

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact § 2.2-3713 of the Code of Virginia, relating to the Virginia Freedom of  
2 Information; 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 and  
8 privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause.  
9 Such petition may be brought in the name of the person notwithstanding that a request for public records  
10 was made by the person's attorney in his representative capacity. Venue for the petition shall be addressed  
11 as follows:

12 1. In a case involving a local public body, to the general district court or circuit court of the county  
13 or city from which the public body has been elected or appointed to serve and in which such rights and  
14 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 the  
18 state government, including a public institution of higher education, or a standing or other committee of  
19 the General Assembly, to the general district court or the circuit court of the residence of the aggrieved  
20 party or of the City of Richmond.

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

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

26 is brought has received a copy of the petition at least three working days prior to filing. However, if the  
27 petition or the affidavit supporting the petition for mandamus or injunction alleges violations of the open  
28 meetings requirements of this chapter, the three-day notice to the party against whom the petition is  
29 brought shall not be required. The hearing on any petition made outside of the regular terms of the circuit  
30 court of a locality that is included in a judicial circuit with another locality or localities shall be given  
31 precedence on the docket of such court over all cases that are not otherwise given precedence by law.

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

41 E. In any action to enforce the provisions of this chapter, the public body shall bear the burden of  
42 proof to establish an exclusion by a preponderance of the evidence. No court shall be required to accord  
43 any weight to the determination of a public body as to whether an exclusion applies. Any failure by a  
44 public body to follow the procedures established by this chapter shall be presumed to be a violation of this  
45 chapter.

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

49 G. The remedies stated in this chapter are exclusive. No violation of this chapter shall render void  
50 any otherwise lawful action taken by a public body, except that any ordinance adopted by a local governing  
51 body that conflicts with the provisions of this chapter shall be void as provided by subsection B of § 2.2-  
52 3700.

**53 2. That this enactment is declarative of existing law.**

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