

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 38.1, consisting of
2 sections numbered 2.2-3815 through 2.2-3816, relating to the Protection of Social Security
3 Numbers Act; penalties.

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

5 **1. That the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 38.1,**
6 **consisting of sections numbered 2.2-3815 through 2.2-3816, as follows:**

7 CHAPTER 38.1.

8 PROTECTION OF SOCIAL SECURITY NUMBERS ACT.

9 § 2.2-3815. Access to social security numbers prohibited; exceptions.

10 A. Except as otherwise provided in this chapter, the social security number of any individual
11 contained in a public record shall be confidential and exempt from disclosure under the Freedom of
12 Information Act (§ 2.2-3700 et seq.).

13 For the purposes of this chapter:

14 "Agency" means the same as that term is defined in § 2.2-3801.

15 "Data subject" means the same as that term is defined in § 2.2-3801.

16 "Public record" means the same as that term is defined in § 2.2-3701.

17 "Regional agency" means a unit of government organized as provided by law whose members
18 are appointed by the participating local governing bodies, and such unit includes two or more counties,
19 cities, or towns.

20 B. The provisions of this section shall not be construed to prevent the release of a social security
21 number:

22 1. In accordance with a proper judicial order;

23 2. To any federal, state or local law-enforcement or correctional personnel, including a law-
24 enforcement officer, probation officer, parole officer or administrator, or a member of a parole board,
25 seeking information in the course of his official duties;

26 3. By one agency to another agency in Virginia or to an agency in another state, district, or
27 territory of the United States where such information is requested by such agencies in connection with
28 (i) the application of the data subject therein for a service, privilege, or right under the laws thereof, (ii)
29 to information transmitted to family advocacy representatives of the United States Armed Forces in
30 accordance with subsection N of § 63.2-1503, or (iii) the performance of such agency's official duties; or

31 4. To any data subject exercising his rights under § 2.2-3806, or if the data subject is less than 18
32 years of age, to his legal guardian or parent, including a noncustodial parent, unless such parent's
33 parental rights have been terminated or a court of competent jurisdiction has restricted or denied such
34 access.

35 C. Notwithstanding the foregoing, an agency is authorized to verbally confirm the last four
36 (three) digits of an individual's social security number contained in a public record solely to verify the
37 identity of another individual, upon the request of any person. This subsection, however, shall not apply
38 if disclosure of this information is otherwise prohibited by law.

39 D. In fulfilling a request under subsection C, an agency:

40 1. Shall promptly, but in all cases within five working days of receiving a request, provide the
41 requested verbal confirmation;

42 2. May make reasonable charges not to exceed its actual cost incurred in accessing or searching
43 for the requested information. No agency shall impose any extraneous, intermediary or surplus fees or
44 expenses to recoup the general costs associated with creating or maintaining records or transacting the
45 general business of the agency; and

46 3. May require the requester to provide his name and legal address.

47 § 2.2-3816. Proceedings for enforcement of chapter.

48 A. Any aggrieved person may institute a proceeding for injunction or mandamus against any
49 agency that has engaged, is engaged, or is about to engage in any acts in violation of the provisions of
50 this chapter. Venue for the petition shall be addressed as follows:

51 1. In a case involving a local agency, to the general district court or circuit court of the county or
52 city from which the agency has been elected or appointed to serve;

53 2. In a case involving a regional agency, to the general district or circuit court of the county or
54 city where the principal business office of such agency is located; and

55 3. In a case involving a state agency, including a public institution of higher education, to the
56 general district court or the circuit court of the residence of the aggrieved party or of the City of
57 Richmond.

58 B. If the court finds a violation of the provisions of this chapter, the petitioner shall be entitled to
59 recover reasonable costs and attorney fees from the agency if the petitioner substantially prevails on the
60 merits of the case, unless special circumstances would make an award unjust. In making this
61 determination, a court may consider, among other things, the reliance of the agency on an opinion of the
62 Attorney General or a decision of a court that substantially supports the agency's position.

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