

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-3713 of the Code of Virginia, relating to the Freedom of
2 Information Act; proceedings for enforcement.

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

4 **1. That § 2.2-3713 of the Code of Virginia is amended and reenacted as follows:**

5 § 2.2-3713. Proceedings for enforcement of chapter.

6 A. Any person, including the attorney for the Commonwealth acting in his official or individual
7 capacity, denied the rights and privileges conferred by this chapter may proceed to enforce such rights
8 and privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good
9 cause. Such petition may be brought in the name of the person notwithstanding that a request for public
10 records was made by the person's attorney in his representative capacity. Venue for the petition shall be
11 addressed as follows:

12 1. In a case involving a local public body, to the general district court or circuit court of the
13 county or city from which the public body has been elected or appointed to serve and in which such
14 rights and privileges were so denied;

15 2. In a case involving a regional public body, to the general district or circuit court of the county
16 or city where the principal business office of such body is located; and

17 3. In a case involving a board, bureau, commission, authority, district, institution, or agency of
18 the state government, including a public institution of higher education, or a standing or other committee
19 of the General Assembly, to the general district court or the circuit court of the residence of the
20 aggrieved party or of the City of Richmond.

21 B. In any action brought before a general district court, a corporate petitioner may appear
22 through its officer, director or managing agent without the assistance of counsel, notwithstanding any
23 provision of law or Rule of the Supreme Court of Virginia to the contrary.

24 C. Notwithstanding the provisions of § 8.01-644, the petition for mandamus or injunction shall
25 be heard within seven days of the date when the same is made. ~~However, any, provided the party against~~

26 whom the writ is brought has received a copy of the petition at least three working days prior to filing.
27 The hearing on any petition made outside of the regular terms of the circuit court of a ~~county~~ locality
28 that is included in a judicial circuit with another ~~county or counties, the hearing on the petition~~ locality
29 or localities shall be given precedence on the docket of such court over all cases that are not otherwise
30 given precedence by law.

31 D. The petition shall allege with reasonable specificity the circumstances of the denial of the
32 rights and privileges conferred by this chapter. A single instance of denial of the rights and privileges
33 conferred by this chapter shall be sufficient to invoke the remedies granted herein. If the court finds the
34 denial to be in violation of the provisions of this chapter, the petitioner shall be entitled to recover
35 reasonable costs, including costs and reasonable fees for expert witnesses, and attorneys' fees from the
36 public body if the petitioner substantially prevails on the merits of the case, unless special circumstances
37 would make an award unjust. In making this determination, a court may consider, among other things,
38 the reliance of a public body on an opinion of the Attorney General or a decision of a court that
39 substantially supports the public body's position.

40 E. In any action to enforce the provisions of this chapter, the public body shall bear the burden of
41 proof to establish an exemption by a preponderance of the evidence. Any failure by a public body to
42 follow the procedures established by this chapter shall be presumed to be a violation of this chapter.

43 F. Failure by any person to request and receive notice of the time and place of meetings as
44 provided in § 2.2-3707 shall not preclude any person from enforcing his rights and privileges conferred
45 by this chapter.

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