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HOUSE BILL NO. 325

Offered January 8, 2014

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A *BILL to amend the Code of Virginia by adding a section numbered 8.01-40.3, relating to right to privacy in electronic communications; civil action.*

Patron—Marshall, R.G.

Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 8.01-40.3 as follows:****§ 8.01-40.3. Unlawful use of electronic communications; civil action.**

A. A person has a right to privacy in the content and metadata of the person's electronic communications, including emails; text messages; telephone calls by landline, voice over Internet protocol, or mobile or cellular phone; location data; mobile or cellular phone signals; or other forms of electronic communications.

B. A person may maintain a civil action for the unauthorized use of a digital image or profile generated through the aggregation or analysis of the content or metadata of a person's electronic communications. Such action shall be governed by the provisions of § 8.01-40.

C. Any person whose transmissions of messages, data, signals, or other communications made through an Internet service provider, electronic communication service provider, remote computing service provider, or telecommunications service provider that are not intended for public disclosure have been intercepted, monitored, examined, or otherwise accessed without lawful authority may sue and recover damages for any injuries sustained by reason of such interception, monitoring, examination, or access from the person who intercepted, monitored, examined, or otherwise accessed such transmissions and any person who facilitated or allowed such interception, monitoring, examination, or access. An action shall be commenced before the earlier of (i) five years after the last act in the course of conduct constituting a violation of this section or (ii) two years after the plaintiff discovers or reasonably should have discovered the last act in the course of conduct constituting a violation of this section.

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