

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Article 5 of Chapter 3 of Title 40.1 a section*
3 *numbered 40.1-51.4:4, relating to the use of polygraphs in certain employment situations.*

[H 778]

Approved

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

7 **1. That the Code of Virginia is amended by adding in Article 5 of Chapter 3 of Title 40.1 a**
8 **section numbered 40.1-51.4:4 as follows:**

9 *§ 40.1-51.4:4. Prohibition of use of polygraphs in certain employment situations.*

10 *A. As used in this section, the term "lie detector test" means any test utilizing a polygraph or any*
11 *other device, mechanism or instrument which is operated, or the results of which are used or interpreted*
12 *by an examiner for the purpose of purporting to assist in or enable the detection of deception, the*
13 *verification of truthfulness, or the rendering of a diagnostic opinion regarding the honesty of an*
14 *individual.*

15 *B. Notwithstanding the provisions of § 40.1-2.1, it shall be unlawful for any law-enforcement agency*
16 *to require any employee to submit to a lie detector test, or to discharge, demote or otherwise*
17 *discriminate against any employee for refusal or failure to take a lie detector test, except that the chief*
18 *executive officer of a law-enforcement agency may, by written directive, require an employee to submit*
19 *to a lie detector test related to a particular internal administrative investigation concerning allegations*
20 *of misconduct or criminal activity. No employee required to submit to a lie detector test shall be*
21 *discharged, demoted or otherwise discriminated against solely on the basis of the results of the lie*
22 *detector test.*

23 *C. Any person who believes that he has been discharged, demoted or otherwise discriminated against*
24 *by any person in violation of this section may, within ninety days after such alleged violation occurs,*
25 *file a complaint with the Commissioner. Upon a finding by the Commissioner of a violation of this*
26 *section, the Commissioner shall order, in the event of discharge or demotion, reinstatement of such*
27 *person to his former position with back pay plus interest at a rate not to exceed eight percent per*
28 *annum. Such orders of the Commissioner which have become final under the Virginia Administrative*
29 *Process Act (§ 9-6.14:1 et seq.) may be recorded, enforced and satisfied as orders or decrees of a*
30 *circuit court upon certification of such orders by the Commissioner. The Commissioner, or his*
31 *authorized representative, shall have the right to petition circuit court for injunctive or such other relief*
32 *as may be necessary for enforcement of this section. No fees or costs shall be charged the*
33 *Commonwealth by a court or any officer for or in connection with the filing of the complaint, pleadings,*
34 *or other papers in any action authorized by this section.*

ENROLLED

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