

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 8.01 an article numbered 25,  
2 consisting of sections numbered 8.01-227.11 through , and to amend relating to identity  
3 management liability.

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

5 **1. That the Code of Virginia is amended by adding in Chapter 3 of Title 8.01 an article numbered**  
6 **25, consisting of sections numbered 8.01-227.11 through , as follows:**

7 Article 25

8 Identity Management Liability.

9 § 8.01-227.11. Definitions

10 As used in this article unless the context requires a different meaning:

11 "Federated identity management" means a system that allows individuals, previously issued an  
12 identity credential, to use the same identity ~~credential~~ data (which, by way of example and not  
13 limitation, may be stored on an Identity Credential, identity token, or other identifier to access resources  
14 (e.g., networks ~~or~~ databases, facilities, or other similar assets) of more than one enterprise within a  
15 federation in order to aid access control, conduct transactions and share information.

16 "Federation" means a group of two or more trusted enterprises within a defined group of  
17 enterprises ~~partners~~ that allow a user from one federation partner ~~participant~~ to access ~~networks or~~  
18 ~~databases~~ resources from another federation participant ~~ner~~ in a secure and trustworthy manner.

19 "Federation operator" means an ~~individual or group~~ entity that may (a) defines standards for its  
20 respective federation, (b) and evaluates participation in the federation or network to ensure compliance  
21 with policy, including the ability to request audits of participants for verification, and/or (c) bestow one  
22 or more Trustmarks on Identity Providers within the Federation being operated by the Federation  
23 Operator.

24 "Identifying attribute" ~~or "identifier"~~ means a property or personal information associated with  
25 a licensee.

26 "Identity credential" means ~~an object-verifiable assertion of identity to be verified~~ when presented  
27 in an authentication transaction. The identity credential can be bound in some way to the licensee to  
28 whom it was issued, or it can be a bearer credential. ~~Electronic credentials are digital documents that~~  
29 ~~bind an identity or an identifying attribute to a licensee's identity token.~~

30 "Identity provider" means the authoritative entity responsible for authenticating a licensee and  
31 asserting an identity and/or identity attribute for that licensee through the issuance of an identity  
32 credential or identity token.

33 "Identity token" means hardware ~~or software~~ the licensee possesses ~~and access controls used to~~  
34 ~~authenticate the licensee's identity or identifying attributes that~~ contained ~~in~~ the identity credential.

35 "Trustmark" means a tamper resistant official seal, image, or logo that signifies that the ~~licensee~~  
36 ~~federation operator and is asserting the identity provider licensee have has~~ met defined legal and industry  
37 data control and rights requirements for (i) informational content integrity and assurance, (ii)  
38 information content user assurance, or (iii) informational content use assurance.

39 § 8.01-227.12. Trustmark does not carry implied warranty.

40 The use of a trustmark in a transaction does not imply a warranty for accuracy- of the underlying  
41 informational content involved in the transaction. Nothing in this Article shall prevent an identity  
42 provider from providing a warranty for the assertion of identity contained on the identity credential.

43 § 8.01-227.1~~2~~<sup>23</sup>. Liability and immunity.

44 A. A federation operator shall be immune from suit arising from any acts or omissions relating to  
45 provisioning a digital certificate, identity credential, or identity token issued in accordance with the  
46 specifications of the U.S. Federal Bridge Certificate Authority unless the provisioning federation  
47 operator was grossly negligent or engaged in willful misconduct.

48 B. An identity provider shall be immune from suit arising from any act or omissions relating to  
49 providing a digital certificate, identity credential or identity token issued in accordance with the  
50 specifications of the U.S. Federal Bridge Certificate Authority unless the issuing identity provider was  
51 grossly negligent or engaged in willful misconduct.

52 C. The identity provider bears liability for all third-party damages arising from a commercially  
53 reasonable reliance on the licensee's identity credential by a third party under the standard defined in  
54 Sections A and B in this subsection if (i) the identity provider has failed to revoke the identity credential  
55 after notice of loss of control from the licensee and (ii) where the identity credential lacks a trusted  
56 mechanism to express its validity period and the identity provider has failed to terminate the identity  
57 credential after expiration of the license.

58 D. The licensee bears liability for all third-party damages arising from a commercially  
59 reasonable reliance on the licensee's identity credential by a third party if (i) the licensee has failed to  
60 notify the identity provider about the loss of control of the identity credential and (ii) the licensee has  
61 failed to notify the identity provider of any unauthorized access to or use of the identity credential  
62 known or suspected by the licensee.

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