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SENATE BILL NO. 1030

Offered January 8, 2003

Prefiled January 8, 2003

A *BILL to amend and reenact § 9.1-101 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 18 of Title 58.1 a section numbered 58.1-1840.1, relating to the Virginia Tax Amnesty Program.*

Patrons—Chichester, Houck, Howell, Lucas, Stolle, Stosch and Wampler

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-101 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Article 3 of Chapter 18 of Title 58.1 a section numbered 58.1-1840.1 as follows:

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so and (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.) of this chapter, but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities.

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the

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59 penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the
60 Department of Alcoholic Beverage Control; (ii) police agent appointed under the provisions of § 56-353;
61 (iii) officer of the Virginia Marine Police; (iv) game warden who is a full-time sworn member of the
62 enforcement division of the Department of Game and Inland Fisheries; (v) agent, investigator, or
63 inspector appointed under § 56-334; or (vi) investigator who is a full-time sworn member of the security
64 division of the State Lottery Department. Part-time employees are those compensated officers who are
65 not full-time employees as defined by the employing police department or sheriff's office. Full-time
66 sworn members of the enforcement division of the Department of Motor Vehicles meeting the
67 Department of Criminal Justice Services qualifications shall be deemed to be "law-enforcement officers"
68 when fulfilling their duties pursuant to § 46.2-217. *Full-time sworn criminal tax investigators of the*
69 *Department of Taxation meeting the Department of Criminal Justice Services qualifications shall be*
70 *deemed to be "law-enforcement officers" when fulfilling their duties but shall not have the authority to*
71 *carry weapons or the power to arrest.*

72 "School resource officer" means a certified law-enforcement officer hired by the local
73 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
74 and secondary schools.

75 "School security officer" means an individual who is employed by the local school board for the
76 singular purpose of maintaining order and discipline, preventing crime, investigating violations of school
77 board policies, and detaining students violating the law or school board policies on school property or at
78 school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of
79 all students, faculty, staff, and visitors in the assigned school.

80 § 58.1-1840.1. *Virginia Tax Amnesty Program established.*

81 A. *There is hereby established the Virginia Tax Amnesty Program. It is the intent of this program to*
82 *improve voluntary compliance with the tax laws and to increase and to accelerate collections of certain*
83 *taxes owed to the Commonwealth.*

84 B. *The Virginia Tax Amnesty Program shall be administered by the Department of Taxation, and any*
85 *person, individual, corporation, estate, trust or partnership required to file a return or to pay any tax*
86 *administered or collected by the Department of Taxation shall be eligible to participate, subject to the*
87 *requirements set forth below and guidelines established by the Tax Commissioner.*

88 C. *The Tax Commissioner shall establish guidelines and rules for the procedures for participation*
89 *and any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules*
90 *issued by the Tax Commissioner regarding the Virginia Tax Amnesty Program shall be exempt from the*
91 *Administrative Process Act (§ 2.2-4000 et seq.).*

92 D. *The Virginia Tax Amnesty Program shall have the following features:*

93 1. *The program shall be conducted during the period July 1, 2003, through June 30, 2004, and shall*
94 *not last less than 60 nor more than 75 days. The exact dates of the program shall be established by the*
95 *Tax Commissioner.*

96 2. *All civil or criminal penalties assessed or assessable, as provided in Title 58.1, including the*
97 *addition to tax under §§ 58.1-492 and 58.1-504, and one-half of the interest assessed or assessable, as*
98 *provided in Title 58.1, which are the result of nonpayment, underpayment, nonreporting or*
99 *underreporting of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes and*
100 *interest owed, with the following exceptions:*

101 a. *No person, individual, corporation, estate, trust or partnership currently under investigation or*
102 *prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall*
103 *qualify to participate.*

104 b. *No person, individual, corporation, estate, trust or partnership shall be eligible to participate in*
105 *the program with respect to any assessment outstanding for which the date of assessment is less than 90*
106 *days prior to the first day of the program or with respect to any liability arising from the failure to file*
107 *a return for which the due date of the return is less than 90 days prior to the first day of the program.*

108 c. *No person, individual, corporation, estate, or trust shall be eligible to participate in the program*
109 *with respect to any tax liability from the income taxes imposed by §§ 58.1-320, 58.1-360 and 58.1-400,*
110 *if the tax liability is attributable to taxable years beginning on and after January 1, 2002.*

111 E. *For the purpose of computing the outstanding balance due because of the nonpayment,*
112 *underpayment, nonreporting or underreporting of any tax liability that has not been assessed prior to*
113 *the first day of the program, the rate of interest specified for omitted taxes and assessments under*
114 *§ 58.1-15 shall not be applicable. The Tax Commissioner shall, instead, establish 1 interest rate to be*
115 *used for each taxable year that approximates the average "underpayment rate" specified under § 58.1-15*
116 *for the 5-year period immediately preceding the program.*

117 F. 1. *If any taxpayer eligible for amnesty under this section and under the rules and guidelines*
118 *established by the Tax Commissioner retains any outstanding balance after the close of the Virginia Tax*
119 *Amnesty Program because of the nonpayment, underpayment, nonreporting or underreporting of any tax*
120 *liability eligible for relief under the Virginia Tax Amnesty Program, then such balance shall be subject*

121 *to a 20-percent penalty on the unpaid tax. This penalty is in addition to all other penalties that may*
122 *apply to the taxpayer.*

123 *2. Any taxpayer who defaults upon any agreement to pay tax and interest arising out of a grant of*
124 *amnesty is subject to reinstatement of the penalty and interest forgiven and the imposition of the penalty*
125 *under this section as though the taxpayer retained the original outstanding balance at the close of the*
126 *Virginia Tax Amnesty Program.*

127 **2. Notwithstanding §§ 2.2-4309 and 58.1-202.2, the Tax Commissioner is hereby authorized to**
128 **contract for all goods and services related to the conduct of an amnesty program as an**
129 **enlargement of the scope and cost of the public/private partnership contract authorized by**
130 **§ 58.1-202.2. The conduct of an amnesty program shall be defined as a "technology need" which**
131 **term shall include any costs associated with the adjustment to the schedule for existing technology**
132 **projects as a consequence of the conduct of the amnesty program.**

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