

SENATE BILL NO. _____ HOUSE BILL NO. _____

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

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

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

5 **§ 2.2-3714. Violations and penalties.**

6 A. In a proceeding commenced against any officer, employee, or member of a public body under
7 § 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,
8 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made,
9 shall impose upon such officer, employee, or member in his individual capacity, whether a writ of
10 mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000,
11 which amount shall be paid into the ~~State~~-Literary Fund. For a second or subsequent violation, such civil
12 penalty shall be not less than \$2,000 nor more than \$5,000.

13 B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer,
14 employee, or member of a public body failed to provide public records to a requester in accordance with
15 the provisions of this chapter because such officer, employee, or member of a public body intentionally
16 altered or destroyed the requested public records prior to the expiration of the applicable record retention
17 period set by the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-
18 76 et seq.) by the State Library Board, the court shall impose upon such officer, employee, or member in
19 his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty
20 of up to \$100 per public record altered or destroyed, which amount shall be paid into the Literary Fund.

21 C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a
22 member of a public body voted to certify a closed meeting in accordance with subsection D of § 2.2-3712
23 and at the time of such certification such certification was not in accordance with the requirements of
24 clause (i) or (ii) of subsection D of § 2.2-3712, the court may impose on each member voting to certify in

25 his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty
26 of not less than \$100 nor more than \$1,000, which amount shall be paid into the Literary Fund.

27 **2. That the provisions of subsections B and C of § 2.2-3714 of the Code of Virginia as amended by**
28 **this act shall apply only with respect to conduct occurring on or after July 1, 2019.**

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