

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 40.1-51.4:4 of the Code of Virginia, relating to use of polygraphs in*  
3 *certain employment situations.*

4  
5 Approved

[H 101]

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

7 **1. That § 40.1-51.4:4 of the Code of Virginia is amended and reenacted as follows:**

8 § 40.1-51.4:4. Prohibition of use of polygraphs in certain employment situations.

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

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

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

ENROLLED

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