

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3800, 2.2-3801, and 2.2-3808, as the latter two sections are
 2 currently effective and shall become effective, of the Code of Virginia and to amend and reenact
 3 the second enactments of Chapters 840 and 843 of the Acts of Assembly of 2008, relating to the
 4 Government Data Collection and Dissemination Practices Act; collection of social security
 5 numbers.

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

7 **1. That §§ 2.2-3800, 2.2-3801 and 2.2-3808, as the latter two sections are currently effective and**
 8 **shall become effective, of the Code of Virginia are amended and reenacted as follows:**

9 § 2.2-3800. Short title; findings; principles of information practice.

10 A. This chapter may be cited as the "Government Data Collection and Dissemination Practices
 11 Act."

12 B. The General Assembly finds that:

13 1. An individual's privacy is directly affected by the extensive collection, maintenance, use and
 14 dissemination of personal information;

15 2. The increasing use of computers and sophisticated information technology has greatly
 16 magnified the harm that can occur from these practices;

17 3. An individual's opportunities to secure employment, insurance, credit, and his right to due
 18 process, and other legal protections are endangered by the misuse of certain of these personal
 19 information systems; and

20 4. In order to preserve the rights guaranteed a citizen in a free society, legislation is necessary to
 21 establish procedures to govern information systems containing records on individuals.

22 C. Recordkeeping agencies of the Commonwealth and political subdivisions shall adhere to the
 23 following principles of information practice to ensure safeguards for personal privacy:

24 1. There shall be no personal information system whose existence is secret.

25 2. Information shall not be collected unless the need for it has been clearly established in
26 advance.

27 3. Information shall be appropriate and relevant to the purpose for which it has been collected.

28 4. Information shall not be obtained by fraudulent or unfair means.

29 5. Information shall not be used unless it is accurate and current.

30 6. There shall be a prescribed procedure for an individual to learn the purpose for which
31 information has been recorded and particulars about its use and dissemination.

32 7. There shall be a clearly prescribed and uncomplicated procedure for an individual to correct,
33 erase or amend inaccurate, obsolete or irrelevant information.

34 8. Any agency holding personal information shall assure its reliability and take precautions to
35 prevent its misuse. ~~On and after July 1, 2004, no agency shall display the social security number of a~~
36 ~~data subject on a student or employee identification card, except that for universities and colleges that~~
37 ~~have such a prevention plan for misuse of personal information in place on or before July 1, 2004, in~~
38 ~~compliance with this section, the date shall be January 1, 2005. On and after July 1, 2006, no agency~~
39 ~~shall display an individual's entire social security number on any student or employee identification~~
40 ~~card.~~

41 9. There shall be a clearly prescribed procedure to prevent personal information collected for one
42 purpose from being used for another purpose.

43 10. The Commonwealth or any agency or political subdivision thereof shall not collect personal
44 information except as explicitly or implicitly authorized by law.

45 ~~D. After July 1, 2004, no agency, as defined in § 42.1-77, shall send or deliver or cause to be sent~~
46 ~~or delivered, any letter, envelope or package that displays a social security number on the face of the~~
47 ~~mailing envelope or package or from which a social security number is visible, whether on the outside or~~
48 ~~inside of the mailing envelope or package.~~

49 § 2.2-3801. (Effective until July 1, 2009) Definitions.

50 As used in this chapter, unless the context requires a different meaning:

51 1. "Information system" means the total components and operations of a record-keeping process,
52 including information collected or managed by means of computer networks and the Internet, whether
53 automated or manual, containing personal information and the name, personal number, or other
54 identifying particulars of a data subject.

55 2. "Personal information" means all information that describes, locates or indexes anything about
56 an individual including his real or personal property holdings derived from tax returns, and his
57 education, financial transactions, medical history, ancestry, religion, political ideology, criminal or
58 employment record, or that affords a basis for inferring personal characteristics, such as finger and voice
59 prints, photographs, or things done by or to such individual; and the record of his presence, registration,
60 or membership in an organization or activity, or admission to an institution. "Personal information" shall
61 not include routine information maintained for the purpose of internal office administration whose use
62 could not be such as to affect adversely any data subject nor does the term include real estate assessment
63 information.

64 3. "Data subject" means an individual about whom personal information is indexed or may be
65 located under his name, personal number, or other identifiable particulars, in an information system.

66 4. "Disseminate" means to release, transfer, or otherwise communicate information orally, in
67 writing, or by electronic means.

68 5. "Purge" means to obliterate information completely from the transient, permanent, or archival
69 records of an ~~organization~~ agency.

70 6. "Agency" means any agency, authority, board, department, division, commission, institution,
71 bureau, or like governmental entity of the Commonwealth or of any unit of local government including
72 counties, cities, towns, regional governments, and the departments thereof, and includes constitutional
73 officers, except as otherwise expressly provided by law. "Agency" shall also include any entity, whether
74 public or private, with which any of the foregoing has entered into a contractual relationship for the
75 operation of a system of personal information to accomplish an agency function. Any such entity
76 included in this definition by reason of a contractual relationship shall only be deemed an agency as
77 relates to services performed pursuant to that contractual relationship, provided that if any such entity is

78 a consumer reporting agency, it shall be deemed to have satisfied all of the requirements of this chapter
79 if it fully complies with the requirements of the Federal Fair Credit Reporting Act as applicable to
80 services performed pursuant to such contractual relationship.

81 § 2.2-3801. (Effective July 1, 2009) Definitions.

82 As used in this chapter, unless the context requires a different meaning:

83 "Agency" means any agency, authority, board, department, division, commission, institution,
84 bureau, or like governmental entity of the Commonwealth or of any unit of local government including
85 counties, cities, towns, regional governments, and the departments thereof, and includes constitutional
86 officers, except as otherwise expressly provided by law. "Agency" shall also include any entity, whether
87 public or private, with which any of the foregoing has entered into a contractual relationship for the
88 operation of a system of personal information to accomplish an agency function. Any such entity
89 included in this definition by reason of a contractual relationship shall only be deemed an agency as
90 relates to services performed pursuant to that contractual relationship, provided that if any such entity is
91 a consumer reporting agency, it shall be deemed to have satisfied all of the requirements of this chapter
92 if it fully complies with the requirements of the Federal Fair Credit Reporting Act as applicable to
93 services performed pursuant to such contractual relationship.

94 "Data subject" means an individual about whom personal information is indexed or may be
95 located under his name, personal number, or other identifiable particulars, in an information system.

96 "Disseminate" means to release, transfer, or otherwise communicate information orally, in
97 writing, or by electronic means.

98 "Information system" means the total components and operations of a record-keeping process,
99 including information collected or managed by means of computer networks and the Internet, whether
100 automated or manual, containing personal information and the name, personal number, or other
101 identifying particulars of a data subject.

102 "Personal information" means all information that (i) describes, locates or indexes anything
103 about an individual including, but not limited to, his social security number, driver's license number,
104 agency-issued identification number, student identification number, real or personal property holdings

105 derived from tax returns, and his education, financial transactions, medical history, ancestry, religion,
106 political ideology, criminal or employment record, or (ii) affords a basis for inferring personal
107 characteristics, such as finger and voice prints, photographs, or things done by or to such individual; and
108 the record of his presence, registration, or membership in an organization or activity, or admission to an
109 institution. "Personal information" shall not include routine information maintained for the purpose of
110 internal office administration whose use could not be such as to affect adversely any data subject nor
111 does the term include real estate assessment information.

112 "Purge" means to obliterate information completely from the transient, permanent, or archival
113 records of an ~~organization~~ agency.

114 § 2.2-3808. (Effective until July 1, 2009) Disclosure or display of social security number.

115 A. It shall be unlawful for any agency to require an individual to disclose or furnish his social
116 security account number not previously disclosed or furnished, for any purpose in connection with any
117 activity, or to refuse any service, privilege or right to an individual wholly or partly because the
118 individual does not disclose or furnish such number, unless the disclosure or furnishing of such number
119 is specifically required by federal or state law.

120 B. Agency-issued identification cards, student identification cards, or license certificates issued
121 or replaced on or after July 1, 2003, shall not display an individual's entire social security number except
122 as provided in § 46.2-703.

123 C. Any agency-issued identification card, student identification card, or license certificate that
124 was issued prior to July 1, 2003, and that displays an individual's entire social security number shall be
125 replaced no later than July 1, 2006, except that voter registration cards issued with a social security
126 number and not previously replaced shall be replaced no later than the December 31st following the
127 completion by the state and all localities of the decennial redistricting following the 2010 census. This
128 subsection shall not apply to (i) driver's licenses and special identification cards issued by the
129 Department of Motor Vehicles pursuant to Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 and (ii) road tax
130 registrations issued pursuant to § 46.2-703.

131 D. After July 1, 2004, no agency, as defined in § 42.1-77, shall send or deliver or cause to be sent
 132 or delivered, any letter, envelope or package that displays a social security number on the face of the
 133 mailing envelope or package or from which a social security number is visible, whether on the outside or
 134 inside of the mailing envelope or package.

135 ~~D. E.~~ The provisions of subsections A and C of this section shall not be applicable to licenses
 136 issued by the State Corporation Commission's Bureau of Insurance until such time as a national
 137 insurance producer identification number has been created and implemented in all states. Commencing
 138 with the date of such implementation, the licenses issued by the State Corporation Commission's Bureau
 139 of Insurance shall be issued in compliance with subsection A of this section. Further, all licenses issued
 140 prior to the date of such implementation shall be replaced no later than 12 months following the date of
 141 such implementation.

142 § 2.2-3808. (Effective July 1, 2009) Collection, disclosure, or display of social security number.

143 A. ~~No agency shall require an individual to furnish or disclose his social security number or~~
 144 ~~driver's license number unless the furnishing or disclosure of~~ It shall be unlawful for any agency to:

145 1. Require an individual to disclose or furnish his social security account number not previously
 146 disclosed or furnished, for any purpose in connection with any activity, or to refuse any service,
 147 privilege or right to an individual wholly or partly because the individual does not disclose or furnish
 148 such number, unless the disclosure or furnishing of such number is specifically required by federal or
 149 state law; or

150 2. Collect from an individual his social security number or any portion thereof unless the
 151 collection of such number is (i) authorized or required by state or federal law and (ii) essential for the
 152 performance of that agency's duties.

153 ~~Nor shall any agency require an individual to disclose or furnish his social security account~~
 154 ~~number not previously disclosed or furnished, for any purpose in connection with any activity, or to~~
 155 ~~refuse any service, privilege or right to an individual wholly or partly because the individual does not~~
 156 ~~disclose or furnish such number, unless the disclosure or furnishing of such number is specifically~~
 157 ~~required by federal or state law.~~

158 B. Agency-issued identification cards, student identification cards, or license certificates issued
159 or replaced on or after July 1, 2003, shall not display an individual's entire social security number except
160 as provided in § 46.2-703.

161 C. Any agency-issued identification card, student identification card, or license certificate that
162 was issued prior to July 1, 2003, and that displays an individual's entire social security number shall be
163 replaced no later than July 1, 2006, except that voter registration cards issued with a social security
164 number and not previously replaced shall be replaced no later than the December 31st following the
165 completion by the state and all localities of the decennial redistricting following the 2010 census. This
166 subsection shall not apply to (i) driver's licenses and special identification cards issued by the
167 Department of Motor Vehicles pursuant to Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 and (ii) road tax
168 registrations issued pursuant to § 46.2-703.

169 D. After July 1, 2004, no agency, as defined in § 42.1-77, shall send or deliver or cause to be
170 sent or delivered, any letter, envelope or package that displays a social security number on the face of
171 the mailing envelope or package or from which a social security number is visible, whether on the
172 outside or inside of the mailing envelope or package.

173 ~~D.E.~~ The provisions of subsections A and C shall not be applicable to licenses issued by the
174 State Corporation Commission's Bureau of Insurance until such time as a national insurance producer
175 identification number has been created and implemented in all states. Commencing with the date of such
176 implementation, the licenses issued by the State Corporation Commission's Bureau of Insurance shall be
177 issued in compliance with subsection A of this section. Further, all licenses issued prior to the date of
178 such implementation shall be replaced no later than 12 months following the date of such
179 implementation.

180 **2. That the second enactments of Chapters 840 and 843 of the Acts of Assembly of 2008 are**
181 **amended and reenacted as follows:**

182 **2. That the provisions of this act shall become effective on ~~July 1, 2009, except that the~~**
183 **~~third and fourth enactments of this act shall become effective on July 1, 2008~~ July 1, 2010.**

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