

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-3705.1 of the Code of Virginia, relating to the Virginia Freedom of
2 Information Act; record exemption for certain contact information.

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

4 **1. That § 2.2-3705.1 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to**
6 **public bodies.**

7 The following records are excluded from the provisions of this chapter but may be disclosed by
8 the custodian in his discretion, except where such disclosure is prohibited by law:

9 1. Personnel records containing information concerning identifiable individuals, except that
10 access shall not be denied to the person who is the subject thereof. Any person who is the subject of any
11 personnel record and who is 18 years of age or older may waive, in writing, the protections afforded by
12 this subdivision. If the protections are so waived, the public body shall open such records for inspection
13 and copying.

14 2. Written advice of legal counsel to state, regional or local public bodies or the officers or
15 employees of such public bodies, and any other records protected by the attorney-client privilege.

16 3. Legal memoranda and other work product compiled specifically for use in litigation or for use
17 in an active administrative investigation concerning a matter that is properly the subject of a closed
18 meeting under § 2.2-3711.

19 4. Any test or examination used, administered or prepared by any public body for purposes of
20 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's
21 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license
22 or certificate issued by a public body.

23 As used in this subdivision, "test or examination" shall include (a) any scoring key for any such
24 test or examination and (b) any other document that would jeopardize the security of the test or
25 examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as

26 provided by law, or limit access to individual records as provided by law. However, the subject of such
27 employment tests shall be entitled to review and inspect all records relative to his performance on such
28 employment tests.

29 When, in the reasonable opinion of such public body, any such test or examination no longer has
30 any potential for future use, and the security of future tests or examinations will not be jeopardized, the
31 test or examination shall be made available to the public. However, minimum competency tests
32 administered to public school children shall be made available to the public contemporaneously with
33 statewide release of the scores of those taking such tests, but in no event shall such tests be made
34 available to the public later than six months after the administration of such tests.

35 5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant
36 to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be
37 deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

38 6. Vendor proprietary information software that may be in the official records of a public body.
39 For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired
40 from a vendor for purposes of processing data for agencies or political subdivisions of the
41 Commonwealth.

42 7. Computer software developed by or for a state agency, state-supported institution of higher
43 education or political subdivision of the Commonwealth.

44 8. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease,
45 prior to the completion of such purchase, sale or lease.

46 9. Records concerning reserves established in specific claims administered by the Department of
47 the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of
48 Chapter 18 of this title, or by any county, city, or town; and investigative notes, correspondence and
49 information furnished in confidence with respect to an investigation of a claim or a potential claim
50 against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision
51 shall prohibit the disclosure of information taken from inactive reports upon expiration of the period of
52 limitations for the filing of a civil suit.

53 | 10. Personal contact information, ~~as defined in § 2.2-3801, including electronic mail addresses,~~
54 | furnished to a public body for the purpose of receiving electronic mail from the public body, provided
55 | that the electronic mail recipient has requested that the public body not disclose such information.
56 | However, access shall not be denied to the person who is the subject of the record. As used in this
57 | subdivision, "personal contact information" means home address, home telephone number, personal cell
58 | phone number, or personal email address.

59 | 11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the
60 | Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

61 | 12. Records relating to the negotiation and award of a specific contract where competition or
62 | bargaining is involved and where the release of such records would adversely affect the bargaining
63 | position or negotiating strategy of the public body. Such records shall not be withheld after the public
64 | body has made a decision to award or not to award the contract. In the case of procurement transactions
65 | conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this
66 | subdivision shall not apply, and any release of records relating to such transactions shall be governed by
67 | the Virginia Public Procurement Act.

68 | 13. Those portions of records that contain account numbers or routing information for any credit
69 | card, debit card, or other account with a financial institution of any person or public body. However,
70 | access shall not be denied to the person who is the subject of the record. For the purposes of this
71 | subdivision, "financial institution" means any organization authorized to do business under state or
72 | federal laws relating to financial institutions, including, without limitation, banks and trust companies,
73 | savings banks, savings and loan companies or associations, and credit unions.

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