

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-3800 and 2.2-3801 of the Code of Virginia and to amend the Code*
3 *of Virginia by adding a section numbered 2.2-3808.3, relating to the Government Data Collection*
4 *and Dissemination Practices Act; collection and use of personal information by law-enforcement*
5 *agencies.*

6 [H 1673]

7 Approved

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

9 **1. That §§ 2.2-3800 and 2.2-3801 of the Code of Virginia are amended and reenacted and that the**
10 **Code of Virginia is amended by adding a section numbered 2.2-3808.3 as follows:**

11 **§ 2.2-3800. Short title; findings; principles of information practice.**

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

13 B. The General Assembly finds that:

14 1. An individual's privacy is directly affected by the extensive collection, maintenance, use and
15 dissemination of personal information;16 2. The increasing use of computers and sophisticated information technology has greatly magnified
17 the harm that can occur from these practices;18 3. An individual's opportunities to secure employment, insurance, credit, and his right to due process,
19 and other legal protections are endangered by the misuse of certain of these personal information
20 systems; and21 4. In order to preserve the rights guaranteed a citizen in a free society, legislation is necessary to
22 establish procedures to govern information systems containing records on individuals.23 C. Recordkeeping agencies of the Commonwealth and political subdivisions shall adhere to the
24 following principles of information practice to ensure safeguards for personal privacy:

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

26 2. Information shall not be collected unless the need for it has been clearly established in 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 information
31 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, erase
33 or amend inaccurate, obsolete or irrelevant information.34 8. Any agency holding personal information shall assure its reliability and take precautions to prevent
35 its misuse.36 9. There shall be a clearly prescribed procedure to prevent personal information collected for one
37 purpose from being used for another purpose.38 10. The Commonwealth or any agency or political subdivision thereof shall not collect personal
39 information except as explicitly or implicitly authorized by law.40 *11. Unless a criminal or administrative warrant has been issued, law-enforcement and regulatory*
41 *agencies shall not use any surveillance technology to collect or maintain personal information where*
42 *such data is of unknown relevance and is not intended for prompt evaluation and potential use*
43 *respecting suspected criminal activity or terrorism by any individual or organization.*44 **§ 2.2-3801. Definitions.**

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

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

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

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

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

65 "Personal information" means all information that (i) describes, locates or indexes anything about an
66 individual including, but not limited to, his social security number, driver's license number, *vehicle*
67 *license plate number*, agency-issued identification number, student identification number, real or personal
68 property holdings derived from tax returns, and his education, financial transactions, medical history,
69 ancestry, religion, political ideology, criminal or employment record, or (ii) affords a basis for inferring
70 personal characteristics, such as finger and voice prints, photographs, or things done by or to such
71 individual; and the record of his presence, registration, or membership in an organization or activity,
72 *presence at any place*, or admission to an institution. "Personal information" ~~shall~~ *does* not include
73 routine information maintained for the purpose of internal office administration whose use could not be
74 such as to affect adversely any data subject nor does the term include real estate assessment information.

75 "Purge" means to obliterate information completely from the transient, permanent, or archival records
76 of an agency.

77 "*Surveillance technology*" means technology used to observe people, places or activities or to collect
78 personal information, without the subject's knowledge or consent.

79 **§ 2.2-3808.3. Use of license plate readers by law-enforcement agencies; limitations.**

80 Notwithstanding the restrictions in § 2.2-3800, law-enforcement agencies shall be allowed to collect
81 information from license plate readers, provided such information (i) is held for no more than seven
82 days and (ii) is not subject to any outside inquiries or internal usage, except in the investigation of a
83 crime or missing persons report. After seven days, the information shall be purged from the system
84 unless it is being utilized in an ongoing investigation.

85 As used in this section, "license plate reader" means a law-enforcement system that optically scans
86 vehicle license plates.