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HOUSE BILL NO. 872
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee for Courts of Justice
on _____)

(Patron Prior to Substitute—Delegate Cousins)

A *BILL* to amend the Code of Virginia by adding sections numbered 16.1-69.35:4 and 17.1-128.2, relating to possession of portable electronic device in district or circuit court.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 16.1-69.35:4 and 17.1-128.2 as follows:

§ 16.1-69.35:4. Possession of portable electronic device in district courts.

A. As used in this section:

"Portable electronic device" means (i) a personal laptop; (ii) a tablet; (iii) a mobile telephone, including a cell phone and any telephone with a camera, audio and video recording capabilities, and transmission capabilities; (iv) an electronic calendar; (v) an electronic book reader; (vi) a smart watch; or (vii) any other electronic personal communication device. "Portable electronic device" does not include a camera, video camera, video or audio recording equipment, or a recording device that is not otherwise a component of a portable electronic device.

"Visitor to the court" means a member of the public who is not an active or retired judge, a magistrate, an attorney-at-law who possesses and presents a valid state bar identification card, a law-enforcement officer as defined in § 9.1-101 or court security officer, a probation officer who possesses and presents proper credentials and who is at the courthouse in the conduct of his official duties, a state or local agency employee who possesses and presents proper credentials and who is at the courthouse in the conduct of his official duties, a court reporter during the course of his official duties within the courthouse, and any other individual who has been authorized to possess a portable electronic device in the court upon a determination by the sheriff of the city or county in which the court sits that such individual's possession of a portable electronic device does not pose a security risk or threat and that access to such portable electronic device is necessary for conducting such individual's work or business in the court.

B. The chief judge of every district court shall set a policy for possession of portable electronic devices by visitors to the court. If such policy prohibits or restricts the possession of portable electronic devices in the courtroom of the district court, the chief judge shall also include in such policy provisions to ensure that any portable electronic device brought by a visitor to the court for the purposes of presenting evidence be made available for use by such visitor to the court during a proceeding. When setting such policy, the chief judge shall consult with the sheriff of the city or county in which the courthouse is located. Such sheriff shall be responsible for advising and training all appropriate personnel on such policy.

In the event that a district court is located inside the same courthouse building as the circuit court, the chief judge of such circuit court shall set the policy for the entire courthouse, including the district court courtrooms, in accordance with the provisions of § 17.1-128.2. If a general district court and a juvenile and domestic relations district court are located within the same courthouse building, but not in the same building as the circuit court of the same jurisdiction, the chief judges of such general district court and juvenile and domestic relations district court shall set the policy by agreement.

C. If possession of portable electronic devices is prohibited or restricted in the courthouse or courtroom, storage for such portable electronic devices, such as storage lockers or other forms of onsite storage, shall be provided at no cost to visitors to the court to the extent practicable.

D. The chief judge of the district court may allow possession of portable electronic devices by visitors to the court and may condition such possession of portable electronic devices on certain limitations, including (i) requiring a security screening of the portable electronic device upon entrance to the courthouse; (ii) restricting the use of the electronic portable device only in a specific area or areas of the courthouse, including the lobby, hallways, or other designated areas within the courthouse; (iii) restricting the use of mobile telephones, including designating certain areas of the courthouse where phone conversations may be had; (iv) requiring that all portable electronic devices remain on silent mode at all times; or (v) any other conditions as needed to maintain safety, security, proper behavior, order, and the administration of justice. If the portable electronic device policy allows possession of such portable electronic devices, the provisions requiring the district court to provide storage in accordance with subsection C shall not apply.

E. The policy of each district court set in accordance with this section shall be posted in an accessible, prominent, and conspicuous manner at the entrance of the district court and on (i) the individual district court page on the Virginia Judicial System website or equivalent website where statewide courthouse information is aggregated; (ii) a court's individual website; or (iii) if the court does not have an individual website, an equivalent local government website where such district court's information is communicated to

60 the public. Such posting shall include any prohibition, restriction, condition, and limitation on possession
61 and use of any portable electronic device by visitors to the court, and, if such policy prohibits possession of
62 such portable electronic device by a visitor to the court, the process for ensuring that evidence from such
63 portable electronic device may be presented in a courtroom.

64 F. Any portable electronic device used in violation of a district court's policy or related court order may
65 be confiscated and the court or sheriff's department responsible for providing court security shall not be
66 liable for any damage to or loss of such confiscated portable electronic device.

67 G. Any use of a portable electronic device in the courthouse or courtrooms to take photographs, make
68 audio or video recordings, or to transmit live audio or video streaming shall be prohibited except with prior
69 written authorization by a judge of the district court.

70 **§ 17.1-128.2. Possession of portable electronic device in circuit courts.**

71 A. As used in this section, "portable electronic device" and "visitor to the court" mean the same as defined
72 in § 16.1-69.35:4.

73 B. The chief judge of every circuit court shall set a policy for possession of portable electronic devices by
74 visitors to the court. If such policy prohibits or restricts the possession of portable electronic devices in the
75 courtroom of the circuit court, the chief judge shall also include in such policy provisions to ensure that any
76 portable electronic device brought by a visitor to the court for the purposes of presenting evidence be made
77 available for use by such visitor to the court during a proceeding. When setting such policy, the chief judge
78 shall consult with the sheriff of the city or county in which the courthouse is located. Such sheriff shall be
79 responsible for advising and training all appropriate personnel on such policy.

80 C. If possession of portable electronic devices is prohibited or restricted in the courthouse or courtroom,
81 storage for such portable electronic devices, such as storage lockers or other forms of onsite storage, shall be
82 provided at no cost to visitors to the court to the extent practicable.

83 D. The chief judge of the circuit court may allow possession of portable electronic devices by visitors to
84 the court and may condition such possession of portable electronic devices on certain limitations, including
85 (i) requiring a security screening of the portable electronic device upon entrance to the courthouse; (ii)
86 restricting the use of the electronic portable device only in a specific area or areas of the courthouse,
87 including the lobby, hallways, or other designated areas within the courthouse; (iii) restricting the use of
88 mobile telephones, including designating certain areas of the courthouse where phone conversations may be
89 had; (iv) requiring that all portable electronic devices remain on silent mode at all times; or (v) any other
90 conditions as needed to maintain safety, security, proper behavior, order, and the administration of justice. If
91 the portable electronic device policy allows possession of such portable electronic devices, the provisions
92 requiring the circuit court to provide storage in accordance with subsection C shall not apply.

93 E. The policy of each circuit court set in accordance with this section shall be posted in an accessible,
94 prominent, and conspicuous manner at the entrance of the circuit court and on (i) the individual circuit court
95 page on the Virginia Judicial System website or equivalent website where statewide courthouse information
96 is aggregated; (ii) a court's individual website; or (iii) if the court does not have an individual website, an
97 equivalent local government website where such circuit court's information is communicated to the public.
98 Such posting shall include any prohibition, restriction, condition, and limitation on possession and use of any
99 portable electronic device by visitors to the court, and, if such policy prohibits possession of such portable
100 electronic device by a visitor to the court, the process for ensuring that evidence from such portable
101 electronic device may be presented in a courtroom.

102 F. Any portable electronic device used in violation of a circuit court's policy or related court order may
103 be confiscated and the court or sheriff's department responsible for providing court security shall not be
104 liable for any damage to or loss of such confiscated portable electronic device.

105 G. Any use of a portable electronic device in the courthouse or courtrooms to take photographs, make
106 audio or video recordings, or to transmit live audio or video streaming shall be prohibited except with prior
107 written authorization by a judge of the circuit court.