

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-3714 of the Code of Virginia, relating to the Virginia Freedom of*  
3 *Information Act; civil penalties.*

4 [S 1554]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 2.2-3714 of the Code of Virginia is amended and reenacted as follows:**8 **§ 2.2-3714. Violations and penalties.**

9 A. In a proceeding commenced against any officer, employee, or member of a public body under  
10 § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3707, 2.2-3708.2,  
11 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made,  
12 shall impose upon such officer, employee, or member in his individual capacity, whether a writ of  
13 mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than  
14 \$2,000, which amount shall be paid into the State Literary Fund. For a second or subsequent violation,  
15 such civil penalty shall be not less than \$2,000 nor more than \$5,000.

16 B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer,  
17 employee, or member of a public body failed to provide public records to a requester in accordance  
18 with the provisions of this chapter because such officer, employee, or member altered or destroyed the  
19 requested public records with the intent to avoid the provisions of this chapter prior to the expiration of  
20 the applicable record retention period set by the retention regulations promulgated pursuant to the  
21 Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court may impose upon  
22 such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or  
23 injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount  
24 shall be paid into the Literary Fund.

25 C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a  
26 member of a public body voted to certify a closed meeting in accordance with subsection D of  
27 § 2.2-3712 and at the time of such certification an attorney representing the body was present and such  
28 certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of  
29 § 2.2-3712, the court may impose on the public body, whether or not a writ of mandamus or injunctive  
30 relief is awarded, a civil penalty of up to \$1,000, which amount shall be paid into the Literary Fund.

ENROLLED

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