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HOUSE BILL NO. 2422

Offered January 23, 1995

A BILL to amend and reenact § 2.1-382 of the Code of Virginia, relating to the Privacy Protection Act of 1976.

Patrons—Kilgore, Callahan, Crouch, Deeds and Howell; Senator: Wampler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.1-382 of the Code of Virginia is amended and reenacted as follows:**

§ 2.1-382. Rights of data subjects.

A. Any agency maintaining personal information shall:

1. Inform an individual who is asked to supply personal information about himself whether he is legally required, or may refuse, to supply the information requested, and also of any specific consequences which are known to the agency of providing or not providing such information.

2. Give notice to a data subject of the possible dissemination of part or all of this information to another agency, nongovernmental organization or system not having regular access authority, and indicate the use for which it is intended, and the specific consequences for the individual, which are known to the agency, of providing or not providing such information, however documented permission for dissemination in the hands of such other agency or organization will satisfy this requirement. Such notice may be given on applications or other data collection forms prepared by data subjects.

3. Upon request and proper identification of any data subject, or of his authorized agent, grant such subject or agent the right to inspect, in a form comprehensible to such individual or agent:

(a) All personal information about that data subject except as provided in § 2.1-342 (b) (3).

(b) The nature of the sources of the information.

(c) The names of recipients, other than those with regular access authority, of personal information about the data subject including the identity of all persons and organizations involved and their relationship to the system when not having regular access authority, *except that if the recipient has obtained the information as part of an ongoing criminal investigation such that disclosure of the investigation would jeopardize law-enforcement action, and this fact has been certified in writing to the agency, then no disclosure of such access shall be made to the data subject.*

4. Comply with the following minimum conditions of disclosure to data subjects:

(a) An agency shall make disclosures to data subjects required under this chapter, during normal business hours.

(b) The disclosures to data subjects required under this chapter shall be made (i) in person, if he appears in person and furnishes proper identification, (ii) by mail, if he has made a written request, with proper identification. Copies of the documents containing the personal information sought by a data subject shall be furnished to him or his representative at reasonable standard charges for document search and duplication.

(c) The data subject shall be permitted to be accompanied by a person or persons of his choosing, who shall furnish reasonable identification. An agency may require the data subject to furnish a written statement granting permission to the organization to discuss the individual's file in such person's presence.

5. If the data subject gives notice that he wishes to challenge, correct, or explain information about him in the information system, the following minimum procedures shall be followed:

(a) The agency maintaining the information system shall investigate, and record the current status of that personal information.

(b) If, after such investigation, such information is found to be incomplete, inaccurate, not pertinent, not timely nor necessary to be retained, it shall be promptly corrected or purged.

(c) If the investigation does not resolve the dispute, the data subject may file a statement of not more than 200 words setting forth his position.

(d) Whenever a statement of dispute is filed, the organization maintaining the information system shall supply any previous recipient with a copy of the statement and, in any subsequent dissemination or use of the information in question, clearly note that it is disputed and supply the statement of the data subject along with the information.

(e) The agency maintaining the information system shall clearly and conspicuously disclose to the data subject his rights to make such a request.

(f) Following any correction or purging of personal information the agency shall furnish to past

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60 recipients notification that the item has been purged or corrected whose receipt shall be acknowledged.

61 B. Nothing in this section or found elsewhere in this chapter shall be construed so as to require an
62 agency to disseminate any recommendation or letter of reference from or to a third party which is a part
63 of the personnel file of any data subject nor to disseminate any test or examination used, administered
64 or prepared by any public body for purposes of evaluation of (i) any student or any student's
65 performance, (ii) any seeker's qualifications or aptitude for employment, retention, or promotion, (iii)
66 qualifications for any license or certificate issued by any public body.

67 As used in this subsection, "test or examination" shall include (i) any scoring key for any such test
68 or examination, and (ii) any other document which would jeopardize the security of such test or
69 examination. Nothing contained in this subsection shall prohibit the release of test scores or results as
70 provided by law, or to limit access to individual records as is provided by law, however, the subject of
71 such employment tests shall be entitled to review and inspect all documents relative to his performance
72 on such employment tests.

73 When, in the reasonable opinion of such public body, any such test or examination no longer has any
74 potential for future use, and the security of future tests or examinations will not be jeopardized, such test
75 or examination shall be made available to the public. Minimum competency tests administered to public
76 school children shall be made available to the public contemporaneously with statewide release of the
77 scores of those taking such tests, but in no event shall such tests be made available to the public later
78 than six months after the administration of such tests.

79 C. Neither any provision of this chapter nor any provision of Chapter 21 (§ 2.1-340 et seq.) of this
80 title shall be construed as denying public access to records of the position, job classification, official
81 salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any
82 public officer, official or employee at any level of state, local or regional government in this
83 Commonwealth whatsoever. The provisions of this subsection shall not apply to records of the official
84 salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

85 D. Nothing in this section or in this chapter shall be construed to require an agency to disseminate
86 information derived from tax returns in violation of §§ 2.1-342 and 58.1-3.