

## Department of Planning and Budget 2022 Fiscal Impact Statement

**1. Bill Number:** HB970

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** O'Quinn

**3. Committee:** Committee Referral Pending

**4. Title:** Public agencies; privacy of personal information.

**5. Summary:** Provides that public agencies shall not request personal information, defined in the bill. The bill amends the Virginia Freedom of Information Act definition of "public record" to exclude personal information. The bill also exempts the Campaign Finance Disclosure Act of 2006 from the requirements that public agencies protect personal information and refrain from requesting personal information.

**6. Budget Amendment Necessary:** No

**7. Fiscal Impact Estimates:** See item 8

**8. Fiscal Implications:** The fiscal impact of this bill is indeterminate. The bill would amend the Virginia Freedom of Information Act to exclude any personal information from public records.

This bill uses the definition of "personal information" found in Va. Code §2.2-3801, which is "all information that (i) describes, locates or indexes anything about an individual including, but not limited to, his social security number, driver's license number, agency-issued identification number, student identification number, real or personal property holdings derived from tax returns, and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, or (ii) affords a basis for inferring directly or indirectly personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and the record of his presence, registration, or membership in an organization or activity, including any entity organized under § 501(c) of the federal Internal Revenue Code, or admission to an institution."

Barring disclosure of personal information will require all agencies covered by FOIA to redact all such information from records they produce. The process of redacting any sensitive information from all documents will be time intensive. In order to meet these new requirements some agencies may require additional personnel, as well software to perform this electronically.

This bill also makes it a violation of law to disclose personal information without express written permission. Violations result in civil liability and the complainant may be awarded the costs

of litigation, attorney's fees and witness fees. The fiscal impact of these costs is indeterminate.

Anyone who knowingly violates this law is guilty of a misdemeanor and subject to a sentence of up to 90 days in jail, fine of not more than \$1,000, or both.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

**9. Specific Agency or Political Subdivisions Affected:** All state agencies and other public bodies covered by the Virginia Freedom of Information Act.

**10. Technical Amendment Necessary:** No

**11. Other Comments:** Companion to SB324. This revised fiscal impact statement includes additional fiscal impact estimates due to the potential for civil liabilities and criminal violations, as well as additional information provided by the Virginia Information Technologies Agency.