

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 19.2-268.4, relating to witness*
 3 *impeachment evidence designation; review process.*

[H 974]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 19.2-268.4 as follows:**8 **§ 19.2-268.4. Witness impeachment evidence designation; review process.**9 *A. For purposes of this section:*10 *"Law-enforcement officer" means the same as that term is defined in § 9.1-101.*11 *"Notice" means written notice given in person or by certified mail or trackable courier service with*
12 *signature requirement.*13 *"Witness impeachment evidence designation" means a determination that is made by or designation that*
14 *is created by the attorney for the Commonwealth relating to a law-enforcement officer who has engaged in*
15 *conduct that meets the requirements for disclosure in a criminal prosecution according to the Constitution of*
16 *the United States for any criminal prosecution in which the officer is a participant.*17 *B. Within seven days of designating a law-enforcement officer as being a witness with a witness*
18 *impeachment evidence designation, the attorney for the Commonwealth shall serve notice upon such law-*
19 *enforcement officer and upon the agency employing such officer specifying the action taken and remedies*
20 *available. Any law-enforcement officer designated as a witness with a witness impeachment evidence*
21 *designation may, within 21 days of receipt of such notice, request to review the evidence or materials*
22 *resulting in his designation by the attorney for the Commonwealth as a witness with a witness impeachment*
23 *evidence designation. Such review shall be granted by the attorney for the Commonwealth within five*
24 *business days.*25 *C. The law-enforcement officer may object to a designation pursuant to subsection B by serving written*
26 *objections to the attorney for the Commonwealth within 21 days of receipt of notice of such designation. Such*
27 *objections shall state with specificity the grounds on which the objection is raised, which may include (i) the*
28 *factual dispute as to the reasons for such law-enforcement officer's designation as a witness with a witness*
29 *impeachment evidence designation or (ii) the factual dispute over whether such law-enforcement officer's*
30 *conduct rises to the level of conduct that meets the requirements for disclosure in a criminal prosecution*
31 *according to the Constitution of the United States. Such objections may include evidence that the law-*
32 *enforcement officer would like considered and where such evidence may be found. Within seven days of*
33 *receiving such objections, the attorney for the Commonwealth shall issue a written response stating with*
34 *specificity the grounds on which the law-enforcement officer was designated as a witness with a witness*
35 *impeachment evidence designation or indicating that such designation is removed.*36 *D. No law-enforcement officer shall be discharged, disciplined, or threatened with discharge or discipline*
37 *by his employing agency solely due to his designation in a matter as a witness with a witness impeachment*
38 *evidence designation. This subsection shall not prohibit such agency from dismissing, suspending, demoting,*
39 *or taking other disciplinary actions against a law-enforcement officer based on the underlying actions that*
40 *resulted in such officer being designated as a witness with a witness impeachment evidence designation,*
41 *including any conduct that meets the requirement for disclosure in a criminal prosecution according to the*
42 *Constitution of the United States.*

ENROLLED

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