

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 9.1-116.10 of the Code of Virginia, relating to surveillance technology*
 3 *reporting by state and local law-enforcement agencies and sheriff's departments.*

4 [H 2725]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 9.1-116.10 of the Code of Virginia is amended and reenacted as follows:**8 **§ 9.1-116.10. Surveillance technology reporting by state and local law-enforcement agencies and**
 9 **sheriff's departments.**

10 A. For purposes of this section, "surveillance technology" means any electronic surveillance device,
 11 hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting,
 12 analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, behavioral, or similar
 13 information or communications specifically associated with, or capable of being associated with, any specific
 14 individual, group, or place or any system, device, or vehicle that is equipped with an electronic surveillance
 15 device, hardware, or software.

16 "Surveillance technology" includes (i) international mobile subscriber identity (IMSI) catchers and other
 17 cell site simulators; (ii) automatic license plate readers; (iii) electronic toll readers; (iv) closed-circuit
 18 television cameras; (v) biometric surveillance technology, including facial, voice, iris, and gait-recognition
 19 software and databases; (vi) mobile DNA capture technology; (vii) gunshot detection and location hardware
 20 and services; (viii) x-ray vans; (ix) video and audio monitoring or recording technology, such as surveillance
 21 cameras, wide-angle cameras, and wearable body cameras; (x) surveillance enabled or capable lightbulbs or
 22 light fixtures; (xi) tools, including software and hardware, used to gain ~~unauthorized~~ access to a computer,
 23 computer service, or computer network; (xii) social media monitoring software; (xiii) through-the-wall radar
 24 or similar imaging technology; (xiv) passive scanners of radio networks; (xv) long-range Bluetooth and other
 25 wireless-scanning devices; (xvi) radio-frequency I.D. (RFID) scanners; ~~and~~ (xvii) software designed to
 26 integrate or analyze data from surveillance technology, including surveillance target tracking and predictive
 27 policing software; *and (xviii) any third-party service or third-party subscription that allows access to any*
 28 *form of surveillance technology or the data therefrom.* The enumeration of surveillance technology examples
 29 in this subsection shall not be interpreted as an endorsement or approval of their use by any law-enforcement
 30 entity.

31 "Surveillance technology" does not include the following devices ~~or~~, hardware, *software, service, or*
 32 *subscription*, unless they have been equipped with, or are modified to become or include, surveillance
 33 technology as defined above: (a) routine office hardware, such as televisions, computers, and printers, that is
 34 in widespread use and will not be used for any surveillance-related functions; (b) parking ticket devices; (c)
 35 manually operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not
 36 designed to be used surreptitiously and whose functionality is limited to manually capturing and manually
 37 downloading video and/or audio recordings; (d) surveillance devices that cannot record or transmit audio or
 38 video or be remotely accessed, such as image stabilizing binoculars or night vision goggles; (e) databases not
 39 intended to store or compile surveillance data; and (f) manually operated technological devices used
 40 primarily for internal communications and not designed to surreptitiously collect surveillance data, such as
 41 radios and email systems.

42 B. All state and local law-enforcement agencies and sheriff's departments shall provide to the Department
 43 a list of all surveillance technologies *used, accessed, or procured* by such agencies and departments *during*
 44 *the previous fiscal year* on an annual basis by November 1 of each year. *The list shall include (i) all*
 45 *surveillance technologies used, accessed, or procured where the agency or department is the owner, user, or*
 46 *licensee and (ii) all surveillance technologies used or accessed where the owner or licensee is a separate*
 47 *law-enforcement agency, sheriff's department, government agency or department, or private business, entity,*
 48 *or individual.* The Department shall also provide such information to the Virginia State Crime Commission
 49 and the Joint Commission on Technology and Science by *December 1 of each year.*