

December 14, 2017

The Hon. Janet D. Howell
Senator
State Senate of Virginia
P.O. Box 2608
Reston, Virginia 20195-0608
<<<VIA EMAIL>>>

Senator Howell:

On behalf of the more than 42,000 members of the ACLU of Virginia, we write to ask you to strike Senate Bill 68 and not subject people accused of minor crimes and traffic infractions to potentially invasive and humiliating strip searches.

According to your proposed changes to Section 19.2-59.1 of the Code of Virginia, people stopped for minor misdemeanors and traffic infractions could be subjected to strip searches based on nothing more than a “reasonable cause to believe” by the arresting officer that this person possess drugs. This “reasonable suspicion”, as you may know, is a very low standard and is often described by courts as no more than a “hunch”. While courts have upheld jail officials’ ability to strip search detainees in order to maintain officer and inmate safety, Virginia has chosen to respect the privacy and dignity of those accused of very minor crimes and traffic infractions by restricting the instances where officers may conduct these searches.

Virginia should not expand an officer’s discretion to conduct strip searches. As the Code of Virginia currently allows, if there is reasonable cause to believe someone is concealing a weapon, an officer may order a strip search to protect their safety and the safety of those in jail. If an officer has probable cause to arrest someone for drug charges, and the officer has reasonable suspicion this suspect is hiding drugs on their body, then this officer can order a strip search.

The real problem with this proposed change is that officers will be able to use it as a pretext for arresting and strip searching someone without probable cause to believe they are in possession of drugs. An officer can arrest someone for a more minor crime or traffic infraction and then with only reasonable suspicion, order a strip search of the arrested individual. The strip search becomes a humiliating and invasive “fishing expedition” if this change goes into effect.



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Stephen M. Levinson
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Executive Director

Again, please strike this bill. Virginia has rightly chosen to protect the privacy of individuals accused of minor crimes. We must continue to demand higher standards of constitutional policing from our law enforcement community.

If you have any questions regarding our thoughts on this matter, we would be happy to discuss it further with you and your staff.

Thank you,

A handwritten signature in black ink, appearing to read 'CS', with a long horizontal flourish extending to the right.

Charlie Schmidt
Public Policy Counsel