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SENATE BILL NO. 1274

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 7, 2011)

(Patron Prior to Substitute—Senator Obenshain)

A *BILL to amend and reenact § 17.1-293 of the Code of Virginia, relating to secure remote access to court records.*

Be it enacted by the General Assembly of Virginia:**1. That § 17.1-293 of the Code of Virginia is amended and reenacted as follows:**

§ 17.1-293. Posting and availability of certain information on the Internet; prohibitions.

A. Notwithstanding Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 or subsection B of this section, it shall be unlawful for any court clerk to disclose the social security number or other identification numbers appearing on driver's licenses or information on credit cards, debit cards, bank accounts, or other electronic billing and payment systems that was supplied to a court clerk for the purpose of paying fees, fines, taxes, or other charges collected by such court clerk. The prohibition shall not apply where disclosure of such information is required (i) to conduct or complete the transaction for which such information was submitted or (ii) by other law or court order.

B. Beginning January 1, 2004, no court clerk shall post on the Internet any document that contains the following information: (i) an actual signature, (ii) a social security number, (iii) a date of birth identified with a particular person, (iv) the maiden name of a person's parent so as to be identified with a particular person, (v) any financial account number or numbers, or (vi) the name and age of any minor child.

C. Each such clerk shall post notice that includes a list of the documents routinely posted on its website. However, the clerk shall not post information on his website that includes private activity for private financial gain.

D. Nothing in this section shall be construed to prohibit access to any original document as provided by law.

E. This section shall not apply to the following:

1. Providing access to any document among the land records via secure remote access pursuant to § 17.1-294;

2. Postings related to legitimate law-enforcement purposes;

3. Postings of historical, genealogical, interpretive, or educational documents and information about historic persons and events;

4. Postings of instruments and records filed or recorded prior to 1907; ~~and~~

5. Providing secure remote access to any person and his counsel to documents filed in matters to which such person is a party; *and*

6. *Providing secure remote access, subject to any fees charged by the clerk, to members in good standing with the Virginia State Bar and their authorized agents, and pro hac vice attorneys authorized by the court for purposes of the practice of law, and such governmental agencies as authorized by the clerk. However, nothing herein shall be construed to permit any data accessed by secure remote access to be sold or posted on any other Internet website or in any way redistributed to any third party, and the clerk reserves the discretion to deny secure remote access to ensure compliance with these provisions.*

F. Nothing in this section shall prohibit the Supreme Court or any other court from providing online access to a case management system that may include abstracts of case filings and proceedings in the courts of the Commonwealth.

G. The court clerk shall be immune from suit arising from any acts or omissions relating to providing remote access on the Internet pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct.

This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2005.