

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-3701 of the Code of Virginia, relating to the Virginia Freedom of
2 Information Act; definition of electronic communication.

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

4 **1. That § 2.2-3701 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 2.2-3701. Definitions.**

6 As used in this chapter, unless the context requires a different meaning:

7 "Closed meeting" means a meeting from which the public is excluded.

8 "Electronic communication" means ~~any audio or combined audio and visual communication~~
9 method the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or
10 similar capabilities to transmit or receive information.

11 "Emergency" means an unforeseen circumstance rendering the notice required by this chapter
12 impossible or impracticable and which circumstance requires immediate action.

13 "Information" as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means
14 the content within a public record that references a specifically identified subject matter, and shall not be
15 interpreted to require the production of information that is not embodied in a public record.

16 "Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or
17 through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an
18 informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent
19 membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any
20 public body. Neither the gathering of employees of a public body nor the gathering or attendance of two
21 or more members of a public body (i) at any place or function where no part of the purpose of such
22 gathering or attendance is the discussion or transaction of any public business, and such gathering or
23 attendance was not called or prearranged with any purpose of discussing or transacting any business of
24 the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to
25 inform the electorate and not to transact public business or to hold discussions relating to the transaction

26 of public business, even though the performance of the members individually or collectively in the conduct
27 of public business may be a topic of discussion or debate at such public meeting, shall be deemed a
28 "meeting" subject to the provisions of this chapter.

29 "Open meeting" or "public meeting" means a meeting at which the public may be present.

30 "Public body" means any legislative body, authority, board, bureau, commission, district or agency
31 of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and
32 counties, municipal councils, governing bodies of counties, school boards and planning commissions;
33 governing boards of public institutions of higher education; and other organizations, corporations or
34 agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the
35 Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established
36 pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other
37 entity however designated, of the public body created to perform delegated functions of the public body
38 or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it
39 has private sector or citizen members. Corporations organized by the Virginia Retirement System are
40 "public bodies" for purposes of this chapter.

41 For the purposes of the provisions of this chapter applicable to access to public records,
42 constitutional officers and private police departments as defined in § 9.1-101 shall be considered public
43 bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose
44 public records as other custodians of public records.

45 "Public records" means all writings and recordings that consist of letters, words or numbers, or
46 their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic
47 impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data
48 compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or
49 in the possession of a public body or its officers, employees or agents in the transaction of public business.

50 "Regional public body" means a unit of government organized as provided by law within defined
51 boundaries, as determined by the General Assembly, which unit includes two or more localities.

52 "Scholastic records" means those records containing information directly related to a student or an
53 applicant for admission and maintained by a public body that is an educational agency or institution or by
54 a person acting for such agency or institution.

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