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SENATE BILL NO. 1554

Senate Amendments in [] - January 31, 2019

A BILL to amend and reenact § 2.2-3714 of the Code of Virginia, relating to the Virginia Freedom of Information Act; civil penalties.

Patron Prior to Engrossment—Senator Surovell

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3714 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3714. Violations and penalties.

A. In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3707, 2.2-3708.2, 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the State Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of this chapter because such officer, employee, or member [intentionally] altered or destroyed the requested public records [with the intent to avoid the provisions of this chapter] prior to the expiration of the applicable record retention period set by the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court [shall may] impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund.

C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a member of a public body voted to certify a closed meeting in accordance with subsection D of § 2.2-3712 and at the time of such certification such certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of § 2.2-3712, the court may impose on each member voting to certify in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of \$500, which amount shall be paid into the Literary Fund.

ENGROSSED

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