

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

1 A BILL to amend and reenact § 2.2-3705.3 of the Code of Virginia, relating to the Virginia Freedom of  
2 Information Act; exclusions to application of chapter; local administrative investigations;  
3 disclosure.

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

5 **1. That § 2.2-3705.3 of the Code of Virginia is amended and reenacted as follows:**

6 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**  
7 **investigations.**

8 The following information contained in a public record is excluded from the mandatory disclosure  
9 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such  
10 disclosure is prohibited by law. Redaction of information excluded under this section from a public record  
11 shall be conducted in accordance with § 2.2-3704.01.

12 1. Information relating to investigations of applicants for licenses and permits, and of all licensees  
13 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia  
14 Lottery pursuant to Chapter 40 (§ 58.1-4000 et seq.) and Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,  
15 the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to  
16 investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2,  
17 or the Private Security Services Unit of the Department of Criminal Justice Services.

18 2. Records of active investigations being conducted by the Department of Health Professions or  
19 by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

20 3. Investigator notes, and other correspondence and information, furnished in confidence with  
21 respect to an active investigation of individual employment discrimination complaints made to the  
22 Department of Human Resource Management, to such personnel of any local public body, including local  
23 school boards, as are responsible for conducting such investigations in confidence, or to any public  
24 institution of higher education. However, nothing in this subdivision shall prevent the disclosure of

25 information taken from inactive reports in a form that does not reveal the identity of charging parties,  
26 persons supplying the information, or other individuals involved in the investigation.

27 4. Records of active investigations being conducted by the Department of Medical Assistance  
28 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

29 5. Investigative notes and other correspondence and information furnished in confidence with  
30 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice  
31 under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in  
32 accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior  
33 to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations  
34 commissions. However, nothing in this subdivision shall prevent the distribution of information taken  
35 from inactive reports in a form that does not reveal the identity of the parties involved or other persons  
36 supplying information.

37 6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents,  
38 (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or  
39 regulations that cause abuses in the administration and operation of the lottery and any evasions of such  
40 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where  
41 such information has not been publicly released, published or copyrighted. All studies and investigations  
42 referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of  
43 the study or investigation.

44 7. Investigative notes, correspondence and information furnished in confidence, and records  
45 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the  
46 Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate  
47 authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud  
48 and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector  
49 General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an  
50 investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the  
51 head of a state agency or by any public institution of higher education; (vi) the committee or the auditor

52 with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed  
53 by the local governing body of any county, city, or town or a school board, who by charter, ordinance, or  
54 statute have responsibility for conducting an investigation of any officer, department, or program of such  
55 body. Information contained in completed investigations shall be disclosed in a form that does not reveal  
56 the identity of the complainants or persons supplying information to investigators. Unless disclosure is  
57 excluded by this subdivision, the information disclosed shall include the agency involved, the identity of  
58 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve  
59 the complaint. If an investigation does not lead to corrective action, the identity of the person who is the  
60 subject of the complaint may be released only with the consent of the subject person. Local governing  
61 bodies shall adopt guidelines to govern the disclosure required by this subdivision.

62 8. ~~The names, addresses, and telephone numbers~~ personal contact information of complainants  
63 furnished in confidence to a local governing body with respect to an investigation of ~~individual~~ (i) zoning  
64 enforcement complaints ~~or complaints relating to the~~; (ii) Uniform Statewide Building Code (§ 36-97 et  
65 seq.) ~~or the complaints~~; (iii) Statewide Fire Prevention Code (§ 27-94 et seq.) ~~made to a local governing~~  
66 ~~body~~ complaints; (iv) local code complaints pertaining to public health and safety and nuisances, §§ 15.2-  
67 900, 15.2-901, 15.2-904, 15.2-906, 15.2-907, 15.2-908, and 15.2-921; and (v) local code complaints  
68 pertaining to waste and recycling pursuant to Article 2 (§ 15.2-927 et seq.) of Chapter 9 of Title 15.2. As  
69 used in this subdivision, "personal contact information" includes a home or business (i) address, (ii) email  
70 address, or (iii) telephone number or comparable number assigned to any other electronic communication  
71 device. Information contained in completed investigations shall be disclosed in a form that does not reveal  
72 the identity of the complainants or persons supplying information to investigators.

73 9. Records of active investigations being conducted by the Department of Criminal Justice  
74 Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185  
75 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

76 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of §  
77 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,  
78 unauthorized alteration, or improper administration of tests by local school board employees responsible

79 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of  
80 such information to (i) a local school board or division superintendent for the purpose of permitting such  
81 board or superintendent to consider or to take personnel action with regard to an employee or (ii) any  
82 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity  
83 of any person making a complaint or supplying information to the Board on a confidential basis and (b)  
84 does not compromise the security of any test mandated by the Board.

85 11. Information contained in (i) an application for licensure or renewal of a license for teachers  
86 and other school personnel, including transcripts or other documents submitted in support of an  
87 application, and (ii) an active investigation conducted by or for the Board of Education related to the  
88 denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel  
89 licenses including investigator notes and other correspondence and information, furnished in confidence  
90 with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a)  
91 application information to the applicant at his own expense or (b) investigation information to a local  
92 school board or division superintendent for the purpose of permitting such board or superintendent to  
93 consider or to take personnel action with regard to an employee. Information contained in completed  
94 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person  
95 supplying information to investigators. The completed investigation information disclosed shall include  
96 information regarding the school or facility involved, the identity of the person who was the subject of the  
97 complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation  
98 fails to support a complaint or does not lead to corrective action, the identity of the person who was the  
99 subject of the complaint may be released only with the consent of the subject person. No personally  
100 identifiable information regarding a current or former student shall be released except as permitted by  
101 state or federal law.

102 12. Information provided in confidence and related to an investigation by the Attorney General  
103 under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10  
104 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-  
105 1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been inactive

**106** for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise  
**107** prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying  
**108** information, witnesses, or other individuals involved in the investigation.

**109** 13. Records of active investigations being conducted by the Department of Behavioral Health and  
**110** Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

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