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SENATE BILL NO. 236

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 24, 2024)

(Patron Prior to Substitute—Senator Hashmi)

*A BILL to amend and reenact § 16.1-69.54:1 of the Code of Virginia, relating to requests for reports of aggregated, nonconfidential case data; academic research.***Be it enacted by the General Assembly of Virginia:****1. That § 16.1-69.54:1 of the Code of Virginia is amended and reenacted as follows:****§ 16.1-69.54:1. Request for district court records.**

A. For the purposes of this section, "confidential court records," "court records," and "nonconfidential court records" shall have the same meaning as set forth in § 17.1-292.

B. Requests for copies of nonconfidential court records maintained in individual case files shall be made to the clerk of a district court.

C. Requests for reports of aggregated, nonconfidential case data fields that are viewable through the online case information systems maintained by the Executive Secretary of the Supreme Court shall be made to the Office of the Executive Secretary. Such reports of aggregated case data shall not include the name, date of birth, or social security number of any party and shall not include images of the individual records in the respective case files. However, nothing in this section shall be construed to permit any reports or aggregated case data to be sold or posted on any other website or in any way redistributed to any third party. The Executive Secretary, in his discretion, may deny such request to ensure compliance with these provisions. However, such data may be included in products or services provided to a third party, provided that such data is not made available to the general public.

D. Any clerk or the Executive Secretary, as applicable, may require that the request be in writing and that the requester provide his name and legal address. A request for nonconfidential court records or reports of aggregated nonconfidential case data shall identify the requested records with reasonable specificity. Any clerk or the Executive Secretary, as applicable, may determine the costs to provide the requested records to the requester, advise the requester of such costs, and, before continuing to process the request, require the requester to agree to payment of a deposit not to exceed the amount of the advance determination, which shall be credited to the final cost of supplying the requested records. No clerk, nor the Executive Secretary, shall be required to create a new record if the record does not already exist or provide a report of aggregated, nonconfidential case data in a format not regularly used by the clerk or the Executive Secretary; however, a clerk or the Executive Secretary, as applicable, may abstract or summarize information under such terms and conditions as agreed to by the requester and the clerk or Executive Secretary, as provided herein.

E. Except where the nature or size of the request would interfere with the business of the court or with its use by the general public, or as otherwise provided by law, the requested court records or reports of aggregated, nonconfidential case data shall be provided to the requester within a reasonable period of time, given the nature of the request and the availability of staff to respond to the request, but in no event longer than 30 days from the date of a complete request made by a requester that is fully compliant with the requirements of this section and other applicable law. Any objection or assertion of confidentiality shall be provided to the requester within a reasonable period of time, but in no event longer than 30 days from the date of a complete request made by a requester.

F. Any clerk, or the Executive Secretary, may require payment in advance of all reasonable costs, not to exceed the actual cost incurred in accessing, duplicating, reviewing, supplying, or searching for the requested court records or reports of aggregated, nonconfidential case data, including removing any confidential information contained in the court records from the nonconfidential court records being provided, excluding any extraneous, intermediary, or surplus fees or expenses to recoup the general overhead costs associated with creating or maintaining records or transacting the general business of the clerk or the Office of the Executive Secretary. Before processing a request for court records or reports of aggregated, nonconfidential case data, any clerk or the Executive Secretary may require the requester to pay any amounts owed to the clerk or the Office of the Executive Secretary for previous requests for court records or reports of aggregated, nonconfidential case data that remain unpaid 30 days or more after billing.

G. Any clerk and the Executive Secretary shall be immune from any suit arising from the production of court records or reports of aggregated nonconfidential case data in accordance with this section absent gross negligence or willful misconduct.

H. In addition to the information authorized by this section, a full-time faculty member of a baccalaureate public institution of higher education as defined in § 23.1-100 may request for the

60 *purposes of academic research, provided that such academic research has been approved through such*
61 *public institution of higher education's institutional review board, a report for aggregated,*
62 *nonconfidential case data for garnishment, unlawful detainer, and warrant in debt actions in a general*
63 *district court. Such report may include (i) street addresses and (ii) the amount of money claimed in the*
64 *action. No such report shall be distributed to the general public or used for commercial purposes. Any*
65 *faculty member requesting the information shall take all necessary steps to protect the privacy and*
66 *security of the report and its data. No such data held by such baccalaureate public institution of higher*
67 *education shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et*
68 *seq.).*