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## Joint Commission on Technology and Science

### Virginia Consumer Data Protection Act Work Group

August 17, 2021, at 2:00 p.m.

Pocahontas Building, House Committee Room

<http://dls.virginia.gov/commission/jcots.htm>

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The Virginia Consumer Data Protection Act Work Group (the Work Group) of the Joint Commission on Technology and Science (the Commission) met in Richmond with Delegate C.E. Cliff Hayes, Jr., chair, presiding.<sup>1</sup> The meeting began with introductions and opening remarks followed by presentations and discussion. Materials presented at the meeting are accessible through the [Commission's meetings webpage](#).

### Topics Identified with Regard to Implementation of the Virginia Consumer Data Protection Act

Delegate Hayes led a discussion involving points of interest related to the Virginia Consumer Data Protection Act (the Act). Julien Nagarajan, representing LexisNexis, spoke on challenges of maintaining compliance identified with deleting original data that could be compiled through indirect collection at a later date. Mr. Nagarajan offered a solution of amending the "right to delete" provision as a "right to opt out of sale" provision in order to restrict the further dissemination of consumer personal data. The proposed language linking the "right to delete" to the "opt out" provision seeks to give consumers the peace of mind that if they request data deletion, their request will be honored. The Work Group requested specific language to consider be provided before the next meeting.

Tim Lynch and Richard DiZinno, representing the National Insurance Crime Bureau, asked the Work Group to consider a narrow exemption to the Act. Mr. Lynch sought to exempt § 501(c)(4) nonprofit organizations "established to detect or prevent insurance-related crime or fraud" from the Act. He clarified that the nonprofit that fits this definition is unique in its positioning as it's the only one of its kind that communicates between insurance agencies and law enforcement and compliance with the Act would significantly alter their obligations and alter operations. Some members of the Work Group requested specific language be submitted to the Work Group so that the members may better understand their request.

### Presentation: Administration Considerations

*Evan Feinman, Chief Broadband Officer, Office of the Governor*

Mr. Feinman, a member of the Work Group, presented on behalf of the Office of the Governor on issues related to implementing the Act. Mr. Feinman explained the following issues:

- The Act would be strengthened by addressing data privacy protections for children;
- A universal opt-out tool would improve the effectiveness of the Act for Virginia citizens;

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<sup>1</sup> **Members Present:** Delegate C.E. Cliff Hayes, Jr. (chair), Senator David W. Marsden, Evan Feinman, Stacey Gray, Jim Halpert, Kier Lamont, Rafi Martina, Samuel Towell, Dana Wiggins

**Members Absent:** Gil Bland

- Addition of an annual report from the Office of Attorney General would create a lasting avenue to fine-tune enforcement and build public confidence in the law; and
- Some fine-tuning for the treatment of public records processors may be productive.

Mr. Feinman asked the Work Group to encourage the development of third-party software options to allow users to universally opt out of data collection from all websites rather than expecting a consumer to individually opt out of each site they visit. Mr. Feinman highlighted that the availability of software to standardize this process would be more in line with consumer expectations of data privacy. Some members expressed concern with the feasibility of global opt-out provisions due to differences between opt-out provisions in data privacy laws across states.

## **Discussion**

At the conclusion of the presentations, members of the Work Group discussed next steps. Delegate Hayes reacted favorably to gathering presentations, language suggestions for alterations to the Act, and public comments and to make such information available to the Work Group and staff in preparation for the Work Group's final report.

## **Public Comment and Next Meeting**

During the public comment period, a representative from the Virginia Citizens Consumer Council outlined concerns with educating the public of their rights under the Act. A representative from the Consumer Federation of America sought to encourage further participation by nonprofit consumer and privacy organizations to address concerns with the definitions of sale, personal data, and publically available information.

The Work Group's next meeting is September 13, 2021, at 2:00 p.m. It will be an in-person meeting in Richmond.

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For more information, see the [\*Commission's website\*](#) or contact the Division of Legislative Services staff:

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