

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 872]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 53.1-5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is**
 8 **amended by adding sections numbered 16.1-69.35:4 and 17.1-128.2 as follows:**9 **§ 16.1-69.35:4. Possession and use of portable electronic device in district courts.**10 A. *As used in this section:*11 *"Portable electronic device" means (i) a personal laptop; (ii) a tablet; (iii) a mobile telephone, including*
 12 *a cell phone and any telephone with a camera, audio and video recording capabilities, and transmission*
 13 *capabilities; (iv) an electronic calendar; (v) an electronic book reader; (vi) a smart watch; or (vii) any other*
 14 *electronic personal communication device. "Portable electronic device" does not include a camera, a video*
 15 *camera, video or audio recording equipment, or a recording device that is not otherwise a component of a*
 16 *portable electronic device.*17 *"Visitor to the court" means a member of the public who is not an active or retired judge, a magistrate, an*
 18 *attorney-at-law who possesses and presents a valid state bar identification card, a law-enforcement officer as*
 19 *defined in § 9.1-101 or court security officer, a probation officer who possesses and presents proper*
 20 *credentials and who is at the courthouse in the conduct of his official duties, a state or local agency employee*
 21 *who possesses and presents proper credentials and who is at the courthouse in the conduct of his official*
 22 *duties, a court reporter during the course of his official duties within the courthouse, and any other*
 23 *individual who has been authorized to possess a portable electronic device in the court upon a determination*
 24 *by the sheriff of the city or county in which the court sits that such individual's possession of a portable*
 25 *electronic device does not pose a security risk or threat and that access to such portable electronic device is*
 26 *necessary for conducting such individual's work or business in the court.*27 B. *Except as otherwise provided by this subsection, the chief judge of every district court shall set a policy*
 28 *for possession of portable electronic devices by visitors to the court. If such policy prohibits or restricts the*
 29 *use of portable electronic devices in the courtroom of the district court, the chief judge shall also include in*
 30 *such policy provisions to ensure that any portable electronic device brought by a visitor to the court for the*
 31 *purposes of presenting evidence be made available for use by such visitor to the court during a proceeding.*
 32 *Before finalizing the policy, the chief judge of the district court shall consult the chief judge of the circuit*
 33 *court having jurisdiction in the district and the sheriff of the city or county in which the courthouse is located.*
 34 *The sheriff shall be responsible for advising and training all appropriate personnel on such policy. In the*
 35 *event that a district court is located inside the same courthouse building as the circuit court, the chief judge*
 36 *of such circuit court shall set the policy for the entire courthouse, including the district court courtrooms, in*
 37 *accordance with the provisions of § 17.1-128.2. If a general district court and a juvenile and domestic*
 38 *relations district court are located within the same courthouse building, but not in the same building as the*
 39 *circuit court of the same jurisdiction, the chief judges of such general district court and juvenile and domestic*
 40 *relations district court shall set the policy by agreement.*41 C. *The chief judge of the district court shall allow visitors to the court to possess portable electronic*
 42 *devices in both the courthouse and the courtroom and may condition such possession upon certain*
 43 *limitations, including (i) requiring a security screening of the portable electronic device upon entrance to the*
 44 *courthouse; (ii) restricting the use of the portable electronic device only in a specific area or areas of the*
 45 *courthouse, including the lobby, hallways, or other designated areas within the courthouse; (iii) restricting*
 46 *the use of mobile telephones, including designating certain areas of the courthouse where phone*
 47 *conversations may be had; (iv) requiring that all portable electronic devices remain on silent mode at all*
 48 *times; (v) prohibiting the use of a portable electronic device while the visitor to the court is in a courtroom*
 49 *except with the express permission of the presiding judge; or (vi) any other conditions as needed to maintain*
 50 *safety, security, proper behavior, order, and the administration of justice. Nothing in this subsection shall be*
 51 *construed to permit any courthouse personnel to search or access any data on the portable electronic device*
 52 *of a visitor to the court, including during a security screening as described in clause (i).*53 D. *The policy of each district court set in accordance with this section shall be posted in an accessible,*
 54 *prominent, and conspicuous manner at the entrance of the district court and on (i) the individual district*
 55 *court page on the Virginia Judicial System website or equivalent website where statewide courthouse*
 56 *information is aggregated; (ii) a court's individual website; or (iii) if the court does not have an individual*

57 website, an equivalent local government website where such district court's information is communicated to
58 the public. Such posting shall include any prohibition, restriction, condition, and limitation on the use of any
59 portable electronic device by visitors to the court and, if applicable, the process for ensuring that evidence
60 from a portable electronic device may be presented in a courtroom.

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

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

67 **§ 17.1-128.2. Possession and use of portable electronic device in circuit courts.**

68 A. As used in this section, "portable electronic device" and "visitor to the court" mean the same as those
69 terms are defined in § 16.1-69.35:4.

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

78 C. The chief judge of the circuit court shall allow visitors to the court to possess portable electronic
79 devices in both the courthouse and the courtroom and may condition such possession upon, including (i)
80 requiring a security screening of the portable electronic device upon entrance to the courthouse; (ii)
81 restricting the use of the portable electronic device only in a specific area or areas of the courthouse,
82 including the lobby, hallways, or other designated areas within the courthouse; (iii) restricting the use of
83 mobile telephones, including designating certain areas of the courthouse where phone conversations may be
84 had; (iv) requiring that all portable electronic devices remain on silent mode at all times; (v) prohibiting the
85 use of a portable electronic device while the visitor to the court is in a courtroom except with the express
86 permission of the presiding judge; or (vi) any other conditions as needed to maintain safety, security, proper
87 behavior, order, and the administration of justice. Nothing in this subsection shall be construed to permit any
88 courthouse personnel to search or access any data on the portable electronic device of a visitor to the court,
89 including during a security screening as described in clause (i).

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

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

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