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HOUSE BILL NO. 78

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 21, 2024)

(Patrons Prior to Substitute—Delegates Watts and Convirs-Fowler [HB 1359])

A *BILL to amend and reenact § 19.2-53 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 5 of Title 19.2 a section numbered 19.2-60.2, relating to search warrants, subpoenas, court orders, or other process; menstrual health data prohibited.*

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-53 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 5 of Title 19.2 a section numbered 19.2-60.2 as follows:

§ 19.2-53. What may be searched and seized.

A. Search warrants may be issued for the search of or for specified places, things, or persons, and seizure therefrom of the following things as specified in the warrant:

1. Weapons or other objects used in the commission of crime;
2. Articles or things the sale or possession of which is unlawful;
3. Stolen property or the fruits of any crime;
4. Any object, thing, or person, including without limitation, documents, books, papers, records, or body fluids, constituting evidence of the commission of crime; or
5. Any person to be arrested for whom a warrant or process for arrest has been issued.

Notwithstanding any other provision in this chapter to the contrary, no search warrant may be issued as a substitute for a witness subpoena.

B. Any search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall be deemed to include the search and seizure of the physical components and the electronic or digital information contained in any such computer, computer network, or other device, *except information for which a search warrant is prohibited by § 19.2-60.2.*

C. Any search, including the search of the contents of any computer, computer network, or other device conducted pursuant to subsection B, may be conducted in any location and is not limited to the location where the evidence was seized.

§ 19.2-60.2. Issuance of search warrant, subpoena, court order, or other process for information related to menstrual health data prohibited.

No search warrant, subpoena, court order, or other process shall be issued, executed, or served for the purpose of the search and seizure or production of menstrual health data, including data stored on a computer, computer network, or other device containing electronic or digital information. For the purposes of this section, "menstrual health data" means any information, recorded in any form or medium, that is created or received by an entity that relates to or is used to determine, predict, or estimate the past, present, or future menstrual health or menstrual status of an individual.