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SENATE BILL NO. 580

Offered January 26, 1998

A BILL to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 53, consisting of sections numbered 2.1-807 through 2.1-812, relating to information technology access by individuals who are blind or visually impaired.

Patron—Whipple

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 53, consisting of sections numbered 2.1-807 through 2.1-812, as follows:

CHAPTER 53.**INFORMATION TECHNOLOGY ACCESS ACT.****§. 2.1-807. Findings; policy.**

A. The Legislature finds that: (i) the advent of the information age throughout the United States and around the world has resulted in lasting changes in information technology; (ii) use of interactive visual display terminals by state and state-assisted organizations is becoming a widespread means of access for employees and the public to obtain information available electronically, but nonvisual access, whether by speech, Braille, or other appropriate means has been overlooked in purchasing and deploying the latest information technology; (iii) presentation of electronic data solely in a visual format is a barrier to access by individuals who are blind or visually impaired, preventing them from participating on equal terms in crucial areas of life, such as education and employment; (iv) alternatives, including both software and hardware adaptations, have been created so that interactive control of computers and use of the information presented is possible by both visual and nonvisual means; and (v) the goals of the state in obtaining and deploying the most advanced forms of information technology properly include universal access so that segments of society with particular needs (including individuals unable to use visual displays) will not be left out of the information age.

B. It is the policy of the Commonwealth of Virginia that all programs and activities which are supported in whole or in part by public funds shall be conducted in accordance with the following principles: (i) individuals who are blind or visually impaired have the right to full participation in the life of the Commonwealth, including the use of advanced technology which is provided by the state or state-assisted organizations for use by employees, program participants, and members of the general public, and (ii) technology purchased in whole or in part with funds provided by the state to be used for the creation, storage, retrieval, or dissemination of information and intended for use by employees, program participants, and members of the general public shall be accessible to and usable by individuals who are blind or visually impaired.

§ 2.1-808. Definitions.

As used in this chapter, unless the context clearly requires a different meaning:

"Access" means the ability to receive, use, and manipulate data and operate controls included in information technology.

"Blind" or "visually impaired" individual means an individual who has: (i) a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees; (ii) a medically indicated expectation of visual deterioration; or (iii) a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability.

"Covered entity" means the Commonwealth or any state-assisted organization.

"Information technology" means all electronic information processing hardware and software, including telecommunications.

"Nonvisual" means synthesized speech, Braille, and other output methods not requiring sight.

"State" means the Commonwealth or any of its departments, agencies, public bodies, or other instrumentalities.

"State-assisted organization" means a college, nonprofit organization, person, political subdivision, school system, or other entity supported in whole or in part by state funds.

"Telecommunications" means the transmission of information, images, pictures, voice or data by radio, video or other electronic or impulse means.

§ 2.1-809. Assurance of nonvisual access.

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In general, the head of each covered entity shall ensure that information technology equipment and software used by employees, program participants, or members of the general public (i) provide blind or visually impaired individuals with access (including interactive use of the equipment and services) which is equivalent to that provided to individuals who are not blind or visually impaired; (ii) are designed to present information (including prompts used for interactive communications) in formats intended for both visual and nonvisual use; and (iii) have been purchased under a contract which includes the technology access clause required pursuant to § 2.1-810.

§ 2.1-810. Procurement requirements.

A. The technology access clause specified in (iii) of § 2.1-809 shall be developed by the Council on Information Management (or its successor agency or office) and shall require compliance with nonvisual access standards established by the Commonwealth. The clause shall be included in all contracts for the procurement of information technology by, or for the use of, entities covered by this Act on or after the effective date of this Act.

B. The nonvisual access standards established by the Commonwealth pursuant to subsection A of this section shall include such specifications as are necessary to fulfill the assurances in § 2.1-809 and shall include the following minimum specifications: (i) that effective, interactive control and use of the technology (including the operating system), applications programs, and format of the data presented, are readily achievable by nonvisual means; (ii) that the technology equipped for nonvisual access must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact; (iii) that nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and (iv) that the technology for nonvisual access must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

§ 2.1-811. Implementation.

A. For the purpose of assuring the effective phasing in of nonvisual access technology procurement, the head of any covered entity (i) may not approve exclusion of the technology access clause from any contract with respect to the compatibility of standard operating systems and software with nonvisual access software and peripheral devices or with respect to the initial design, development, and installation of information systems, including the design and procurement of interactive equipment and software; or (ii) may, with respect to nonvisual access software or peripheral devices obtained during the three-year period, beginning July 1, 1998, approve exclusion of such clause to the extent that the cost of such software or devices for the covered entity exceeds \$50,000 for the first year, \$100,000 for the second year, and \$250,000 for the third year.

B. Nothing in this section requires the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

C. Notwithstanding the provisions of subsection B, the applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

D. Compliance with this Act in regard to information technology purchased prior to July 1, 1998, shall be achieved at the time of procurement of an upgrade or replacement of the existing equipment or software.

§ 2.-1-812. Action for injunction.

A person injured by a violation of this Act may maintain an action for injunctive relief to enforce the terms of this Act. Any such action shall be commenced within four years after the cause of action accrues. For the purposes of this section, a cause of action for a continuing violation accrues at the time of the latest violation.