

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: SB972

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: DeSteph

3. Committee: Committee on Rules

4. Title: Requests for information by members of the General Assembly; responses not subject to redaction.

5. Summary: Requests for information by members of the General Assembly; responses not subject to redaction. Requires all departments, agencies, and institutions of the Commonwealth and staff and employees thereof to respond to a request for information made by a member of the General Assembly. The bill further provides that notwithstanding the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), a response to a request for information made by a member of the General Assembly shall not be subject to redaction.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: FISCAL IMPACT ESTIMATES ARE NOT AVAILABLE

8. Fiscal Implications: This bill would eliminate agency discretion in redacting documents provided to the General Assembly as allowable under the Freedom of Information Act (FOIA). However, federal restrictions on provision of information would still apply, such as the Health Insurance Portability and Accountability Act (HIPAA), the Family Educational Rights and Privacy Act, and Federal Tax Information Security Guidelines. Accordingly, agencies will still have to ensure that certain information is redacted or else state agencies may be subject to significant federal fines, penalties, and disallowances, particularly for violations of HIPAA. The amount of staff time and the actual fiscal impact is indeterminate.

9. Specific Agency or Political Subdivisions Affected: All departments, agencies, and institutions of the Commonwealth

10. Technical Amendment Necessary: No

11. Other Comments: Public safety agencies indicated specific concerns about the bill's impact. The Department of Corrections raised concerns regarding the release of security procedures and personnel records including administrative investigation records, rapid eye video footage, and offender records. Further, the proposed legislation does not allow for the withholding of other types of information currently prohibited from release by law such as the names of execution team members, protected offender healthcare and substance abuse information and education records nor does it limit further dissemination of any of this by the requester. The Virginia Indigent Defense Commission indicates that they will not be able to comply with the requirements of this bill if it violates attorney-client privilege.