

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 53, consisting of*
 3 *sections numbered 2.1-807 through 2.1-811, relating to information technology access by individuals*
 4 *who are blind or visually impaired.*

5 [H 1115]

6 Approved

7 *Be it enacted by the General Assembly of Virginia:*

8 **1. That the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 53, consisting**
 9 **of sections numbered 2.1-807 through 2.1-811, as follows:**

10 CHAPTER 53.

11 INFORMATION TECHNOLOGY ACCESS ACT.

12 § 2.1-807. *Findings; policy.*

13 *A. The General Assembly finds that (i) the advent of the information age throughout the United*
 14 *States and around the world has resulted in lasting changes in information technology; (ii) use of*
 15 *interactive visual display terminals by state and state-assisted organizations is becoming a widespread*
 16 *means of access for employees and the public to obtain information available electronically, but*
 17 *nonvisual access, whether by speech, Braille, or other appropriate means has been overlooked in*
 18 *purchasing and deploying the latest information technology; (iii) presentation of electronic data solely in*
 19 *a visual format is a barrier to access by individuals who are blind or visually impaired, preventing them*
 20 *from participating on equal terms in crucial areas of life, such as education and employment; (iv)*
 21 *alternatives, including both software and hardware adaptations, have been created so that interactive*
 22 *control of computers and use of the information presented is possible by both visual and nonvisual*
 23 *means; and (v) the goals of the state in obtaining and deploying the most advanced forms of*
 24 *information technology properly include universal access so that the segments of society with particular*
 25 *needs (including individuals unable to use visual displays) will not be left out of the information age.*

26 *B. It is the policy of the Commonwealth that all covered entities shall conduct themselves in*
 27 *accordance with the following principles: (i) individuals who are blind or visually impaired have the*
 28 *right to full participation in the life of the Commonwealth, including the use of advanced technology*
 29 *which is provided by such covered entities for use by employees, program participants, and members of*
 30 *the general public, and (ii) technology purchased in whole or in part with funds provided by the*
 31 *Commonwealth to be used for the creation, storage, retrieval, or dissemination of information and*
 32 *intended for use by employees, program participants, and members of the general public shall be*
 33 *adaptable for access by individuals who are blind or visually impaired. The implementation of nonvisual*
 34 *access technology under this Act shall be determined on a case-by-case basis as the need arises.*

35 § 2.1-808. *Definitions.*36 *As used in this chapter, unless the context clearly requires a different meaning:*

37 *"Access" means the ability to receive, use, and manipulate data and operate controls included in*
 38 *information technology.*

39 *"Blind" or "visually impaired" individual means an individual who has: (i) a visual acuity of 20/200*
 40 *or less in the better eye with correcting lenses or has a limited field of vision so that the widest*
 41 *diameter of the visual field subtends an angle no greater than 20 degrees; (ii) a medically indicated*
 42 *expectation of visual deterioration; or (iii) a medically diagnosed limitation in visual functioning that*
 43 *restricts the individual's ability to read and write standard print at levels expected of individuals of*
 44 *comparable ability.*

45 *"Covered entity" means all state agencies, public colleges and universities, and political subdivisions*
 46 *of the Commonwealth.*

47 *"Information technology" means all electronic information processing hardware and software,*
 48 *including telecommunications.*

49 *"Nonvisual" means synthesized speech, Braille, and other output methods not requiring sight.*

50 *"Telecommunications" means the transmission of information, images, pictures, voice or data by*
 51 *radio, video, or other electronic or impulse means, but shall not include public broadcasting services as*
 52 *defined in § 2.1-563.27:2.*

53 § 2.1-809. *Assurance of nonvisual access.*

54 *In general, the head of each covered entity shall ensure that information technology equipment and*
 55 *software used by blind or visually impaired employees, program participants, or members of the general*
 56 *public (i) provide access (including interactive use of the equipment and services) which is equivalent to*

57 that provided to individuals who are not blind or visually impaired; (ii) are designed to present
58 information (including prompts used for interactive communications) in formats adaptable to both visual
59 and nonvisual use; and (iii) have been purchased under a contract which includes the technology access
60 clause required pursuant to § 2.1-810.

61 § 2.1-810. Procurement requirements.

62 A. The technology access clause specified in clause (iii) of § 2.1-809 shall be developed by the
63 Secretary of Technology created pursuant to Executive Order Nine (1998), as amended by Executive
64 Order Thirty-three (1998), and shall require compliance with the nonvisual access standards established
65 in subsection B. The clause shall be included in all future contracts for the procurement of information
66 technology by, or for the use of, entities covered by this Act on or after the effective date of this Act.

67 B. At a minimum, the nonvisual access standards shall include the following: (i) the effective,
68 interactive control and use of the technology (including the operating system), applications programs,
69 and format of the data presented, shall be readily achievable by nonvisual means; (ii) the technology
70 equipped for nonvisual access shall be compatible with information technology used by other individuals
71 with whom the blind or visually impaired individual interacts; (iii) nonvisual access technology shall be
72 integrated into networks used to share communications among employees, program participants, and the
73 public; and (iv) the technology for nonvisual access shall have the capability of providing equivalent
74 access by nonvisual means to telecommunications or other interconnected network services used by
75 persons who are not blind or visually impaired. A covered entity may stipulate additional specifications
76 in any procurement.

77 Compliance with the nonvisual access standards shall not be required if the head of a covered entity
78 determines that (i) the information technology is not available with nonvisual access because the
79 essential elements of the information technology are visual and (ii) nonvisual equivalence is not
80 available.

81 § 2.1-811. Implementation.

82 A. The head of any covered entity may, with respect to nonvisual access software or peripheral
83 devices, approve the exclusion of such clause only to the extent that the cost of such software or devices
84 for the covered entity would increase the total cost of the procurement by more than five percent. All
85 exclusions of the technology access clause from any contract shall be reported annually to the Secretary
86 of Technology created pursuant to Executive Order Nine (1998), as amended by Executive Order
87 Thirty-three (1998).

88 B. The acquisition and installation of hardware, software, or peripheral devices used for nonvisual
89 access when the information technology is being used exclusively by individuals who are not blind or
90 visually impaired shall not be required.

91 C. Notwithstanding the provisions of subsection B, the applications programs and underlying
92 operating systems (including the format of the data) used for the manipulation and presentation of
93 information shall permit the installation and effective use of nonvisual access software and peripheral
94 devices.

95 D. Compliance with this Act for information technology purchased prior to September 1, 2000, shall
96 be achieved at the time of procurement of an upgrade or replacement of the existing equipment or
97 software.