

HOUSE BILL NO. 567
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee for Courts of Justice
on _____)
(Patron Prior to Substitute—Delegate Carnegie)

A BILL to amend and reenact §§ 16.1-69.54:1 and 17.1-208 of the Code of Virginia, relating to court records; aggregated case data; request by attorney for the Commonwealth exempted.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.54:1 and 17.1-208 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.54:1. Request for district court records.

A. For the purposes of this section, "confidential court records," "court records," and "nonconfidential court records" shall have the same meaning as set forth in § 17.1-292.

B. Requests for copies of nonconfidential court records maintained in individual case files shall be made to the clerk of a district court.

C. Requests for reports of aggregated, nonconfidential case data fields that are viewable through the online case information systems maintained by the Executive Secretary of the Supreme Court shall be made to the Office of the Executive Secretary. Such reports of aggregated case data shall not include the name, date of birth, or social security number of any party and shall not include images of the individual records in the respective case files. However, nothing in this section shall be construed to permit any reports or aggregated case data to be sold or posted on any other website or in any way redistributed to any third party. The Executive Secretary, in his discretion, may deny such request to ensure compliance with these provisions. However, such data may be included in products or services provided to a third party, provided that such data is not made available to the general public. *Notwithstanding any other provision of law, if such request is made by an attorney for the Commonwealth to assist in the performance of his duties, the Executive Secretary shall approve such request and provide such report of aggregated case data, which shall include the name, date of birth, and social security number of any party, only for cases arising within the jurisdiction of such attorney for the Commonwealth. No report of aggregated case data that includes the name, date of birth, and social security number of any party provided to an attorney for the Commonwealth shall be disseminated further without such data being properly redacted.*

D. Any clerk or the Executive Secretary, as applicable, may require that the request be in writing and that the requester provide his name and legal address. A request for nonconfidential court records or reports of

32 aggregated nonconfidential case data shall identify the requested records with reasonable specificity. Any
33 clerk or the Executive Secretary, as applicable, may determine the costs to provide the requested records to
34 the requester, advise the requester of such costs, and, before continuing to process the request, require the
35 requester to agree to payment of a deposit not to exceed the amount of the advance determination, which shall
36 be credited to the final cost of supplying the requested records. No clerk, nor the Executive Secretary, shall be
37 required to create a new record if the record does not already exist or provide a report of aggregated,
38 nonconfidential case data in a format not regularly used by the clerk or the Executive Secretary; however, a
39 clerk or the Executive Secretary, as applicable, may abstract or summarize information under such terms and
40 conditions as agreed to by the requester and the clerk or Executive Secretary, as provided herein.

41 E. Except where the nature or size of the request would interfere with the business of the court or with its
42 use by the general public, or as otherwise provided by law, the requested court records or reports of
43 aggregated, nonconfidential case data shall be provided to the requester within a reasonable period of time,
44 given the nature of the request and the availability of staff to respond to the request, but in no event longer
45 than 30 days from the date of a complete request made by a requester that is fully compliant with the
46 requirements of this section and other applicable law. Any objection or assertion of confidentiality shall be
47 provided to the requester within a reasonable period of time, but in no event longer than 30 days from the
48 date of a complete request made by a requester.

49 F. Any clerk, or the Executive Secretary, may require payment in advance of all reasonable costs, not to
50 exceed the actual cost incurred in accessing, duplicating, reviewing, supplying, or searching for the requested
51 court records or reports of aggregated, nonconfidential case data, including removing any confidential
52 information contained in the court records from the nonconfidential court records being provided, excluding
53 any extraneous, intermediary, or surplus fees or expenses to recoup the general overhead costs associated
54 with creating or maintaining records or transacting the general business of the clerk or the Office of the
55 Executive Secretary. Before processing a request for court records or reports of aggregated, nonconfidential
56 case data, any clerk or the Executive Secretary may require the requester to pay any amounts owed to the
57 clerk or the Office of the Executive Secretary for previous requests for court records or reports of aggregated,
58 nonconfidential case data that remain unpaid 30 days or more after billing.

59 G. Any clerk and the Executive Secretary shall be immune from any suit arising from the production of
60 court records or reports of aggregated nonconfidential case data in accordance with this section absent gross

61 negligence or willful misconduct.

62 **§ 17.1-208. Records, etc., open to inspection; copies; exception.**

63 A. For the purposes of this section, "confidential court records," "court records," and "nonconfidential
64 court records" shall have the same meaning as set forth in § 17.1-292.

65 B. Except as otherwise provided by law, any records that are maintained by the clerks of the circuit courts
66 shall be open to inspection in the office of the clerk by any person and the clerk shall, when requested,
67 furnish copies thereof subject to any reasonable fee charged by the clerk pursuant to § 17.1-275. No person
68 shall be permitted to use the clerk's office for the purpose of making copies of records in such manner, or to
69 such extent, as will, in the determination of the clerk, interfere with the business of the office or with its
70 reasonable use by the general public. The certificate of the clerk to copies furnished by the clerk shall, if the
71 paper copied be recorded in a bound volume, contain the name and number of the volume and the page or
72 folio at which the recordation of the paper begins, or the instrument number as applicable, and the clerk may
73 charge a fee therefor pursuant to § 17.1-275. The certificate of the circuit court clerk to such copies may be
74 provided electronically subject to the provisions of § 17.1-258.3:2. Such electronic certificate may reference
75 an instrument number, bound volume, or other case number, but is not required to do so.

76 C. Requests for copies of nonconfidential court records maintained in individual case files shall be made
77 to the clerk of the circuit court.

78 D. Requests for reports of aggregated, nonconfidential case data fields that are viewable through the
79 online case information systems maintained by the Executive Secretary of the Supreme Court shall be made
80 to the Office of the Executive Secretary. Such reports of aggregated case data shall not include the name, date
81 of birth, or social security number of any party, and shall not include images of the individual records in the
82 respective case files. However, nothing in this section shall be construed to permit any reports of aggregated
83 case data to be sold or posted on any other website or in any way redistributed to any third party. The clerk or
84 the Executive Secretary, in his discretion, may deny such request to ensure compliance with these provisions.
85 However, such data may be included in products or services provided to a third party, provided that such data
86 is not made available to the general public. *Notwithstanding any other provision of law, if such request is*
87 *made by an attorney for the Commonwealth to assist in the performance of his duties, the clerk or Executive*
88 *Secretary shall approve such request and provide such report of aggregated case data, which shall include*
89 *the name, date of birth, and social security number of any party, only for cases arising within the jurisdiction*
90 *of such attorney for the Commonwealth. No report of aggregated case data that includes the name, date of*
91 *birth, and social security number of any party provided to an attorney for the Commonwealth shall be*

92 disseminated further without such data being properly redacted.

93 E. Any clerk or the Executive Secretary, as applicable, may require that the request be in writing and that
94 the requester provide his name and legal address. A request for nonconfidential court records or reports of
95 aggregated, nonconfidential case data shall identify the requested records with reasonable specificity. Any
96 clerk or the Executive Secretary, as applicable, may determine the costs for providing the requested records to
97 the requester, advise the requester of such costs, and, before continuing to process the request, require the
98 requester to agree to payment of a deposit not to exceed the amount of the advance determination, which shall
99 be credited to the final cost of supplying the requested records. Neither a clerk nor the Executive Secretary
100 shall be required to create a new record if the record does not already exist or provide a report of aggregated,
101 nonconfidential case data in a format not regularly used by the clerk or the Executive Secretary; however, a
102 clerk or the Executive Secretary, as applicable, may abstract or summarize information under such terms and
103 conditions as agreed to by the requester and the clerk or Executive Secretary, as provided herein.

104 F. Except as otherwise provided by law, the requested court records or reports of aggregated,
105 nonconfidential case data shall be provided to the requester within a reasonable period of time, given the
106 nature of the request and the availability of staff to respond to the request, but in no event longer than 30 days
107 from the date of a complete request made by a requester that is fully compliant with the requirements of this
108 section and other applicable law. Any objection or assertion of confidentiality shall be provided to the
109 requester within a reasonable period of time, but in no event longer than 30 days from the date of a complete
110 request made by a requester.

111 G. Any clerk or the Executive Secretary may require payment in advance of all reasonable costs, not to
112 exceed the actual cost incurred in accessing, duplicating, reviewing, supplying, or searching for the requested
113 court records or reports of aggregated, nonconfidential case data, including removing any confidential
114 information contained in the court records from the nonconfidential court records being provided, excluding
115 any extraneous, intermediary, or surplus fees or expenses to recoup the general overhead costs associated
116 with creating or maintaining records or transacting the general business of the clerk or the Office of the
117 Executive Secretary. Before processing a request for court records or reports of aggregated, nonconfidential
118 case data, any clerk or the Executive Secretary may require the requester to pay any amounts owed to the
119 clerk or the Office of the Executive Secretary for previous requests for court records or reports of aggregated,
120 nonconfidential case data that remain unpaid 30 days or more after billing.

121 H. Any clerk and the Executive Secretary shall be immune from any suit arising from the production of
122 court records or reports of aggregated, nonconfidential case data in accordance with this section absent gross
123 negligence or willful misconduct.

124 I. Nothing in this section shall be construed to apply to court records transferred to the Library of Virginia
125 for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et
126 seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently
127 archived records and shall be responsible for responding to requests for such records.