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HOUSE BILL NO. 1161  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on General Laws and Technology  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Delegate Tran)

*A BILL to amend and reenact §§ 2.2-3800, 2.2-3801, 2.2-3802, 2.2-3803, 2.2-3806, and 2.2-3809 of the Code of Virginia, relating to Government Data Collection and Dissemination Practices Act; dissemination of personal information to federal government; civil penalties.*

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

**1. That §§ 2.2-3800, 2.2-3801, 2.2-3802, 2.2-3803, 2.2-3806, and 2.2-3809 of the Code of Virginia are amended and reenacted as follows:**

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

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

B. The General Assembly finds that:

1. An individual's privacy is directly affected by the extensive collection, maintenance, use, and dissemination of personal information;

2. The increasing use of computers and sophisticated information technology has greatly magnified the harm that can occur from these practices;

3. An individual's opportunities to secure employment, insurance, credit, and his right to due process, and other legal protections are endangered by the misuse of certain of these personal information systems; and

4. In order to preserve the rights guaranteed a citizen in a free society, legislation is necessary to establish procedures to govern information systems containing records on individuals.

C. Recordkeeping agencies *and political subdivisions* of the Commonwealth ~~and political subdivisions~~ shall adhere to the following principles of information practice to ensure safeguards for personal privacy:

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

2. Information shall not be collected unless the need for it has been clearly established in advance.

3. Information shall be appropriate and relevant to the purpose for which it has been collected.

4. Information shall not be obtained by fraudulent or unfair means.

5. Information shall not be used unless it is accurate and current.

6. There shall be a prescribed procedure for an individual to learn the purpose for which information has

31 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, or  
33 amend inaccurate, obsolete, or irrelevant information.

34 8. Any agency holding personal information shall assure its reliability and take precautions to prevent its  
35 misuse.

36 9. There shall be a clearly prescribed procedure to prevent personal information collected for one purpose  
37 from being used or disseminated for another purpose unless such use or dissemination is authorized or  
38 required by law.

39 10. ~~The Commonwealth or any~~ No agency or political subdivision ~~thereof of the Commonwealth~~ shall ~~not~~  
40 collect personal information except as explicitly or implicitly authorized by law.

41 *11. No agency or political subdivision of the Commonwealth shall sell personal information.*

42 *12. Any agency or political subdivision of the Commonwealth shall disseminate personal information*  
43 *only:*

44 *a. To the extent necessary to comply with state or federal law, including the federal Health Insurance*  
45 *Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended;*

46 *b. To the extent necessary to carry out the administration of a state or federal program pursuant to state*  
47 *or federal law;*

48 *c. To comply with a subpoena, court order, or administrative proceeding;*

49 *d. To the extent necessary to ensure fulfillment of the obligations of a purchase or contract made in*  
50 *accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) or a memorandum of*  
51 *understanding or management agreement made in accordance with the Restructured Higher Education*  
52 *Financial and Administrative Operations Act (§ 23.1-1000 et seq.);*

53 *e. When the data subject has given consent; or*

54 *f. To the extent necessary to accomplish a proper purpose of the agency.*

55 **§ 2.2-3801. Definitions.**

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

57 "Agency" means any agency, authority, board, department, division, commission, institution, bureau, or  
58 like governmental entity of the Commonwealth or of any unit of local government including counties, cities,  
59 towns, regional governments, and the departments thereof, and includes constitutional officers, except as  
60 otherwise expressly provided by law. "Agency" shall also include any entity, whether public or private, with

61 which any of the foregoing has entered into a contractual relationship for the operation of a system of  
62 personal information to accomplish an agency function. Any such entity included in this definition by reason  
63 of a contractual relationship shall only be deemed an agency as relates to services performed pursuant to that  
64 contractual relationship, provided that if any such entity is a consumer reporting agency, it shall be deemed to  
65 have satisfied all of the requirements of this chapter if it fully complies with the requirements of the Federal  
66 Fair Credit Reporting Act as applicable to services performed pursuant to such contractual relationship.

67 *"Consent" means a clear affirmative act signifying a data subject's freely given, specific, informed, and*  
68 *unambiguous agreement to disseminate personal information relating to the data subject. "Consent" may*  
69 *include a written statement, including a statement written by electronic means, or any other unambiguous*  
70 *affirmative action.*

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

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

75 "Information system" means the total components and operations of a record-keeping process, including  
76 information collected or managed by means of computer networks and the ~~Internet~~ *internet*, whether  
77 automated or manual, containing personal information and the name, personal number, or other identifying  
78 particulars of a data subject.

79 "Personal information" means all information that (i) describes, locates, or indexes anything about an  
80 individual, including, ~~but not limited to,~~ his social security number, *U.S. Citizenship and Immigration*  
81 *Services (USCIS) alien registration number*, driver's license number, agency-issued identification number,  
82 student identification number, real or personal property holdings derived from tax returns, *tax identification*  
83 *number*, and his education, financial transactions, medical history, ancestry, *national origin*, religion, political  
84 ideology, *voting history*, criminal or employment record, *and immigration status*, or (ii) affords a basis for  
85 inferring personal characteristics, such as ~~finger and voice prints~~ *fingerprints, voiceprints, faceprints, eye*  
86 *retinas, irises, or other unique biological patterns or characteristics, physical or digital photographs, videos,*  
87 *or audio*, or things done by or to such individual; and the record of his presence, registration, or membership  
88 in an organization or activity, or admission to an institution. "Personal information" ~~shall~~ *does* not include  
89 routine information maintained for the purpose of internal office administration whose use could not be such  
90 as to affect adversely any data subject nor does the term include real estate assessment information.

91 "Private entity" means any natural person, corporation, general partnership, limited liability company,  
92 limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other  
93 business entity.

94 "Proper purpose" includes the sharing or dissemination of data or information among and between  
95 agencies, or, as applicable, private entities, in order to (i) streamline administrative processes to improve the  
96 efficiency and efficacy of services, access to services, eligibility determinations for services, and service  
97 delivery; (ii) reduce paperwork and administrative burdens on applicants for and recipients of public services;  
98 (iii) improve the efficiency and efficacy of the management of public programs; (iv) prevent fraud and  
99 improve auditing capabilities; (v) conduct outcomes-related research; (vi) develop quantifiable data to aid in  
100 policy development and decision making to promote the most efficient and effective use of resources; and  
101 (vii) perform data analytics regarding any of the purposes set forth in this definition.

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

104 **§ 2.2-3802. Systems to which chapter inapplicable.**

105 The provisions of this chapter shall not apply to personal information systems:

106 1. Maintained by any court of the Commonwealth;

107 2. Which may exist in publications of general circulation;

108 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in  
109 the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant  
110 to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on  
111 the Internet pursuant to § 9.1-913;

112 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through  
113 16.1-225;

114 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to  
115 engage in the practice of any profession, in which case the names and addresses of persons applying for or  
116 possessing the license may be disseminated upon written request to a person engaged in the profession or  
117 business of offering professional educational materials or courses for the sole purpose of providing the  
118 licensees or applicants for licenses with informational materials relating solely to available professional  
119 educational materials or courses, provided the disseminating agency is reasonably assured that the use of the  
120 information will be so limited;

121 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission,  
122 the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the Virginia Alcoholic  
123 Beverage Control Authority;

124 7. Maintained by any of the following and that deal with investigations and intelligence gathering related  
125 to criminal activity:

126 a. The Department of State Police;

127 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

128 c. Police departments of cities, counties, and towns;

129 d. Sheriff's departments of counties and cities;

130 e. Campus police departments of public institutions of higher education as established by Article 3  
131 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

132 f. The Division of Capitol Police.

133 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect  
134 while such cases are also subject to an ongoing criminal prosecution;

135 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

136 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of  
137 travel or tourism in the Commonwealth, in which case names and addresses of persons requesting  
138 information on those subjects may be disseminated upon written request to a person engaged in the business  
139 of providing travel services or distributing travel information, provided the Virginia Tourism Authority is  
140 reasonably assured that the use of the information will be so limited;

141 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General  
142 Services and the Department of Forensic Science, which deal with scientific investigations relating to  
143 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

144 12. Maintained by the Department of Corrections, *the Department of Juvenile Justice*, or the Office of the  
145 State Inspector General that deal with investigations and intelligence gathering by persons acting under the  
146 provisions of Chapter 3.2 (§ 2.2-307 et seq.);

147 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state  
148 agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and  
149 Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a  
150 school board that deals with local investigations required by § 15.2-2511.2;

151 14. Maintained by the Department of Social Services or any local department of social services relating to  
152 public assistance fraud investigations;

153 15. Maintained by the Department of Social Services related to child welfare or public assistance  
154 programs when requests for personal information are made to the Department of Social Services. Requests  
155 for information from these systems shall be made to the appropriate local department of social services that is  
156 the custodian of that record. Notwithstanding the language in this section, an individual shall not be  
157 prohibited from obtaining information from the central registry in accordance with the provisions of  
158 § 63.2-1515; and

159 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult  
160 protective services, or auxiliary grants when requests for personal information are made to the Department for  
161 Aging and Rehabilitative Services. Requests for information from these systems shall be made to the  
162 appropriate local department of social services that is the custodian of that record.

163 **§ 2.2-3803. Administration of systems including personal information; internet privacy policy;**  
164 **exceptions.**

165 A. Any agency maintaining an information system that includes personal information shall:

166 1. Collect, maintain, use, and disseminate only that personal information permitted or required by law to  
167 be so collected, maintained, used, or disseminated, or necessary to accomplish a proper purpose of the  
168 agency;

169 2. Collect information to the greatest extent feasible from the data subject directly, or through the sharing  
170 of data with other agencies, in order to accomplish a proper purpose of the agency;

171 3. Establish categories for maintaining personal information to operate in conjunction with confidentiality  
172 requirements and access controls;

173 4. Maintain information in the system with accuracy, completeness, timeliness, and pertinence as  
174 necessary to ensure fairness in determinations relating to a data subject;

175 5. Make no dissemination to another system without (i) specifying requirements for security and usage,  
176 including limitations on access thereto, and (ii) receiving reasonable assurances that those requirements and  
177 limitations will be observed. This subdivision shall not apply, however, to a dissemination made by an  
178 agency to an agency in another state, district, or territory of the United States where the personal information  
179 is requested by the agency of such other state, district, or territory in connection with the application of the  
180 data subject therein for a service, privilege, or right under the laws thereof, nor shall this apply to information

181 transmitted to family advocacy representatives of the United States Armed Forces in accordance with  
182 subsection N of § 63.2-1503;

183 6. Maintain a list of all persons or organizations having regular access to personal information in the  
184 information system;

185 7. Maintain for a period of three years or until such time as the personal information is purged, whichever  
186 is shorter, a complete and accurate record, including identity and purpose, of every access to any personal  
187 information in a system, including the identity of any persons or organizations not having regular access  
188 authority but excluding access by the personnel of the agency wherein data is put to service for the purpose  
189 for which it is obtained;

190 8. Take affirmative action to establish rules of conduct and inform each person involved in the design,  
191 development, operation, or maintenance of the system, or the collection or use of any personal information  
192 contained therein, about all the requirements of this chapter; *and* the rules and procedures, including penalties  
193 for noncompliance, of the agency designed to assure compliance with such requirements;

194 9. Establish appropriate safeguards to secure the system from any reasonably foreseeable threat to its  
195 security; ~~and~~

196 10. Collect no personal information concerning the political or religious beliefs, affiliations, and activities  
197 of data subjects that is maintained, used, or disseminated in or by any information system operated by any  
198 agency unless authorized explicitly by statute or ordinance. Nothing in this subdivision shall be construed to  
199 allow an agency to disseminate to federal government authorities information concerning the religious beliefs  
200 and affiliations of data subjects for the purpose of compiling a list, registry, or database of individuals based  
201 on religious affiliation, national origin, or ethnicity, unless such dissemination is specifically required by state  
202 or federal law; *and*

203 *11. Disseminate personal information only:*

204 *a. To the extent necessary to comply with state or federal law, including the federal Health Insurance*  
205 *Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended;*

206 *b. To the extent necessary to carry out the administration of a state or federal program pursuant to state*  
207 *or federal law;*

208 *c. To comply with a subpoena, court order, or administrative proceeding;*

209 *d. To the extent necessary to ensure fulfillment of the obligations of a purchase or contract made in*  
210 *accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) or a memorandum of*  
211 *understanding or management agreement made in accordance with the Restructured Higher Education*

212 *Financial and Administrative Operations Act (§ 23.1-1000 et seq.);*

213 *e. When the data subject has given consent; or*

214 *f. To the extent necessary to accomplish a proper purpose of the agency.*

215 B. Every public body, as defined in § 2.2-3701, that has an ~~Internet~~ *internet* website associated with that  
216 public body shall develop an ~~Internet~~ *internet* privacy policy and an ~~Internet~~ *internet* privacy policy statement  
217 that explains the policy to the public. The policy shall be consistent with the requirements of this chapter. The  
218 statement shall be made available on the public body's website in a conspicuous manner. The Secretary of  
219 Administration or his designee shall provide guidelines for developing the policy and the statement, and each  
220 public body shall tailor the policy and the statement to reflect the information practices of the individual  
221 public body. At minimum, the policy and the statement shall address (i) what information, including  
222 personally identifiable information, will be collected, if any; (ii) whether any information will be  
223 automatically collected simply by accessing the website and, if so, what information; (iii) whether the website  
224 automatically places a computer file, commonly referred to as a "cookie," on the ~~Internet~~ *internet* user's  
225 computer and, if so, for what purpose; and (iv) how the collected information is being used or will be used.

226 C. Notwithstanding the provisions of subsection A, the Virginia Retirement System may disseminate  
227 information as to the retirement status or benefit eligibility of any employee covered by the Virginia  
228 Retirement System, the Judicial Retirement System, the State Police Officers' Retirement System, or the  
229 Virginia Law Officers' Retirement System; to the chief executive officer or personnel officers of the state or  
230 local agency by which he is employed.

231 D. Notwithstanding the provisions of subsection A, the Department of Social Services may disseminate  
232 client information to the Department of Taxation for the purposes of providing specified tax information as  
233 set forth in clause (ii) of subsection C of § 58.1-3.

234 E. Notwithstanding the provisions of subsection A, the State Council of Higher Education for Virginia  
235 may disseminate student information to agencies acting on behalf or in place of the U.S. government to gain  
236 access to data on wages earned outside the Commonwealth or through federal employment, for the purposes  
237 of complying with § 23.1-204.1.

238 **§ 2.2-3806. Rights of data subjects.**

239 A. Any agency maintaining personal information shall:

240 1. Inform an individual who is asked to supply personal information about himself whether he is legally  
241 required, or may refuse, to supply the information requested, and also of any specific consequences that are  
242 known to the agency of providing or not providing the information.

243 2. Give notice to a data subject of the possible dissemination of part or all of this information to another  
244 agency, nongovernmental organization, or system, *including a federal agency or system, or to a private*  
245 *entity, that does not ~~having~~ have regular access authority*; and indicate the use for which ~~it~~ *the possible*  
246 *dissemination* is intended; and the specific consequences for the individual, ~~which~~ *that* are known to the  
247 agency; of providing or not providing the information. However, documented ~~permission~~ *consent* for  
248 dissemination in the hands of the other agency ~~or~~, organization, *system, or private entity* shall satisfy the  
249 requirement of this subdivision. The notice may be given on applications or other data collection forms  
250 prepared by data subjects.

251 3. Upon request and proper identification of any data subject, or of his authorized agent, grant the data  
252 subject or agent the right to inspect, in a form comprehensible to him:

253 a. All personal information about that data subject except as provided in subdivision 1 of § 2.2-3705.1,  
254 subdivision A 1 of § 2.2-3705.4, and subdivision 1 of § 2.2-3705.5.

255 b. The nature of the sources of the information.

256 c. The names of recipients, other than those with regular access authority, of personal information about  
257 the data subject including the identity of all persons and organizations involved and their relationship to the  
258 system when not having regular access authority, except that if the recipient has obtained the information as  
259 part of an ongoing criminal investigation such that disclosure of the investigation would jeopardize law-  
260 enforcement action, then no disclosure of such access shall be made to the data subject.

261 *d. Any consent given by the data subject for the dissemination of personal information.*

262 4. Comply with the following minimum conditions of disclosure to data subjects:

263 a. An agency shall make disclosures to data subjects required under this chapter, during normal business  
264 hours, in accordance with the procedures set forth in subsections B and C of § 2.2-3704 for responding to  
265 requests under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or within a time period as may  
266 be mutually agreed upon by the agency and the data subject.

267 b. The disclosures to data subjects required under this chapter shall be made (i) in person, if he appears in  
268 person and furnishes proper identification, or (ii) by mail, if he has made a written request, with proper  
269 identification. Copies of the documents containing the personal information sought by a data subject shall be  
270 furnished to him or his representative at reasonable charges for document search and duplication in  
271 accordance with subsection F of § 2.2-3704.

272 c. The data subject shall be permitted to be accompanied by a person of his choosing, who shall furnish  
273 reasonable identification. An agency may require the data subject to furnish a written statement granting the

274 agency ~~permission~~ *consent* to discuss the individual's file in such person's presence.

275 5. If the data subject gives notice that he wishes to challenge, correct, or explain information about him in  
276 the information system, the following minimum procedures shall be followed:

277 a. The agency maintaining the information system shall investigate, and record the current status of that  
278 personal information.

279 b. If, after such investigation, the information is found to be incomplete, inaccurate, not pertinent, not  
280 timely, or not necessary to be retained, it shall be promptly corrected or purged.

281 c. If the investigation does not resolve the dispute, the data subject may file a statement of not more than  
282 200 words setting forth his position.

283 d. Whenever a statement of dispute is filed, the agency maintaining the information system shall supply  
284 any previous recipient with a copy of the statement and, in any subsequent dissemination or use of the  
285 information in question, clearly note that it is disputed and supply the statement of the data subject along with  
286 the information.

287 e. The agency maintaining the information system shall clearly and conspicuously disclose to the data  
288 subject his rights to make such a request.

289 f. Following any correction or purging of personal information the agency shall furnish to past recipients  
290 notification that the item has been purged or corrected whose receipt shall be acknowledged.

291 B. Nothing in this chapter shall be construed to require an agency to disseminate any recommendation or  
292 letter of reference from or to a third party that is a part of the personnel file of any data subject nor to  
293 disseminate any test or examination used, administered, or prepared by any public body for purposes of  
294 evaluation of (i) any student or any student's performance, (ii) any seeker's qualifications or aptitude for  
295 employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public  
296 body.

297 As used in this subsection, "test or examination" includes ~~(i)~~ (a) any scoring key for any such test or  
298 examination and ~~(ii)~~ (b) any other document that would jeopardize the security of the test or examination.  
299 Nothing contained in this subsection shall prohibit the release of test scores or results as provided by law, or  
300 to limit access to individual records as provided by law; however, the subject of the employment tests shall be  
301 entitled to review and inspect all documents relative to his performance on those employment tests.

302 When, in the reasonable opinion of the public body, any such test or examination no longer has any  
303 potential for future use, and the security of future tests or examinations will not be jeopardized, the test or

304 examination shall be made available to the public. Minimum competency tests administered to public school  
305 children shall be made available to the public contemporaneously with statewide release of the scores of  
306 those taking such tests, but in no event shall such tests be made available to the public later than six months  
307 after the administration of such tests.

308 C. Neither any provision of this chapter nor any provision of the *Virginia Freedom of Information Act*  
309 (§ 2.2-3700 et seq.) shall be construed to deny public access to records of the position, job classification,  
310 official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any  
311 public officer, official, or employee at any level of state, local, or regional government in the Commonwealth.  
312 The provisions of this subsection shall not apply to records of the official salaries or rates of pay of public  
313 employees whose annual rate of pay is \$10,000 or less.

314 D. Nothing in this ~~section or in~~ this chapter shall be construed to require an agency to disseminate  
315 information derived from tax returns prohibited from release pursuant to § 58.1-3.

316 E. *Nothing in this chapter shall be construed to require an agency to disseminate personal information*  
317 *except:*

318 1. *To the extent necessary to comply with state or federal law, including the federal Health Insurance*  
319 *Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended;*

320 2. *To the extent necessary to carry out the administration of a state or federal program pursuant to state*  
321 *or federal law;*

322 3. *To comply with a subpoena, court order, or administrative proceeding;*

323 4. *To the extent necessary to ensure fulfillment of the obligations of a purchase or contract made in*  
324 *accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) or a memorandum of*  
325 *understanding or management agreement made in accordance with the Restructured Higher Education*  
326 *Financial and Administrative Operations Act (§ 23.1-1000 et seq.);*

327 5. *When the data subject has given consent; or*

328 6. *To the extent necessary to accomplish a proper purpose of the agency.*

329 **§ 2.2-3809. Injunctive relief; civil penalties; attorneys' fees.**

330 Any aggrieved person may institute a proceeding for injunction or mandamus against any person or  
331 agency that has engaged, is engaged, or is about to engage in any acts or practices in violation of the  
332 provisions of this chapter. The proceeding shall be brought in the district or circuit court of any county or city  
333 where the aggrieved person resides or where the agency made defendant has a place of business.

334 In the case of any successful proceeding by an aggrieved party, the agency enjoined or made subject to a  
335 writ of mandamus by the court shall be liable for the costs of the action together with reasonable attorneys'  
336 fees as determined by the court.

337 In addition, if the court finds that a violation of subsection A of § 2.2-3808 was willfully and knowingly  
338 made by a specific public officer, appointee, or employee of any agency, the court may impose upon such  
339 individual a civil penalty of not less than \$250 nor more than \$1,000, which amount shall be paid into the  
340 State Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$1,000 nor  
341 more than \$2,500. For a violation of subsection A of § 2.2-3808 by any agency, the court may impose a civil  
342 penalty of not less than \$250 nor more than \$1,000, which amount shall be paid into the State Literary Fund.  
343 For a second or subsequent violation, such civil penalty shall be not less than \$1,000 nor more than \$2,500. *If*  
344 *the court finds that a violation of subdivision A 11 of § 2.2-3803 was willfully and knowingly made by a*  
345 *specific public officer, appointee, or employee of any agency, the court may impose upon such individual a*  
346 *civil penalty of not less than \$500 nor more than \$2,500, which amount shall be paid into the State Literary*  
347 *Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,500 nor more than*  
348 *\$10,000.*