records.

Patron Prior to Engrossment—Senator Obenshain

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-132, 17.1-258.3, and 17.1-293 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 8.01-271.02 and 17.1-293.1 as follows:

§ 8.01-271.02. Certain identifying information confidential; separate addendum.

Except as otherwise provided by law, beginning July 1, 2019, no petition, pleading, motion, order, or decree filed in a civil case in a circuit court of the Commonwealth, including any agreement of the parties or transcripts, shall contain the social security number of any party, or of any minor child of any party, or any financial information of any party that provides identifying account numbers for specific assets, liabilities, accounts, or credit cards. Such information, if required by law, shall be contained in a separate addendum filed by the attorney or party. Such separate addendum shall be used to distribute the information only as required by law. Such addendum shall otherwise be made available only to the parties, their attorneys, and to such other persons as the court in its discretion may allow. The attorney or party who prepares or submits a petition, pleading, motion, agreement, order, or decree shall ensure that any information protected pursuant to this section is removed prior to filing with the clerk and that any separate addendum is incorporated by reference into the petition, pleading, motion, agreement, order, or decree. The clerk has the authority to reject any petition, pleading, motion, agreement, order, or decree that does not comply with the provisions of this section.

§ 17.1-132. Courts Technology Fund.

A. There is hereby established the Courts Technology Fund as a special nonreverting fund to be administered by the Supreme Court of Virginia. A portion of the sums collected pursuant to §§ 16.1-69.48:2, 17.1-275, *17.1-293.1*, 17.1-328, and 17.1-418 as specified in each section shall be deposited into the state treasury to the credit of the Fund.

B. The Fund shall be established on the books of the Comptroller. Any funds remaining in the Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. Except for transfers pursuant to this section, there shall be no transfers out of the Fund, including transfers to the general fund.

C. Money in the Fund shall be allocated at the direction of the Supreme Court of Virginia to staff, advance, update, maintain, replace, repair, and support the telecommunications and technology systems of the judicial system. The revenue raised in support of the Fund shall not be used to supplant current funding to the judicial branch.

§ 17.1-258.3. Electronic filing system.

~~Any clerk of~~ *Each* circuit court ~~may~~ *clerk shall* establish and operate a system for electronic filing ~~in civil or criminal proceedings~~ that shall be governed by the Rules of Supreme Court of Virginia. The circuit court clerk may require each person whom the clerk authorizes to file documents electronically to provide proof of identity to the clerk and to enter into an agreement specifying the electronic filing procedures to be followed, including, but not limited to, security procedures, as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), for transmitting signed or notarized documents. The clerk may charge copy fees per page, as provided in subdivision A 8 of § 17.1-275, and obtain reimbursement for fees paid by subscribers to its designated application service providers for the technology systems used to operate electronic filing in civil and criminal cases in the clerk's office. The fees and reimbursements collected shall be deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295. Nothing herein shall be construed to prevent the clerk from entering into agreements with designated application service providers to provide all or part of the network or system for electronic filing ~~of civil or criminal records~~ as provided herein. Further, nothing herein shall be construed to require the electronic filing of any civil or criminal record, and such records may continue to be filed in paper form.

Any clerk of circuit court with an electronic filing system established in accordance with the Rules

ENGROSSED
SB980E
11/24/22 2:24

of Supreme Court of Virginia may charge an additional $5 fee for every civil case initially filed by paper, except that a person who is determined to be indigent pursuant to § 19.2-159 shall be exempt from the payment of such fee. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be exclusively used to cover the operational expenses as defined in § 17.1-295.

§ 17.1-293. Posting and availability of certain information on the Internet; prohibitions.

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

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

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

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

E. This section shall not apply to the following:

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

2. Postings related to legitimate law-enforcement purposes;

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

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

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

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

7. Providing secure remote access to nonconfidential court records *filed before July 1, 2019,* subject to any fees charged by the clerk, to members in good standing with the Virginia State Bar and their authorized agents, pro hac vice attorneys authorized by the court for purposes of the practice of law, and such governmental agencies as authorized by the clerk*; and*

8. Providing secure remote access to nonconfidential court records on and after July 1, 2019, subject to any fees charged by the clerk and the Office of the Executive Secretary as authorized by § 17.1-293.1.

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

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

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

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

§ 17.1-293.1. Secure remote access to nonconfidential civil case documents and records.

A. In any civil case filed on or after July 1, 2019, clerks of the circuit courts of the Commonwealth shall maintain all nonconfidential documents and records in electronic form and make such documents and records available through secure remote access. Civil case documents and records that are available through secure remote access shall be searchable by name and case number across all circuit

courts of the Commonwealth that use the Office of the Executive Secretary's electronic imaging system. The Executive Secretary of the Supreme Court shall administer a paid subscription service that provides access to all electronic documents and records maintained by the circuit court clerks who use the Office of the Executive Secretary's electronic imaging system for civil cases filed on or after July 1, 2019. Each subscription shall be on an annual basis, and the annual subscription fee shall be established by the Judicial Council of Virginia. Sums collected pursuant to this section shall be deposited into the state treasury to the credit of the Courts Technology Fund established under § 17.1-132.

B. Beginning July 1, 2019, any petition, pleading, motion, order, or decree filed in a civil case in a circuit court of the Commonwealth shall comply with the provisions of § 8.01-271.02.

C. Nothing in this section shall be construed to prohibited access to any original document as provided by law.

D. Absent a showing of gross negligence or willful misconduct, the Office of the Executive Secretary and the clerk of the circuit court of any jurisdiction of the Commonwealth shall be immune from suit arising from any acts or omissions relating to providing secure remote access to case documents and records pursuant to this section.

2. That by July 1, 2019, the Virginia Information Technologies Agency shall update its document entitled "Security Standard for Restricted Remote Access to Documents on Court-Controlled Websites" consistent with the provisions of this act.

3. That the provisions of the first enactment of this act shall become effective on July 1, 2019.

[4. That the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2018 by the General Assembly that becomes law.]