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HOUSE BILL NO. 1308

Offered January 14, 2015

Prefiled November 7, 2014

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-504.2, relating to right to privacy in electronic communications; confidential relationship; penalty; civil action.*

Patrons—Marshall, R.G., Berg and Cole; Senator: Black

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:

§ 18.2-504.2. Unlawful use of electronic communications; confidential relationship; penalty; civil action.

A. *For purposes of this section:*

"Confidential relationship" means a relationship between (i) a husband and wife; (ii) an attorney and client; (iii) a licensed practitioner of the healing arts and patient; (iv) a licensed professional counselor, licensed clinical social worker, licensed psychologist, or licensed marriage and family therapist and client; or (v) a clergy member and person seeking spiritual counsel or advice.

B. Any person who without lawful authority intercepts, monitors, examines, or otherwise accesses transmissions of messages, data, signals, or other communications from any person to another with whom such person is in a confidential relationship 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 is guilty of a Class 1 misdemeanor.

C. Any person whose transmissions of messages, data, signals, or other communications to another person with whom he is in a confidential relationship have been intercepted, monitored, examined, or otherwise accessed in violation of subsection B 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.

INTRODUCED

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