

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3701, 2.2-3704, 2.2-3704.1, 2.2-3704.2, 2.2-3705.1 through 2.2-
2 3705.8, 2.2-3711, 2.2-3714, 2.2-3806, 22.1-253.13:3, 22.1-279.8, 23.1-2425, 32.1-48.08, 32.1-
3 48.011, 32.1-48.015, 32.1-283.1, 32.1-283.2, 32.1-283.3, 32.1-283.5, 32.1-283.6, 44-146.18, 44-
4 146.22, 54.1-2517, and 54.1-2523 of the Code of Virginia, relating to the Virginia Freedom of
5 Information Act; public access to records of public bodies.

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

7 **1. That §§ 2.2-3701, 2.2-3704, 2.2-3704.1, 2.2-3704.2, 2.2-3705.1 through 2.2-3705.8, 2.2-3711, 2.2-
8 3714, 2.2-3806, 22.1-253.13:3, 22.1-279.8, 23.1-2425, 32.1-48.08, 32.1-48.011, 32.1-48.015, 32.1-
9 283.1, 32.1-283.2, 32.1-283.3, 32.1-283.5, 32.1-283.6, 44-146.18, 44-146.22, 54.1-2517, and 54.1-2523
10 of the Code of Virginia are amended and reenacted as follows:**

11 **§ 2.2-3701. Definitions.**

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

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

14 "Electronic communication" means any audio or combined audio and visual communication
15 method.

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

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

21 "Meeting" or "meetings" means the meetings including work sessions, when sitting physically,
22 or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as
23 an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the
24 constituent membership, wherever held, with or without minutes being taken, whether or not votes are
25 cast, of any public body. Neither the gathering of employees of a public body nor the gathering or

26 attendance of two or more members of a public body (i) at any place or function where no part of the
27 purpose of such gathering or attendance is the discussion or transaction of any public business, and such
28 gathering or attendance was not called or prearranged with any purpose of discussing or transacting any
29 business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of
30 which is to inform the electorate and not to transact public business or to hold discussions relating to the
31 transaction of public business, even though the performance of the members individually or collectively
32 in the conduct of public business may be a topic of discussion or debate at such public meeting, shall be
33 deemed a "meeting" subject to the provisions of this chapter.

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

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

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

50 "Public records" means all writings and recordings that consist of letters, words or numbers, or
51 their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic
52 impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data

53 compilation, however stored, and regardless of physical form or characteristics, prepared or owned by,
54 or in the possession of a public body or its officers, employees or agents in the transaction of public
55 business. ~~Records that are not prepared for or used in the transaction of public business are not public~~
56 ~~records.~~

57 "Regional public body" means a unit of government organized as provided by law within defined
58 boundaries, as determined by the General Assembly, whose members are appointed by the participating
59 local governing bodies, and such unit includes two or more counties or cities.

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

63 **§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and**
64 **responding to request; charges; transfer of records for storage, etc.**

65 A. Except as otherwise specifically provided by law, all public records shall be open to
66 ~~inspection and copying by any~~ citizens of the Commonwealth, representatives of newspapers and
67 magazines with circulation in the Commonwealth, and representatives of radio and television stations
68 broadcasting in or into the Commonwealth during the regular office hours of the custodian of such
69 records. Access to such records shall ~~not be denied to citizens of the Commonwealth, representatives of~~
70 ~~newspapers and magazines with circulation in the Commonwealth, and representatives of radio and~~
71 ~~television stations broadcasting in or into the Commonwealth~~ be provided by the custodian in
72 accordance with this chapter by inspection or by providing copies of the requested records, at the option
73 of the requester. The custodian may require the requester to provide his name and legal address. The
74 custodian of such records shall take all necessary precautions for their preservation and safekeeping.

75 B. A request for public records shall identify the requested records with reasonable specificity.
76 The request need not make reference to this chapter in order to invoke the provisions of this chapter or
77 to impose the time limits for response by a public body. Any public body that is subject to this chapter
78 and that is the custodian of the requested records shall promptly, but in all cases within five working

79 days of receiving a request, provide the requested records to the requester or make one of the following
80 responses in writing:

81 1. The requested records are being entirely withheld. Such response shall identify with
82 reasonable particularity the volume and subject matter of withheld records, and cite, as to each category
83 of withheld records, the specific Code section that authorizes the withholding of the records.

84 2. The requested records are being provided in part and are being withheld in part. Such response
85 shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each
86 category of withheld records, the specific Code section that authorizes the withholding of the records.

87 3. The requested records could not be found or do not exist. However, if the public body that
88 received the request knows that another public body has the requested records, the response shall include
89 contact information for the other public body.

90 4. It is not practically possible to provide the requested records or to determine whether they are
91 available within the five-work-day period. Such response shall specify the conditions that make a
92 response impossible. If the response is made within five working days, the public body shall have an
93 additional seven work days in which to provide one of the four preceding responses.

94 C. Any public body may petition the appropriate court for additional time to respond to a request
95 for records when the request is for an extraordinary volume of records or requires an extraordinarily
96 lengthy search, and a response by the public body within the time required by this chapter will prevent
97 the public body from meeting its operational responsibilities. Before proceeding with the petition,
98 however, the public body shall make reasonable efforts to reach an agreement with the requester
99 concerning the production of the records requested.

100 D. Subject to the provisions of subsection G, no public body shall be required to create a new
101 record if the record does not already exist. However, a public body may abstract or summarize
102 information under such terms and conditions as agreed between the requester and the public body.

103 E. Failure to respond to a request for records shall be deemed a denial of the request and shall
104 constitute a violation of this chapter.

105 F. A public body may make reasonable charges not to exceed its actual cost incurred in
106 accessing, duplicating, supplying, or searching for the requested records. No public body shall impose
107 any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with
108 creating or maintaining records or transacting the general business of the public body. Any duplicating
109 fee charged by a public body shall not exceed the actual cost of duplication. The public body may also
110 make a reasonable charge for the cost incurred in supplying records produced from a geographic
111 information system at the request of anyone other than the owner of the land that is the subject of the
112 request. However, such charges shall not exceed the actual cost to the public body in supplying such
113 records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating
114 topographical maps developed by the public body, for such maps or portions thereof, which encompass
115 a contiguous area greater than 50 acres. All charges for the supplying of requested records shall be
116 estimated in advance at the request of the citizen.

117 G. Public records maintained by a public body in an electronic data processing system, computer
118 database, or any other structured collection of data shall be made available to a requester at a reasonable
119 cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases
120 are combined or contain exempt and nonexempt records, the public body may provide access to the
121 exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as
122 provided by this chapter.

123 Public bodies shall produce nonexempt records maintained in an electronic database in any
124 tangible medium identified by the requester, including, where the public body has the capability, the
125 option of posting the records on a website or delivering the records through an electronic mail address
126 provided by the requester, if that medium is used by the public body in the regular course of business.
127 No public body shall be required to produce records from an electronic database in a format not
128 regularly used by the public body. However, the public body shall make reasonable efforts to provide
129 records in any format under such terms and conditions as agreed between the requester and public body,
130 including the payment of reasonable costs. The excision of exempt fields of information from a database

131 or the conversion of data from one available format to another shall not be deemed the creation,
132 preparation, or compilation of a new public record.

133 H. In any case where a public body determines in advance that charges for producing the
134 requested records are likely to exceed \$200, the public body may, before continuing to process the
135 request, require the requester to agree to payment of a deposit not to exceed the amount of the advance
136 determination. The deposit shall be credited toward the final cost of supplying the requested records.
137 The period within which the public body shall respond under this section shall be tolled for the amount
138 of time that elapses between notice of the advance determination and the response of the requester.

139 I. Before processing a request for records, a public body may require the requester to pay any
140 amounts owed to the public body for previous requests for records that remain unpaid 30 days or more
141 after billing.

142 J. In the event a public body has transferred possession of public records to any entity, including
143 but not limited to any other public body, for storage, maintenance, or archiving, the public body
144 initiating the transfer of such records shall remain the custodian of such records for purposes of
145 responding to requests for public records made pursuant to this chapter and shall be responsible for
146 retrieving and supplying such public records to the requester. In the event a public body has transferred
147 public records for storage, maintenance, or archiving and such transferring public body is no longer in
148 existence, any public body that is a successor to the transferring public body shall be deemed the
149 custodian of such records. In the event no successor entity exists, the entity in possession of the public
150 records shall be deemed the custodian of the records for purposes of compliance with this chapter, and
151 shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to
152 apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties
153 imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the
154 Library of Virginia shall be the custodian of such permanently archived records and shall be responsible
155 for responding to requests for such records made pursuant to this chapter.

156 § 2.2-3704.1. **Posting of notice of rights and responsibilities by state and local public bodies;**
157 **assistance by the Freedom of Information Advisory Council.**

158 A. All state public bodies subject to the provisions of this chapter ~~and~~, any county or city, ~~and~~
159 any town with a population of more than 250, and any school board shall make available the following
160 information to the public upon request and shall post a link to such information on the homepage of their
161 respective official public government websites:

162 1. A plain English explanation of the rights of a requester under this chapter, the procedures to
163 obtain public records from the public body, and the responsibilities of the public body in complying with
164 this chapter. For purposes of this section, "plain English" means written in nontechnical, readily
165 understandable language using words of common everyday usage and avoiding legal terms and phrases
166 or other terms and words of art whose usage or special meaning primarily is limited to a particular field
167 or profession;

168 2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-
169 3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public
170 records;

171 3. A general description, summary, list, or index of the types of public records maintained by
172 such ~~state~~ public body;

173 4. A general description, summary, list, or index of any exemptions in law that permit or require
174 such public records to be withheld from release;

175 5. Any policy the public body has concerning the type of public records it routinely withholds
176 from release as permitted by this chapter or other law; and

177 6. The following statement: "A public body may make reasonable charges not to exceed its
178 actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No
179 public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general
180 costs associated with creating or maintaining records or transacting the general business of the public
181 body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All
182 charges for the supplying of requested records shall be estimated in advance at the request of the citizen
183 as set forth in subsection F of § 2.2-3704 of the Code of Virginia."

184 B. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in
185 the development and implementation of the provisions of subsection A, upon request.

186 **§ 2.2-3704.2. Public bodies to designate FOIA officer.**

187 A. All state public bodies, including state authorities, that are subject to the provisions of this
188 chapter and all local public bodies that are subject to the provisions of this chapter, shall designate and
189 publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility
190 is to serve as a point of contact for members of the public in requesting public records and to coordinate
191 the public body's compliance with the provisions of this chapter.

192 B. For such state public bodies, the name and contact information of the public body's FOIA
193 officer to whom members of the public may direct requests for public records and who will oversee the
194 public body's compliance with the provisions of this chapter shall be made available to the public upon
195 request and be posted on the respective public body's [official public government](#) website at the time of
196 designation and maintained thereafter on such website for the duration of the designation.

197 C. For such local public bodies, the name and contact information of the public body's FOIA
198 officer to whom members of the public may direct requests for public records and who will oversee the
199 public body's compliance with the provisions of this chapter shall be made available in a way reasonably
200 calculated to provide notice to the public, including posting at the public body's place of business,
201 posting on its [official public government](#) website, or including such information in its publications.

202 D. For the purposes of this section, local public bodies shall include constitutional officers.

203 E. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and
204 be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information
205 Advisory Council.

206 **§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to**
207 **public bodies.**

208 The following information contained in a public record is excluded from the mandatory
209 disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except

210 where such disclosure is prohibited by law. Redaction of information excluded under this section from a
211 public record shall be conducted in accordance with § 2.2-3704.01.

212 1. Personnel information concerning identifiable individuals, except that access shall not be
213 denied to the person who is the subject thereof. Any person who is the subject of such information and
214 who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the
215 protections are so waived, such information shall be disclosed. Nothing in this subdivision shall be
216 construed to authorize the withholding of any resumes or applications submitted by persons who are
217 appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

218 No provision of this chapter or any provision of Chapter 38 (§ 2.2-3800 et seq.) shall be
219 construed as denying public access to (i) contracts between a public body and its officers or employees,
220 other than contracts settling public employee employment disputes held confidential as personnel
221 records under § 2.2-3705.1; (ii) records of the name, position, job classification, official salary, or rate of
222 pay of, and records of the allowances or reimbursements for expenses paid to, any officer, official, or
223 employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by
224 the Virginia Retirement System or its officers or employees. The provisions of this subdivision,
225 however, shall not require public access to records of the official salaries or rates of pay of public
226 employees whose annual rate of pay is \$10,000 or less.

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

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

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

236 As used in this subdivision, "test or examination" shall include (a) any scoring key for any such
237 test or examination and (b) any other document that would jeopardize the security of the test or
238 examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as
239 provided by law, or limit access to individual records as provided by law. However, the subject of such
240 employment tests shall be entitled to review and inspect all records relative to his performance on such
241 employment tests.

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

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

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

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

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

259 9. Information concerning reserves established in specific claims administered by the
260 Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-
261 1832 et seq.) of Chapter 18, or by any county, city, or town; and investigative notes, correspondence and
262 information furnished in confidence with respect to an investigation of a claim or a potential claim

263 against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision
264 shall ~~authorize the withholding prevent the disclosure~~ of information taken from inactive reports upon
265 expiration of the period of limitations for the filing of a civil suit.

266 10. Personal contact information, ~~as defined in § 2.2-3801, including electronic mail addresses,~~
267 furnished to a public body for the purpose of receiving electronic mail from the public body, provided
268 that the electronic mail recipient has requested that the public body not disclose such information.
269 However, access shall not be denied to the person who is the subject of the record. As used in this
270 subdivision, "personal contact information" means the information provided to the public body for the
271 purpose of receiving electronic mail from the public body and includes home or business (i) address, (ii)
272 email address, or (iii) telephone number or other comparable electronic communication device.

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

275 12. Information relating to the negotiation and award of a specific contract where competition or
276 bargaining is involved and where the release of such information would adversely affect the bargaining
277 position or negotiating strategy of the public body. Such information shall not be withheld after the
278 public body has made a decision to award or not to award the contract. In the case of procurement
279 transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the
280 provisions of this subdivision shall not apply, and any release of information relating to such
281 transactions shall be governed by the Virginia Public Procurement Act.

282 13. Account numbers or routing information for any credit card, debit card, or other account with
283 a financial institution of any person or public body. However, access shall not be denied to the person
284 who is the subject of the information. For the purposes of this subdivision, "financial institution" means
285 any organization authorized to do business under state or federal laws relating to financial institutions,
286 including, without limitation, banks and trust companies, savings banks, savings and loan companies or
287 associations, and credit unions.

288 **§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.**

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

293 1. Confidential information, including victim identity, provided to or obtained by staff in a rape
294 crisis center or a program for battered spouses.

295 2. ~~Information contained in engineering and construction drawings and plans submitted for the~~
296 ~~sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such~~
297 ~~information would identify specific trade secrets or other information that would be harmful to the~~
298 ~~competitive position of the owner or lessee. However, such information shall be exempt only until the~~
299 ~~building is completed. Information relating to the safety or environmental soundness of any building~~
300 ~~shall not be exempt from disclosure.~~

301 ~~Information contained in engineering and construction drawings and plans that reveal critical~~
302 ~~structural components, security equipment and systems, ventilation systems, fire protection equipment,~~
303 ~~mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications~~
304 ~~equipment and systems, and other utility equipment and systems submitted for the purpose of complying~~
305 ~~with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§~~
306 ~~27-94 et seq.) if disclosure of such information would jeopardize the safety or security of any public or~~
307 ~~private commercial office, multifamily residential, or retail building or its occupants in the event of~~
308 ~~terrorism or other threat to public safety. In order for the information to be excluded from mandatory~~
309 ~~disclosure, the owner or lessee of such property, equipment, or system in writing shall (i) invoke the~~
310 ~~protections of this paragraph; (ii) identify the drawings, plans, or other materials to be protected; and~~
311 ~~(iii) state the reasons why protection is necessary.~~

312 ~~Nothing in this subdivision shall authorize the withholding of information relating to any~~
313 ~~building in connection with an inquiry into the performance of that building after it has been subjected~~
314 ~~to fire, explosion, natural disaster, or other catastrophic event.~~

315 ~~3. Information that describes the design, function, operation, or access control features of any~~
316 ~~security system, whether manual or automated, which is used to control access to or use of any~~
317 ~~automated data processing or telecommunications system.~~

318 ~~4. Information concerning the prevention or response to terrorist activity or cyber attacks,~~
319 ~~including (i) critical infrastructure information; (ii) vulnerability assessments, operational, procedural,~~
320 ~~transportation, and tactical planning or training manuals, and staff meeting minutes; (iii) engineering or~~
321 ~~architectural plans or drawings, or information derived from such plans or drawings; and (iv)~~
322 ~~information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities~~
323 ~~or security plans and measures of an entity, facility, building, structure, information technology system,~~
324 ~~or software program if disclosure of such information would (a) reveal the location or operation of~~
325 ~~security equipment and systems, elevators, ventilation, fire protection, emergency, electrical,~~
326 ~~telecommunications or utility equipment and systems of any public building, structure or information~~
327 ~~storage facility, or telecommunications or utility equipment or systems or (b) jeopardize the safety of~~
328 ~~any person.~~

329 ~~The same categories of information concerning any person or entity submitted to a public body~~
330 ~~for the purpose of antiterrorism response planning or cybersecurity planning or protection may be~~
331 ~~withheld from disclosure if such person or entity in writing (1) invokes the protections of this~~
332 ~~subdivision, (2) identifies with specificity the information for which protection is sought, and (3) states~~
333 ~~with reasonable particularity why the protection of such information from public disclosure is necessary~~
334 ~~to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure~~
335 ~~information security and resilience. Such statement shall be a public record and shall be disclosed upon~~
336 ~~request.~~

337 ~~Any public body receiving a request for records excluded under this subdivision shall notify the~~
338 ~~Secretary of Public Safety and Homeland Security or his designee of such request and the response~~
339 ~~made by the public body in accordance with § 2.2-3704.~~

340 ~~Nothing in this subdivision shall be construed to authorize the withholding of information~~
341 ~~relating to the structural or environmental soundness of any building, nor shall it authorize the~~

342 ~~withholding of information relating to any building in connection with an inquiry into the performance~~
343 ~~of that building after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.~~

344 ~~As used in this subdivision, "critical infrastructure information" means the same as that term is~~
345 ~~defined in 6 U.S.C. § 131.~~

346 ~~5.3.~~ Information that would disclose the security aspects of a system safety program plan
347 adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway
348 Systems Safety Oversight agency; and information in the possession of such agency, the release of
349 which would jeopardize the success of an ongoing investigation of a rail accident or other incident
350 threatening railway safety.

351 ~~6. Information contained in engineering and architectural drawings, operational, procedural,~~
352 ~~tactical planning or training manuals, or staff meeting minutes if disclosure of such information would~~
353 ~~(i) reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or~~
354 ~~operational and transportation plans or protocols or (ii) jeopardize the security of any governmental~~
355 ~~facility, building, or structure or the safety of persons using such facility, building, or structure.~~

356 ~~7.4.~~ Information concerning security plans and specific assessment components of school safety
357 audits, as provided in § 22.1-279.8.

358 Nothing in this subdivision shall be construed to ~~authorize the withholding prevent the disclosure~~
359 of information relating to the effectiveness of security plans after (i) any school building or property has
360 been subjected to fire, explosion, natural disaster, or other catastrophic event or (ii) any person on school
361 property has suffered or been threatened with any personal injury.

362 ~~8.5.~~ Information concerning the mental health assessment of an individual subject to
363 commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the
364 Commitment Review Committee; except that in no case shall information identifying the victims of a
365 sexually violent predator be disclosed.

366 ~~9.6.~~ Subscriber data provided directly or indirectly by a telecommunications carrier to a public
367 body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse
368 911 system if the data is in a form not made available by the telecommunications carrier to the public

369 | generally. Nothing in this subdivision shall ~~authorize the withholding~~ prevent the disclosure of
370 | subscriber data generated in connection with specific calls to a 911 emergency system, where the
371 | requester is seeking to obtain public records about the use of the system in response to a specific crime,
372 | emergency or other event as to which a citizen has initiated a 911 call.

373 | For the purposes of this subdivision, "subscriber data" means the name, address, telephone
374 | number, and any other information identifying a subscriber of a telecommunications carrier.

375 | ~~10-7.~~ 7. Subscriber data collected by a local governing body in accordance with the Enhanced
376 | Public Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a
377 | personal, medical, or financial nature provided to a local governing body in connection with a 911 or E-
378 | 911 emergency dispatch system or an emergency notification or reverse 911 system if such records are
379 | not otherwise publicly available.

380 | Nothing in this subdivision shall ~~authorize the withholding~~ prevent the disclosure of subscriber
381 | data generated in connection with specific calls to a 911 emergency system, where the requester is
382 | seeking to obtain public records about the use of the system in response to a specific crime, emergency
383 | or other event as to which a citizen has initiated a 911 call.

384 | For the purposes of this subdivision, "subscriber data" means the name, address, telephone
385 | number, and any other information identifying a subscriber of a telecommunications carrier.

386 | ~~11-8.~~ 8. Information held by the Virginia Military Advisory Council or any commission created by
387 | executive order for the purpose of studying and making recommendations regarding preventing closure
388 | or realignment of federal military and national security installations and facilities located in Virginia and
389 | relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
390 | local governing body, that would (i) reveal strategies under consideration or development by the Council
391 | or such commission or organizations to prevent the closure or realignment of federal military
392 | installations located in Virginia or the relocation of national security facilities located in Virginia, to
393 | limit the adverse economic effect of such realignment, closure, or relocation, or to seek additional tenant
394 | activity growth from the Department of Defense or federal government or (ii) disclose trade secrets, as

395 defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Council or such
396 commission or organizations in connection with their work.

397 In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall,
398 in writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the
399 information for which such protection is sought, and (c) state the reason why such protection is
400 necessary. Nothing in this subdivision shall be construed to ~~authorize the withholding prevent the~~
401 disclosure of all or part of any record, other than a trade secret that has been specifically identified as
402 required by this subdivision, after the Department of Defense or federal agency has issued a final,
403 unappealable decision, or in the event of litigation, a court of competent jurisdiction has entered a final,
404 unappealable order concerning the closure, realignment, or expansion of the military installation or
405 tenant activities, or the relocation of the national security facility, for which records are sought.

406 ~~12-9.~~ 9. Information, as determined by the State Comptroller, that describes the design, function,
407 operation, or implementation of internal controls over the Commonwealth's financial processes and
408 systems, and the assessment of risks and vulnerabilities of those controls, including the annual
409 assessment of internal controls mandated by the State Comptroller, if disclosure of such information
410 would jeopardize the security of the Commonwealth's financial assets. However, records relating to the
411 investigation of and findings concerning the soundness of any fiscal process shall be disclosed in a form
412 that does not compromise internal controls. Nothing in this subdivision shall be construed to prohibit the
413 Auditor of Public Accounts or the Joint Legislative Audit and Review Commission from reporting
414 internal control deficiencies discovered during the course of an audit.

415 ~~13-10.~~ 10. Information relating to the Statewide Agencies Radio System (STARS) or any other
416 similar local or regional public safety communications system that (i) describes the design, function,
417 programming, operation, or access control features of the overall system, components, structures,
418 individual networks, and subsystems of the STARS or any other similar local or regional
419 communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other
420 similar local or regional communications system, code plugs, circuit routing, addressing schemes, talk
421 groups, fleet maps, encryption, or programming maintained by or utilized by STARS or any other

422 similar local or regional public safety communications system; ~~those engineering and construction~~
423 ~~drawings and plans that reveal critical structural components, interconnectivity, security equipment and~~
424 ~~systems, network monitoring, network operation center, master sites, ventilation systems, fire protection~~
425 ~~equipment, mandatory building emergency equipment, electrical systems, and other utility equipment~~
426 ~~and systems related to STARS or any other similar local or regional public safety communications~~
427 ~~system; and special event plans, operational plans, storm plans, or other pre-arranged programming, if~~
428 ~~disclosure of such information would (a) reveal surveillance techniques, personnel deployments, alarm~~
429 ~~or security systems or technologies, or operational and transportation plans or protocols or (b) jeopardize~~
430 ~~the security of any governmental facility, building, or structure or the safety of any person.~~

431 ~~14-11.~~ Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS
432 department if disclosure of such information would reveal the telephone numbers for cellular telephones,
433 pagers, or comparable portable communication devices provided to its personnel for use in the
434 performance of their official duties.

435 ~~15-12.~~ Information concerning the disaster recovery plans or the evacuation plans in the event of
436 fire, explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by
437 the Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department
438 of Health. Nothing in this subdivision shall be construed to ~~authorize the withholding prevent the~~
439 ~~disclosure~~ of information relating to the effectiveness of executed evacuation plans after the occurrence
440 of fire, explosion, natural disaster, or other catastrophic event.

441 ~~16-13.~~ Records received by the Department of Criminal Justice Services pursuant to §§ 9.1-184,
442 22.1-79.4, and 22.1-279.8 or for purposes of evaluating threat assessment teams established by a public
443 institution of higher education pursuant to § 23.1-805 or by a private nonprofit institution of higher
444 education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and
445 threat assessment components.

446 14. Information contained in (i) engineering, architectural, or construction drawings; (ii)
447 operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other
448 records that reveal any of the following, the disclosure of which would jeopardize the safety or security

449 of any person; governmental facility, building, or structure or persons using such facility, building, or
450 structure; or public or private commercial office, multifamily residential, or retail building or its
451 occupants:

452 a. Critical structural information or the location or operation of security equipment and systems
453 of any public building, structure, or information storage facility, including ventilation systems, fire
454 protection equipment, mandatory building emergency equipment or systems, elevators, electrical
455 systems, telecommunications equipment and systems, or utility equipment and systems;

456 b. Vulnerability assessments, information not lawfully available to the public regarding specific
457 cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building
458 structure, information technology system, or software program;

459 c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or
460 operational or transportation plans or protocols; or

461 d. Interconnectivity, network monitoring, network operation centers, master sites, or systems
462 related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public
463 safety communications system.

464 The same categories of records of any person or entity submitted to a public body for the purpose
465 of antiterrorism response planning or cybersecurity planning or protection may be withheld from
466 disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies
467 with specificity the records or portions thereof for which protection is sought, and (c) states with
468 reasonable particularity why the protection of such records from public disclosure is necessary to meet
469 the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information
470 security and resilience. Such statement shall be a public record and shall be disclosed upon request.

471 Any public body receiving a request for records excluded under clauses (a) and (b) of this
472 subdivision 14 shall notify the Secretary of Public Safety and Homeland Security or his designee of such
473 request and the response made by the public body in accordance with § 2.2-3704.

474 Nothing in this subdivision 14 shall prevent the disclosure of records relating to (1) the structural
475 or environmental soundness of any such facility, building, or structure or (2) an inquiry into the

476 [performance of such facility, building, or structure after it has been subjected to fire, explosion, natural](#)
477 [disaster, or other catastrophic event.](#)

478 [As used in this subdivision, "critical infrastructure information" means the same as that term is](#)
479 [defined in 6 U.S.C. § 131.](#)

480 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
481 **investigations.**

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

486 1. (Effective until July 1, 2018) Information relating to investigations of applicants for licenses
487 and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage
488 Control Board, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture
489 and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-
490 340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of
491 Criminal Justice Services.

492 1. (Effective July 1, 2018) Information relating to investigations of applicants for licenses and
493 permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage
494 Control Authority, the Virginia Lottery, the Virginia Racing Commission, the Department of
495 Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1
496 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the
497 Department of Criminal Justice Services.

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

500 3. Investigator notes, and other correspondence and information, furnished in confidence with
501 respect to an active investigation of individual employment discrimination complaints made to the
502 Department of Human Resource Management, to such personnel of any local public body, including

503 local school boards, as are responsible for conducting such investigations in confidence, or to any public
504 institution of higher education. ~~Information contained in~~ However, nothing in this subdivision shall
505 prevent the disclosure of information taken from inactive reports ~~shall be disclosed~~ in a form that does
506 not reveal the identity of charging parties, persons supplying the information, or other individuals
507 involved in the investigation.

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

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

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

525 7. Investigative notes, correspondence and information furnished in confidence, and records
526 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the
527 Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate
528 authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud
529 and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector

530 General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an
531 investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the
532 head of a state agency or by any public institution of higher education; (vi) the committee or the auditor
533 with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors,
534 appointed by the local governing body of any county, city, or town or a school board, who by charter,
535 ordinance, or statute have responsibility for conducting an investigation of any officer, department, or
536 program of such body. Information contained in completed investigations shall be disclosed in a form
537 that does not reveal the identity of the complainants or persons supplying information to investigators.
538 Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency
539 involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and
540 the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the
541 identity of the person who is the subject of the complaint may be released only with the consent of the
542 subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this
543 subdivision.

544 ~~8. Information furnished in confidence to the Department of Human Resource Management with~~
545 ~~respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda,~~
546 ~~correspondence and other records resulting from any such investigation, consultation or mediation.~~
547 ~~Information contained in inactive reports shall be disclosed in a form that does not reveal the identity of~~
548 ~~the parties involved or other persons supplying information.~~

549 ~~9.~~ The names, addresses, and telephone numbers of complainants furnished in confidence with
550 respect to an investigation of individual zoning enforcement complaints or complaints relating to the
551 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
552 seq.) made to a local governing body.

553 ~~10-9.~~ Records of active investigations being conducted by the Department of Criminal Justice
554 Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185
555 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

556 | 11-10. Information furnished to or prepared by the Board of Education pursuant to subsection D
557 of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
558 unauthorized alteration, or improper administration of tests by local school board employees responsible
559 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
560 of such information to (i) a local school board or division superintendent for the purpose of permitting
561 such board or superintendent to consider or to take personnel action with regard to an employee or (ii)
562 any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the
563 identity of any person making a complaint or supplying information to the Board on a confidential basis
564 and (b) does not compromise the security of any test mandated by the Board.

565 | 12-11. Information contained in (i) an application for licensure or renewal of a license for
566 teachers and other school personnel, including transcripts or other documents submitted in support of an
567 application, and (ii) an active investigation conducted by or for the Board of Education related to the
568 denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel
569 licenses including investigator notes and other correspondence and information, furnished in confidence
570 with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a)
571 application information to the applicant at his own expense or (b) investigation information to a local
572 school board or division superintendent for the purpose of permitting such board or superintendent to
573 consider or to take personnel action with regard to an employee. Information contained in completed
574 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
575 supplying information to investigators. The completed investigation information disclosed shall include
576 information regarding the school or facility involved, the identity of the person who was the subject of
577 the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an
578 investigation fails to support a complaint or does not lead to corrective action, the identity of the person
579 who was the subject of the complaint may be released only with the consent of the subject person. No
580 personally identifiable information regarding a current or former student shall be released except as
581 permitted by state or federal law.

582 | ~~13-~~12. Information provided in confidence and related to an investigation by the Attorney
583 General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2,
584 Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article
585 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has
586 been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not
587 otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons
588 supplying information, witnesses, or other individuals involved in the investigation.

589 **§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records**
590 **of educational institutions.**

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

595 1. Scholastic records containing information concerning identifiable individuals, except that such
596 access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the
597 student. However, no student shall have access to (i) financial records of a parent or guardian or (ii)
598 records of instructional, supervisory, and administrative personnel and educational personnel ancillary
599 thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any
600 other person except a substitute.

601 The parent or legal guardian of a student may prohibit, by written request, the release of any
602 individual information regarding that student until the student reaches the age of 18 years. For scholastic
603 records of students under the age of 18 years, the right of access may be asserted only by his legal
604 guardian or parent, including a noncustodial parent, unless such parent's parental rights have been
605 terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic
606 records of students who are emancipated or attending a state-supported institution of higher education,
607 the right of access may be asserted by the student.

608 Any person who is the subject of any scholastic record and who is 18 years of age or older may
609 waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such
610 records shall be disclosed.

611 2. Confidential letters and statements of recommendation placed in the records of educational
612 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an
613 application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

614 3. Information held by the Brown v. Board of Education Scholarship Awards Committee that
615 would reveal personally identifiable information, including scholarship applications, personal financial
616 information, and confidential correspondence and letters of recommendation.

617 4. Information of a proprietary nature produced or collected by or for faculty or staff of public
618 institutions of higher education, other than the institutions' financial or administrative records, in the
619 conduct of or as a result of study or research on medical, scientific, technical or scholarly issues,
620 whether sponsored by the institution alone or in conjunction with a governmental body or a private
621 concern, where such information has not been publicly released, published, copyrighted or patented.

622 5. Information held by the University of Virginia or the University of Virginia Medical Center or
623 Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related
624 information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia
625 Medical School, as the case may be, including business development or marketing strategies and
626 activities with existing or future joint venturers, partners, or other parties with whom the University of
627 Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms,
628 any arrangement for the delivery of health care, if disclosure of such information would be harmful to
629 the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical
630 School, as the case may be.

631 6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College
632 Savings Plan or its employees by or on behalf of individuals who have requested information about,
633 applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to
634 Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, [including personal information related to \(i\) qualified](#)

635 beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized
636 individuals. However, Nothing in this subdivision shall be construed to prevent disclosure or publication
637 of information in a statistical or other form that does not identify individuals or provide personal
638 information ~~shall be disclosed and may be published by the Board~~. Individuals shall be provided access
639 to their own personal information.

640 For purposes of this subdivision:

641 "Authorized individual" means an individual who may be named by the account owner to receive
642 information regarding the account but who does not have any control or authority over the account.

643 "Designated survivor" means the person who will assume account ownership in the event of the
644 account owner's death.

645 7. Information maintained in connection with fundraising activities by or for a public institution
646 of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or
647 prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-
648 related information; employment, familial, or marital status information; electronic mail addresses,
649 facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or
650 prospective donors. Nothing in this subdivision, however, shall be construed to ~~authorize the~~
651 ~~withholding prevent the disclosure~~ of information relating to the amount, date, purpose, and terms of the
652 pledge or donation, or the identity of the donor unless the donor has requested anonymity in connection
653 with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall
654 not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with
655 the institution for the performance of research services or other work or (ii) the terms and conditions of
656 such grants or contracts.

657 8. Information held by a threat assessment team established by a local school board pursuant to §
658 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment
659 or intervention with a specific individual. However, in the event an individual who has been under
660 assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or
661 caused serious bodily injury, including any felony sexual assault, to another person, such information of

662 the threat assessment team concerning the individual under assessment shall be made available as
663 provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-
664 389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined
665 in § 22.1-289. The public body providing such information shall remove personally identifying
666 information of any person who provided information to the threat assessment team under a promise of
667 confidentiality.

668 **§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

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

673 1. Health records, except that such records may be personally reviewed by the individual who is
674 the subject of such records, as provided in subsection F of § 32.1-127.1:03.

675 Where the person who is the subject of health records is confined in a state or local correctional
676 facility, the administrator or chief medical officer of such facility may assert such confined person's right
677 of access to the health records if the administrator or chief medical officer has reasonable cause to
678 believe that such confined person has an infectious disease or other medical condition from which other
679 persons so confined need to be protected. Health records shall only be reviewed and shall not be copied
680 by such administrator or chief medical officer. The information in the health records of a person so
681 confined shall continue to be confidential and shall not be disclosed by the administrator or chief
682 medical officer of the facility to any person except the subject or except as provided by law.

683 Where the person who is the subject of health records is under the age of 18, his right of access
684 may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's
685 parental rights have been terminated, a court of competent jurisdiction has restricted or denied such
686 access, or a parent has been denied access to the health record in accordance with § 20-124.6. In
687 instances where the person who is the subject thereof is an emancipated minor, a student in a public

688 institution of higher education, or is a minor who has consented to his own treatment as authorized by §
689 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

690 For the purposes of this chapter, statistical summaries of incidents and statistical data concerning
691 abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and
692 Developmental Services shall be disclosed. No such summaries or data shall include any information
693 that identifies specific individuals receiving services.

694 2. Applications for admission to examinations or for licensure and scoring records maintained by
695 the Department of Health Professions or any board in that department on individual licensees or
696 applicants. ~~However, such material may be made available during normal working hours for copying, at
697 the requester's expense, by the individual who is the subject thereof, in the offices of the Department of
698 Health Professions or in the offices of any health regulatory board, whichever may possess the material;
699 information required to be provided to the Department of Health Professions by certain licensees
700 pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee
701 within the Department of Health Professions that identifies any practitioner who may be, or who is
702 actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to
703 the prescribing and dispensing of covered substances to recipients and any abstracts from such
704 information that are in the possession of the Prescription Monitoring Program (Program) pursuant to
705 Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of
706 the Program.~~

707 3. Reports, documentary evidence, and other information as specified in §§ 51.5-122, ~~and~~ 51.5-
708 141, ~~and 63.2-104 Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries~~
709 ~~required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.~~

710 4. Investigative notes; proprietary information not published, copyrighted or patented;
711 information obtained from employee personnel records; personally identifiable information regarding
712 residents, clients or other recipients of services; other correspondence and information furnished in
713 confidence to the Department of Social Services in connection with an active investigation of an
714 applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title

715 63.2; and information furnished to the Office of the Attorney General in connection with an
716 investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and
717 Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. ~~Information~~ However, nothing in this subdivision shall
718 prevent the disclosure of information from the records of completed investigations ~~shall be disclosed~~ in
719 a form that does not reveal the identity of complainants, persons supplying information, or other
720 individuals involved in the investigation.

721 5. Information collected for the designation and verification of trauma centers and other specialty
722 care centers within the Statewide Emergency Medical Services System and Services pursuant to Article
723 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

724 6. Reports and court documents relating to involuntary admission required to be kept confidential
725 pursuant to § 37.2-818.

726 7. ~~Data formerly required to be submitted to the Commissioner of Health relating to the~~
727 ~~establishment of new or the expansion of existing clinical health services, acquisition of major medical~~
728 ~~equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.~~
729 [Obsolete]

730 8. ~~Information required to be provided to the Department of Health Professions by certain~~
731 ~~licensees pursuant to § 54.1-2506.1.~~

732 9. ~~Information~~ acquired (i) during a review of any child death conducted by the State Child
733 Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review
734 team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any
735 death conducted by a family violence fatality review team to the extent that such information is made
736 confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted by the Adult Fatality
737 Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality
738 review team to the extent that such information is made confidential by § 32.1-283.6.

739 ~~10.~~ 8. Patient level data collected by the Board of Health and not yet processed, verified, and
740 released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the
741 Commissioner of Health has contracted pursuant to § 32.1-276.4.

742 ~~11. Information held by the Health Practitioners' Monitoring Program Committee within the~~
743 ~~Department of Health Professions that may identify any practitioner who may be, or who is actually,~~
744 ~~impaired and disclosure of such information is prohibited by § 54.1-2517.~~

745 ~~12-9.~~ Information relating to a grant application, or accompanying a grant application, submitted
746 to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.)
747 of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data
748 identifying individual patients or (b) proprietary business or research-related information produced or
749 collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative,
750 scientific, technical, or scholarly issues, when such information has not been publicly released,
751 published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

752 ~~13-10.~~ Any information copied, recorded, or received by the Commissioner of Health in the
753 course of an examination, investigation, or review of a managed care health insurance plan licensee
754 pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents,
755 and any or all computer or other recordings.

756 ~~14. Information and statistical registries required to be kept confidential pursuant to §§ 63.2-102~~
757 ~~and 63.2-104.~~

758 ~~15. Information relating to the prescribing and dispensing of covered substances to recipients and~~
759 ~~any abstracts from such information that are in the possession of the Prescription Monitoring Program~~
760 ~~pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or~~
761 ~~security of the Program.~~

762 ~~16-11.~~ Records of the Virginia Birth-Related Neurological Injury Compensation Program
763 required to be kept confidential pursuant to § 38.2-5002.2.

764 ~~17-12.~~ Information held by the State Health Commissioner relating to the health of any person
765 subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.)
766 of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to ~~authorize the~~
767 ~~withholding prevent the disclosure~~ of statistical summaries, abstracts, or other information in aggregate
768 form.

769 | ~~18-13.~~ The names and addresses or other contact information of persons receiving transportation
770 services from a state or local public body or its designee under Title II of the Americans with
771 Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families
772 (TANF) created under § 63.2-600.

773 | ~~19-14.~~ Information held by certain health care committees and entities that may be withheld
774 from discovery as privileged communications pursuant to § 8.01-581.17.

775 | **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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

780 | 1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-
781 132.4 or 62.1-134.1.

782 | 2. Financial statements not publicly available filed with applications for industrial development
783 financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

784 | 3. Proprietary information, voluntarily provided by private business pursuant to a promise of
785 confidentiality from a public body, used by the public body for business, trade, and tourism development
786 or retention; and memoranda, working papers, or other information related to businesses that are
787 considering locating or expanding in Virginia, prepared by a public body, where competition or
788 bargaining is involved and where disclosure of such information would adversely affect the financial
789 interest of the public body.

790 | 4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-
791 239 et seq.), as such Act existed prior to July 1, 1992.

792 | 5. Fisheries data that would permit identification of any person or vessel, except when required
793 by court order as specified in § 28.2-204.

794 | 6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost
795 projections provided to the Department of Rail and Public Transportation, provided such information is

796 exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other
797 laws administered by the Surface Transportation Board or the Federal Railroad Administration with
798 respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad
799 Administration.

800 7. Proprietary information related to inventory and sales, voluntarily provided by private energy
801 suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy
802 contingency planning purposes or for developing consolidated statistical information on energy supplies.

803 8. Confidential proprietary information furnished to the Board of Medical Assistance Services or
804 the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of
805 Chapter 10 of Title 32.1.

806 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue
807 and cost projections provided by a private transportation business to the Virginia Department of
808 Transportation and the Department of Rail and Public Transportation for the purpose of conducting
809 transportation studies needed to obtain grants or other financial assistance under the Transportation
810 Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such
811 information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce
812 Act or other laws administered by the Surface Transportation Board or the Federal Railroad
813 Administration with respect to data provided in confidence to the Surface Transportation Board and the
814 Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to
815 any wholly owned subsidiary of a public body.

816 10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade
817 secrets or proprietary information by any person in connection with a procurement transaction or by any
818 person who has submitted to a public body an application for prequalification to bid on public
819 construction projects in accordance with subsection B of § 2.2-4317.

820 11. a. Memoranda, staff evaluations, or other information prepared by the responsible public
821 entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of
822 proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-

823 Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such
824 information was made public prior to or after the execution of an interim or a comprehensive agreement,
825 § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public
826 entity would be adversely affected and (ii) the basis for the determination required in clause (i) is
827 documented in writing by the responsible public entity; and

828 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or
829 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§
830 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1
831 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in
832 the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity,
833 including balance sheets and financial statements, that are not generally available to the public through
834 regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if
835 such information was made public prior to the execution of an interim agreement or a comprehensive
836 agreement, the financial interest or bargaining position of the public or private entity would be adversely
837 affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the
838 provisions of this chapter, the private entity shall make a written request to the responsible public entity:

839 (1) Invoking such exclusion upon submission of the data or other materials for which protection
840 from disclosure is sought;

841 (2) Identifying with specificity the data or other materials for which protection is sought; and

842 (3) Stating the reasons why protection is necessary.

843 The responsible public entity shall determine whether the requested exclusion from disclosure is
844 necessary to protect the trade secrets or financial information of the private entity. To protect other
845 information submitted by the private entity from disclosure, the responsible public entity shall determine
846 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement
847 would adversely affect the financial interest or bargaining position of the public or private entity. The
848 responsible public entity shall make a written determination of the nature and scope of the protection to
849 be afforded by the responsible public entity under this subdivision. Once a written determination is made

850 by the responsible public entity, the information afforded protection under this subdivision shall
851 continue to be protected from disclosure when in the possession of any affected jurisdiction or affected
852 local jurisdiction.

853 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed
854 to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b)
855 information concerning the terms and conditions of any interim or comprehensive agreement, service
856 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity
857 and the private entity; (c) information concerning the terms and conditions of any financing arrangement
858 that involves the use of any public funds; or (d) information concerning the performance of any private
859 entity developing or operating a qualifying transportation facility or a qualifying project.

860 For the purposes of this subdivision, the terms "affected jurisdiction, " "affected local
861 jurisdiction, " "comprehensive agreement, " "interim agreement, " "qualifying project, " "qualifying
862 transportation facility, " "responsible public entity, " and "private entity" shall mean the same as those
863 terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-
864 Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

865 12. Confidential proprietary information or trade secrets, not publicly available, provided by a
866 private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or
867 to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia
868 Resources Authority where, if such information were made public, the financial interest of the private
869 person or entity would be adversely affected.

870 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or
871 confidential proprietary information that is not generally available to the public through regulatory
872 disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under
873 Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a
874 promise of confidentiality from the franchising authority, to the extent the information relates to the
875 bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new
876 technologies or implementation of improvements, where such new services, technologies, or

877 improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise
878 area, and where, if such information were made public, the competitive advantage or financial interests
879 of the franchisee would be adversely affected.

880 In order for trade secrets or confidential proprietary information to be excluded from the
881 provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon
882 submission of the data or other materials for which protection from disclosure is sought, (b) identify the
883 data or other materials for which protection is sought, and (c) state the reason why protection is
884 necessary.

885 No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the
886 bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the
887 applicable franchising authority serves on the management board or as an officer of the bidder,
888 applicant, or franchisee.

889 14. Information of a proprietary nature furnished by a supplier of charitable gaming supplies to
890 the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

891 15. Information related to Virginia apple producer sales provided to the Virginia State Apple
892 Board pursuant to § 3.2-1215.

893 16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1,
894 submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery
895 Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

896 17. Information relating to a grant or loan application, or accompanying a grant or loan
897 application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-
898 2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to
899 Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal
900 proprietary business or research-related information produced or collected by the applicant in the
901 conduct of or as a result of study or research on medical, rehabilitative, scientific, technical,
902 technological, or scholarly issues, when such information has not been publicly released, published,
903 copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

904 18. Confidential proprietary information and trade secrets developed and held by a local public
905 body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable
906 television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if
907 disclosure of such information would be harmful to the competitive position of the locality.

908 In order for confidential proprietary information or trade secrets to be excluded from the
909 provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b)
910 identify with specificity the information for which protection is sought, and (c) state the reasons why
911 protection is necessary. However, the exemption provided by this subdivision shall not apply to any
912 authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

913 19. Confidential proprietary information and trade secrets developed by or for a local authority
914 created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to
915 provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of
916 Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive
917 position of the authority, except that information required to be maintained in accordance with § 15.2-
918 2160 shall be released.

919 20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial
920 information of a business, including balance sheets and financial statements, that are not generally
921 available to the public through regulatory disclosure or otherwise, provided to the Department of Small
922 Business and Supplier Diversity as part of an application for certification as a small, women-owned, or
923 minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade
924 secrets or financial information to be excluded from the provisions of this chapter, the business shall (i)
925 invoke such exclusion upon submission of the data or other materials for which protection from
926 disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state
927 the reasons why protection is necessary.

928 21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health
929 Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

930 22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including,
931 but not limited to, financial information, including balance sheets and financial statements, that are not
932 generally available to the public through regulatory disclosure or otherwise, and revenue and cost
933 projections supplied by a private or nongovernmental entity to the State Inspector General for the
934 purpose of an audit, special investigation, or any study requested by the Office of the State Inspector
935 General in accordance with law.

936 In order for the information specified in this subdivision to be excluded from the provisions of
937 this chapter, the private or nongovernmental entity shall make a written request to the State Inspector
938 General:

- 939 a. Invoking such exclusion upon submission of the data or other materials for which protection
940 from disclosure is sought;
- 941 b. Identifying with specificity the data or other materials for which protection is sought; and
- 942 c. Stating the reasons why protection is necessary.

943 The State Inspector General shall determine whether the requested exclusion from disclosure is
944 necessary to protect the trade secrets or financial information of the private entity. The State Inspector
945 General shall make a written determination of the nature and scope of the protection to be afforded by it
946 under this subdivision.

947 23. Information relating to a grant application, or accompanying a grant application, submitted to
948 the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the
949 Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not
950 a public body, including balance sheets and financial statements, that are not generally available to the
951 public through regulatory disclosure or otherwise, or (c) research-related information produced or
952 collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative,
953 scientific, technical, technological, or scholarly issues, when such information has not been publicly
954 released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the
955 applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its
956 staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision

957 shall apply to grants that are consistent with the powers of and in furtherance of the performance of the
958 duties of the Commission pursuant to § 3.2-3103.

959 In order for the information specified in this subdivision to be excluded from the provisions of
960 this chapter, the applicant shall make a written request to the Commission:

961 a. Invoking such exclusion upon submission of the data or other materials for which protection
962 from disclosure is sought;

963 b. Identifying with specificity the data, information or other materials for which protection is
964 sought; and

965 c. Stating the reasons why protection is necessary.

966 The Commission shall determine whether the requested exclusion from disclosure is necessary to
967 protect the trade secrets, financial information, or research-related information of the applicant. The
968 Commission shall make a written determination of the nature and scope of the protection to be afforded
969 by it under this subdivision.

970 24. a. Information held by the Commercial Space Flight Authority relating to rate structures or
971 charges for the use of projects of, the sale of products of, or services rendered by the Authority if
972 disclosure of such information would adversely affect the financial interest or bargaining position of the
973 Authority or a private entity providing the information to the Authority; or

974 b. Information provided by a private entity to the Commercial Space Flight Authority if
975 disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the
976 Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including
977 balance sheets and financial statements, that are not generally available to the public through regulatory
978 disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect
979 the financial interest or bargaining position of the Authority or private entity.

980 In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be
981 excluded from the provisions of this chapter, the private entity shall make a written request to the
982 Authority:

983 (1) Invoking such exclusion upon submission of the data or other materials for which protection
984 from disclosure is sought;

985 (2) Identifying with specificity the data or other materials for which protection is sought; and

986 (3) Stating the reasons why protection is necessary.

987 The Authority shall determine whether the requested exclusion from disclosure is necessary to
988 protect the trade secrets or financial information of the private entity. To protect other information
989 submitted by the private entity from disclosure, the Authority shall determine whether public disclosure
990 would adversely affect the financial interest or bargaining position of the Authority or private entity. The
991 Authority shall make a written determination of the nature and scope of the protection to be afforded by
992 it under this subdivision.

993 25. Information of a proprietary nature furnished by an agricultural landowner or operator to the
994 Department of Conservation and Recreation, the Department of Environmental Quality, the Department
995 of Agriculture and Consumer Services, or any political subdivision, agency, or board of the
996 Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part
997 of a state or federal regulatory enforcement action.

998 26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to
999 the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such
1000 trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this
1001 exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii)
1002 identify the data or materials for which protection is sought, and (iii) state the reasons why protection is
1003 necessary.

1004 27. Information of a proprietary nature furnished by a licensed public-use airport to the
1005 Department of Aviation for funding from programs administered by the Department of Aviation or the
1006 Virginia Aviation Board, where if such information was made public, the financial interest of the public-
1007 use airport would be adversely affected.

1008 In order for the information specified in this subdivision to be excluded from the provisions of
1009 this chapter, the public-use airport shall make a written request to the Department of Aviation:

- 1010 a. Invoking such exclusion upon submission of the data or other materials for which protection
1011 from disclosure is sought;
- 1012 b. Identifying with specificity the data or other materials for which protection is sought; and
- 1013 c. Stating the reasons why protection is necessary.

1014 28. Records submitted as a grant or loan application, or accompanying a grant or loan
1015 application, for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-
1016 3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records contain proprietary business or
1017 research-related information produced or collected by the applicant in the conduct of or as a result of
1018 study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when
1019 such information has not been publicly released, published, copyrighted, or patented, if the disclosure of
1020 such information would be harmful to the competitive position of the applicant.

1021 29. Information contained in engineering and construction drawings and plans submitted for the
1022 sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such
1023 information would identify specific trade secrets or other information that would be harmful to the
1024 competitive position of the owner or lessee. However, such information shall be exempt only until the
1025 building is completed. Information relating to the safety or environmental soundness of any building
1026 shall not be exempt from disclosure.

1027 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and**
1028 **certain other limited exclusions.**

1029 The following information contained in a public record is excluded from the mandatory
1030 disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except
1031 where such disclosure is prohibited by law. Redaction of information excluded under this section from a
1032 public record shall be conducted in accordance with § 2.2-3704.01.

- 1033 1. State income, business, and estate tax returns, personal property tax returns, and confidential
1034 records held pursuant to § 58.1-3.
- 1035 2. Working papers ~~and correspondence~~ of the Office of the Governor; the Lieutenant Governor;
1036 or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or

1037 the Clerks of the House of Delegates ~~and or~~ the Senate of Virginia; the mayor or chief executive officer
1038 of any political subdivision of the Commonwealth; or the president or other chief executive officer of
1039 any public institution of higher education in Virginia. However, no information that is otherwise open to
1040 inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to
1041 or incorporated within any working paper ~~or correspondence~~. Further, information publicly available or
1042 not otherwise subject to an exclusion under this chapter or other provision of law that has been
1043 aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed
1044 working papers. Nothing in this subdivision shall be construed to authorize the withholding of any
1045 resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106
1046 or 2.2-107.

1047 As used in this subdivision:

1048 "Members of the General Assembly" means each member of the Senate of Virginia and the
1049 House of Delegates and their legislative aides when working on behalf of such member.

1050 "Office of the Governor" means the Governor; ~~his~~ the Governor's chief of staff, counsel, director
1051 of policy, and Cabinet Secretaries, ~~and; the~~ Assistant to the Governor for Intergovernmental Affairs; and
1052 those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

1053 "Working papers" means those records prepared by or for ~~an above-named a~~ public official
1054 identified in this subdivision for his personal or deliberative use.

1055 3. Information contained in library records that can be used to identify both (i) any library patron
1056 who has borrowed material from a library and (ii) the material such patron borrowed.

1057 4. Contract cost estimates prepared for the confidential use of the Department of Transportation
1058 in awarding contracts for construction or the purchase of goods or services, and records and automated
1059 systems prepared for the Department's Bid Analysis and Monitoring Program.

1060 5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,
1061 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by
1062 the political subdivision.

1063 6. Information furnished by a member of the General Assembly to a meeting of a standing
1064 committee, special committee, or subcommittee of his house established solely for the purpose of
1065 reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of
1066 formulating advisory opinions to members on standards of conduct, or both.

1067 7. Customer account information of a public utility affiliated with a political subdivision of the
1068 Commonwealth, including the customer's name and service address, but excluding the amount of utility
1069 service provided and the amount of money [charged or](#) paid for such utility service.

1070 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing
1071 Development Authority concerning individuals who have applied for or received loans or other housing
1072 assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise
1073 assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or
1074 persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local
1075 redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or
1076 persons on the waiting list for housing assistance programs funded by local governments or by any such
1077 authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or
1078 any other local government agency concerning persons who have applied for occupancy or who have
1079 occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access
1080 to one's own information shall not be denied.

1081 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-
1082 1441, if disclosure of such information would have a detrimental effect upon the negotiating position of
1083 a governing body or on the establishment of the terms, conditions, and provisions of the siting
1084 agreement.

1085 10. Information on the site-specific location of rare, threatened, endangered, or otherwise
1086 imperiled plant and animal species, natural communities, caves, and significant historic and
1087 archaeological sites if, in the opinion of the public body that has the responsibility for such information,
1088 disclosure of the information would jeopardize the continued existence or the integrity of the resource.
1089 This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

1090 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a
1091 proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a
1092 specific lottery game design, development, production, operation, ticket price, prize structure, manner of
1093 selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of
1094 drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such
1095 information not been publicly released, published, copyrighted, or patented. Whether released,
1096 published, or copyrighted, all game-related information shall be subject to public disclosure under this
1097 chapter upon the first day of sales for the specific lottery game to which it pertains.

1098 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a
1099 local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
1100 a trust established by one or more local public bodies to invest funds for post-retirement benefits other
1101 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the
1102 Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Virginia
1103 College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition
1104 of a security or other ownership interest in an entity, where such security or ownership interest is not
1105 traded on a governmentally regulated securities exchange, if disclosure of such information would (i)
1106 reveal confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared
1107 by the retirement system, a local finance board or board of trustees, or the Virginia College Savings
1108 Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia
1109 College Savings Plan under a promise of confidentiality of the future value of such ownership interest or
1110 the future financial performance of the entity and (ii) have an adverse effect on the value of the
1111 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board
1112 of trustees, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan.
1113 Nothing in this subdivision shall be construed to ~~authorize the withholding prevent the disclosure~~
1114 information relating to the identity of any investment held, the amount invested, or the present value of
1115 such investment.

1116 13. ~~Names and addresses of subscribers to Virginia Wildlife magazine, published by the~~
1117 ~~Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing~~
1118 ~~that the Department not release such information.~~

1119 14. Financial, medical, rehabilitative, and other personal information concerning applicants for
1120 or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
1121 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

1122 ~~15.~~ 14. Information held by the Virginia Commonwealth University Health System Authority
1123 pertaining to any of the following: an individual's qualifications for or continued membership on its
1124 medical or teaching staffs; proprietary information gathered by or in the possession of the Authority
1125 from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for
1126 confidential use in awarding contracts for construction or the purchase of goods or services; information
1127 of a proprietary nature produced or collected by or for the Authority or members of its medical or
1128 teaching staffs; financial statements not publicly available that may be filed with the Authority from
1129 third parties; the identity, accounts, or account status of any customer of the Authority; consulting or
1130 other reports paid for by the Authority to assist the Authority in connection with its strategic planning
1131 and goals; the determination of marketing and operational strategies where disclosure of such strategies
1132 would be harmful to the competitive position of the Authority; and information of a proprietary nature
1133 produced or collected by or for employees of the Authority, other than the Authority's financial or
1134 administrative records, in the conduct of or as a result of study or research on medical, scientific,
1135 technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
1136 governmental body or a private concern, when such information has not been publicly released,
1137 published, copyrighted, or patented. This exclusion shall also apply when such information is in the
1138 possession of Virginia Commonwealth University.

1139 ~~16.~~ 15. Information held by the Department of Environmental Quality, the State Water Control
1140 Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i)
1141 active federal environmental enforcement actions that are considered confidential under federal law and
1142 (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such

1143 information shall be disclosed after a proposed sanction resulting from the investigation has been
1144 proposed to the director of the agency. This subdivision shall not be construed to ~~authorize the~~
1145 ~~withholding prevent the disclosure~~ of information related to inspection reports, notices of violation, and
1146 documents detailing the nature of any environmental contamination that may have occurred or similar
1147 documents.

1148 ~~17-16.~~ Information related to the operation of toll facilities that identifies an individual, vehicle,
1149 or travel itinerary, including vehicle identification data or vehicle enforcement system information;
1150 video or photographic images; Social Security or other identification numbers appearing on driver's
1151 licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or
1152 time of toll facility use.

1153 ~~18-17.~~ Information held by the Virginia Lottery pertaining to (i) the social security number, tax
1154 identification number, state sales tax number, home address and telephone number, personal and lottery
1155 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
1156 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,
1157 hometown, and amount won shall be disclosed.

1158 ~~19-18.~~ Information held by the Board for Branch Pilots relating to the chemical or drug testing
1159 of a person regulated by the Board, where such person has tested negative or has not been the subject of
1160 a disciplinary action by the Board for a positive test result.

1161 ~~20-19.~~ Information pertaining to the planning, scheduling, and performance of examinations of
1162 holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.)
1163 prepared by or for the State Treasurer or his agents or employees or persons employed to perform an
1164 audit or examination of holder records.

1165 ~~21-20.~~ Information held by the Virginia Department of Emergency Management or a local
1166 governing body relating to citizen emergency response teams established pursuant to an ordinance of a
1167 local governing body that reveal the name, address, including e-mail address, telephone or pager
1168 numbers, or operating schedule of an individual participant in the program.

1169 | 22-21. Information held by state or local park and recreation departments and local and regional
1170 | park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
1171 | subdivision shall operate to ~~authorize the withholding~~ prevent the disclosure of information defined as
1172 | directory information under regulations implementing the Family Educational Rights and Privacy Act,
1173 | 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out
1174 | requirements provided by such regulations. Access shall not be denied to the parent, including a
1175 | noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated
1176 | or a court of competent jurisdiction has restricted or denied such access. For such information of persons
1177 | who are emancipated, the right of access may be asserted by the subject thereof. Any parent or
1178 | emancipated person who is the subject of the information may waive, in writing, the protections
1179 | afforded by this subdivision. If the protections are so waived, the public body shall open such
1180 | information for inspection and copying.

1181 | 23-22. Information submitted for inclusion in the Statewide Alert Network administered by the
1182 | Department of Emergency Management that reveal names, physical addresses, email addresses,
1183 | computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable
1184 | communications device information, or operating schedules of individuals or agencies, where the release
1185 | of such information would compromise the security of the Statewide Alert Network or individuals
1186 | participating in the Statewide Alert Network.

1187 | 24-23. Information held by the Judicial Inquiry and Review Commission made confidential by §
1188 | 17.1-913.

1189 | 25-24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a
1190 | local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the
1191 | retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

1192 | a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings
1193 | Plan on the pursuit of particular investment strategies, or the selection or termination of investment
1194 | managers, prior to the execution of such investment strategies or the selection or termination of such

1195 managers, if disclosure of such information would have an adverse impact on the financial interest of the
1196 retirement system or the Virginia College Savings Plan; and

1197 b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a
1198 private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records
1199 would have an adverse impact on the financial interest of the retirement system or the Virginia College
1200 Savings Plan.

1201 For the records specified in subdivision b to be excluded from the provisions of this chapter, the
1202 entity shall make a written request to the retirement system or the Virginia College Savings Plan:

1203 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which
1204 protection from disclosure is sought;

1205 (2) Identifying with specificity the data or other materials for which protection is sought; and

1206 (3) Stating the reasons why protection is necessary.

1207 The retirement system or the Virginia College Savings Plan shall determine whether the
1208 requested exclusion from disclosure meets the requirements set forth in subdivision b.

1209 Nothing in this subdivision shall be construed to ~~authorize the withholding~~ prevent the disclosure
1210 of the identity or amount of any investment held or the present value and performance of all asset classes
1211 and subclasses.

1212 ~~26-25.~~ Information held by the Department of Corrections made confidential by § 53.1-233.

1213 ~~27-26.~~ Information maintained by the Department of the Treasury or participants in the Local
1214 Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the
1215 Department to establish accounts in accordance with § 2.2-4602.

1216 ~~28-27.~~ Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center
1217 Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care
1218 Centers, except that access shall not be denied to the person who is the subject of the information.

1219 ~~29-28.~~ Information maintained in connection with fundraising activities by the Veterans Services
1220 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or
1221 telephone number, social security number or other identification number appearing on a driver's license,

1222 or credit card or bank account data of identifiable donors, except that access shall not be denied to the
1223 person who is the subject of the information. Nothing in this subdivision, however, shall be construed to
1224 ~~authorize the withholding prevent the disclosure~~ of information relating to the amount, date, purpose,
1225 and terms of the pledge or donation or the identity of the donor, unless the donor has requested
1226 anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided
1227 by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing
1228 grants to or contracting with the foundation for the performance of services or other work or (ii) the
1229 terms and conditions of such grants or contracts.

1230 ~~30. Names, physical addresses, telephone numbers, and email addresses contained in~~
1231 ~~correspondence between an individual and a member of the governing body, school board, or other~~
1232 ~~public body of the locality in which the individual is a resident, unless the correspondence relates to the~~
1233 ~~transaction of public business. However, no information that is otherwise open to inspection under this~~
1234 ~~chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within~~
1235 ~~any such correspondence.~~

1236 ~~31. 29.~~ Information prepared for and utilized by the Commonwealth's Attorneys' Services
1237 Council in the training of state prosecutors or law-enforcement personnel, where such information is not
1238 otherwise available to the public and the disclosure of such information would reveal confidential
1239 strategies, methods, or procedures to be employed in law-enforcement activities or materials created for
1240 the investigation and prosecution of a criminal case.

1241 ~~32. 30.~~ Information provided to the Department of Aviation by other entities of the
1242 Commonwealth in connection with the operation of aircraft where the information would not be subject
1243 to disclosure by the entity providing the information. The entity providing the information to the
1244 Department of Aviation shall identify the specific information to be protected and the applicable
1245 provision of this chapter that excludes the information from mandatory disclosure.

1246 ~~33. 31.~~ Information created or maintained by or on the behalf of the judicial performance
1247 evaluation program related to an evaluation of any individual justice or judge made confidential by §
1248 17.1-100.

1249 ~~34. (Effective July 1, 2018) Information held by the Virginia Alcoholic Beverage Control~~
1250 ~~Authority that contains (i) information of a proprietary nature gathered by or in the possession of the~~
1251 ~~Authority from a private entity pursuant to a promise of confidentiality; (ii) trade secrets, as defined in~~
1252 ~~the Uniform Trade Secrets Act (§ 59.1-336 et seq.), of any private entity; (iii) financial information of a~~
1253 ~~private entity, including balance sheets and financial statements, that are not generally available to the~~
1254 ~~public through regulatory disclosure or otherwise; (iv) contract cost estimates prepared for the (a)~~
1255 ~~confidential use in awarding contracts for construction or (b) purchase of goods or services; or (v) the~~
1256 ~~determination of marketing and operational strategies where disclosure of such strategies would be~~
1257 ~~harmful to the competitive position of the Authority.~~

1258 ~~In order for the information identified in clauses (i), (ii), or (iii) to be excluded from the~~
1259 ~~provisions of this chapter, the private entity shall make a written request to the Authority:~~

1260 ~~a. Invoking such exclusion upon submission of the data or other materials for which protection~~
1261 ~~from disclosure is sought;~~

1262 ~~b. Identifying with specificity the data or other materials for which protection is sought; and~~

1263 ~~c. Stating the reasons why protection is necessary.~~

1264 ~~The Authority shall determine whether the requested exclusion from disclosure is necessary to~~
1265 ~~protect such information of the private entity. The Authority shall make a written determination of the~~
1266 ~~nature and scope of the protection to be afforded by it under this subdivision.~~

1267 ~~35. 32. Information reflecting the substance of meetings in which individual sexual assault cases~~
1268 ~~are discussed by any sexual assault team established pursuant to § 15.2-1627.4. The findings of the team~~
1269 ~~may be disclosed or published in statistical or other aggregated form that does not disclose the identity~~
1270 ~~of specific individuals.~~

1271 **§ 2.2-3705.8. Limitation on record exclusions.**

1272 ~~A. Neither any provision of this chapter nor any provision of Chapter 38 (§ 2.2-3800 et seq.) of~~
1273 ~~this title shall be construed as denying public access to (i) contracts between a public body and its~~
1274 ~~officers or employees, other than contracts settling public employee employment disputes held~~
1275 ~~confidential as personnel records under § 2.2-3705.1; (ii) records of the position, job classification,~~

~~official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees.~~

~~The provisions of this subsection, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.~~

~~B.~~ Nothing in this chapter shall be construed as denying public access to the nonexempt portions of a report of a consultant hired by or at the request of a local public body or the mayor or chief executive or administrative officer of such public body if (i) the contents of such report have been distributed or disclosed to members of the local public body or (ii) the local public body has scheduled any action on a matter that is the subject of the consultant's report.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any Virginia public institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be

1303 permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if
1304 such student, parents, or guardians so request in writing and such request is submitted to the presiding
1305 officer of the appropriate board.

1306 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
1307 disposition of publicly held real property, where discussion in an open meeting would adversely affect
1308 the bargaining position or negotiating strategy of the public body.

1309 4. The protection of the privacy of individuals in personal matters not related to public business.

1310 5. Discussion concerning a prospective business or industry or the expansion of an existing
1311 business or industry where no previous announcement has been made of the business' or industry's
1312 interest in locating or expanding its facilities in the community.

1313 6. Discussion or consideration of the investment of public funds where competition or bargaining
1314 is involved, where, if made public initially, the financial interest of the governmental unit would be
1315 adversely affected.

1316 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to
1317 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect
1318 the negotiating or litigating posture of the public body; and consultation with legal counsel employed or
1319 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
1320 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been
1321 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe
1322 will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit
1323 the closure of a meeting merely because an attorney representing the public body is in attendance or is
1324 consulted on a matter.

1325 8. In the case of boards of visitors of public institutions of higher education, discussion or
1326 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
1327 for services or work to be performed by such institution. However, the terms and conditions of any such
1328 gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign
1329 person and accepted by a public institution of higher education in Virginia shall be subject to public

1330 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
1331 (i) "foreign government" means any government other than the United States government or the
1332 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity
1333 created under the laws of the United States or of any state thereof if a majority of the ownership of the
1334 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
1335 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal
1336 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual
1337 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

1338 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia
1339 Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of
1340 Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

1341 10. Discussion or consideration of honorary degrees or special awards.

1342 11. Discussion or consideration of tests, examinations, or other information excluded from this
1343 chapter pursuant to subdivision 4 of § 2.2-3705.1.

1344 12. Discussion, consideration, or review by the appropriate House or Senate committees of
1345 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure
1346 statement filed by the member, provided the member may request in writing that the committee meeting
1347 not be conducted in a closed meeting.

1348 13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement
1349 or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the
1350 governing body in open meeting finds that an open meeting will have an adverse effect upon the
1351 negotiating position of the governing body or the establishment of the terms, conditions and provisions
1352 of the siting agreement, or both. All discussions with the applicant or its representatives may be
1353 conducted in a closed meeting.

1354 14. Discussion by the Governor and any economic advisory board reviewing forecasts of
1355 economic activity and estimating general and nongeneral fund revenues.

1356 15. Discussion or consideration of medical and mental health records excluded from this chapter
1357 pursuant to subdivision 1 of § 2.2-3705.5.

1358 16. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant
1359 to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent;
1360 and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
1361 information and studies or investigations exempted from disclosure under subdivision 6 of § 2.2-3705.3
1362 and subdivision 11 of § 2.2-3705.7.

1363 17. Those portions of meetings by local government crime commissions where the identity of, or
1364 information tending to identify, individuals providing information about crimes or criminal activities
1365 under a promise of anonymity is discussed or disclosed.

1366 18. Those portions of meetings in which the Board of Corrections discusses or discloses the
1367 identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
1368 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
1369 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
1370 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

1371 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
1372 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-
1373 enforcement or emergency service officials concerning actions taken to respond to such matters or a
1374 related threat to public safety; discussion of information excluded from this chapter pursuant to
1375 subdivision ~~3 or 4~~ 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the
1376 safety of any person or the security of any facility, building, structure, information technology system,
1377 or software program; or discussion of reports or plans related to the security of any governmental
1378 facility, building or structure, or the safety of persons using such facility, building or structure.

1379 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-
1380 124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or
1381 board of trustees of a trust established by one or more local public bodies to invest funds for
1382 postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of

1383 | [Chapter 15 of Title 15.2](#), or ~~of~~ [by](#) the Rector and Visitors of the University of Virginia, acting pursuant to
1384 | § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706,
1385 | regarding the acquisition, holding or disposition of a security or other ownership interest in an entity,
1386 | where such security or ownership interest is not traded on a governmentally regulated securities
1387 | exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector
1388 | and Visitors of the University of Virginia, prepared by the retirement system, [or a local finance board or](#)
1389 | [board of trustees](#), or ~~by~~ the Virginia College Savings Plan or provided to the retirement system, [a local](#)
1390 | [finance board or board of trustees](#), or the Virginia College Savings Plan under a promise of
1391 | confidentiality, of the future value of such ownership interest or the future financial performance of the
1392 | entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or
1393 | disposed of by the retirement system, [a local finance board or board of trustees](#), the Rector and Visitors
1394 | of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
1395 | construed to prevent the disclosure of information relating to the identity of any investment held, the
1396 | amount invested or the present value of such investment.

1397 | 21. Those portions of meetings in which individual child death cases are discussed by the State
1398 | Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which
1399 | individual child death cases are discussed by a regional or local child fatality review team established
1400 | pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
1401 | family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
1402 | which individual adult death cases are discussed by the state Adult Fatality Review Team established
1403 | pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are
1404 | discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

1405 | 22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern
1406 | Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
1407 | persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
1408 | Virginia Medical School, as the case may be, have been delegated, in which there is discussed
1409 | proprietary, business-related information pertaining to the operations of the University of Virginia

1410 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
1411 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
1412 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
1413 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
1414 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
1415 Medical School, as the case may be.

1416 23. In the case of the Virginia Commonwealth University Health System Authority, discussion
1417 or consideration of any of the following: the acquisition or disposition of real or personal property where
1418 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;
1419 operational plans that could affect the value of such property, real or personal, owned or desirable for
1420 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
1421 contracts for services or work to be performed by the Authority; marketing or operational strategies
1422 where disclosure of such strategies would adversely affect the competitive position of the Authority;
1423 members of its medical and teaching staffs and qualifications for appointments thereto; and
1424 qualifications or evaluations of other employees. This exclusion shall also apply when the foregoing
1425 discussions occur at a meeting of the Virginia Commonwealth University Board of Visitors.

1426 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee
1427 within the Department of Health Professions to the extent such discussions identify any practitioner who
1428 may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1429 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
1430 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
1431 by or on behalf of individuals who have requested information about, applied for, or entered into prepaid
1432 tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title
1433 23.1 is discussed.

1434 26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee
1435 created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-

1436 336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of
1437 wireless E-911 service.

1438 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
1439 Professional and Occupational Regulation, Department of Health Professions, or the Board of
1440 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
1441 a decision or meetings of health regulatory boards or conference committees of such boards to consider
1442 settlement proposals in pending disciplinary actions or modifications to previously issued board orders
1443 as requested by either of the parties.

1444 28. Discussion or consideration of information excluded from this chapter pursuant to
1445 subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as
1446 those terms are defined in § 33.2-1800, or any independent review panel appointed to review
1447 information and advise the responsible public entity concerning such records.

1448 29. Discussion of the award of a public contract involving the expenditure of public funds,
1449 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
1450 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
1451 the public body.

1452 30. Discussion or consideration of grant or loan application information excluded from this
1453 chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or
1454 (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology
1455 Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment
1456 Authority.

1457 31. Discussion or consideration by the Commitment Review Committee of information excluded
1458 from this chapter pursuant to subdivision ~~8~~5 of § 2.2-3705.2 relating to individuals subject to
1459 commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

1460 32. [Expired.]

1461 33. Discussion or consideration of confidential proprietary information and trade secrets
1462 excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption

1463 provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act
1464 (§ 15.2-7200 et seq.).

1465 34. Discussion or consideration by a local authority created in accordance with the Virginia
1466 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and
1467 trade secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

1468 35. Discussion or consideration by the State Board of Elections or local electoral boards of
1469 voting security matters made confidential pursuant to § 24.2-625.1.

1470 36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory
1471 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records
1472 excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

1473 37. Discussion or consideration by the Brown v. Board of Education Scholarship Program
1474 Awards Committee of information or confidential matters excluded from this chapter pursuant to
1475 subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual
1476 maximum scholarship award, review and consider scholarship applications and requests for scholarship
1477 award renewal, and cancel, rescind, or recover scholarship awards.

1478 38. Discussion or consideration by the Virginia Port Authority of information excluded from this
1479 chapter pursuant to subdivision 1 of § 2.2-3705.6.

1480 39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System
1481 acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-
1482 124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia
1483 College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's
1484 Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this
1485 chapter pursuant to subdivision ~~25~~ 24 of § 2.2-3705.7.

1486 40. Discussion or consideration of information excluded from this chapter pursuant to
1487 subdivision 3 of § 2.2-3705.6.

1488 41. Discussion or consideration by the Board of Education of information relating to the denial,
1489 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision ~~12~~ 11 of
1490 § 2.2-3705.3.

1491 42. Those portions of meetings of the Virginia Military Advisory Council or any commission
1492 created by executive order for the purpose of studying and making recommendations regarding
1493 preventing closure or realignment of federal military and national security installations and facilities
1494 located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs
1495 organization appointed by a local governing body, during which there is discussion of information
1496 excluded from this chapter pursuant to subdivision ~~11~~ 8 of § 2.2-3705.2.

1497 43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
1498 information excluded from this chapter pursuant to subdivision ~~29~~ 28 of § 2.2-3705.7.

1499 44. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
1500 information excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

1501 45. Discussion or consideration by the board of directors of the Commercial Space Flight
1502 Authority of information excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.

1503 46. Discussion or consideration of personal and proprietary information that are excluded from
1504 the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of §
1505 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
1506 information that has been certified for release by the person who is the subject of the information or
1507 transformed into a statistical or aggregate form that does not allow identification of the person who
1508 supplied, or is the subject of, the information.

1509 47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia
1510 Alcoholic Beverage Control Authority of information excluded from this chapter pursuant to subdivision
1511 1 of § 2.2-3705.3 ~~or subdivision 34 of § 2.2-3705.7~~.

1512 48. Discussion or consideration of grant or loan application records excluded from this chapter
1513 pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from

1514 the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title
1515 23.1.

1516 49. Discussion or development of grant proposals by a regional council established pursuant to
1517 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth
1518 and Opportunity Board.

1519 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
1520 closed meeting shall become effective unless the public body, following the meeting, reconvenes in
1521 open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract,
1522 regulation, or motion that shall have its substance reasonably identified in the open meeting.

1523 C. Public officers improperly selected due to the failure of the public body to comply with the
1524 other provisions of this section shall be de facto officers and, as such, their official actions are valid until
1525 they obtain notice of the legal defect in their election.

1526 D. Nothing in this section shall be construed to prevent the holding of conferences between two
1527 or more public bodies, or their representatives, but these conferences shall be subject to the same
1528 procedures for holding closed meetings as are applicable to any other public body.

1529 E. This section shall not be construed to (i) require the disclosure of any contract between the
1530 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§
1531 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to
1532 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered
1533 to issue industrial revenue bonds by general or special law, to identify a business or industry to which
1534 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public
1535 record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such
1536 bonds.

1537 **§ 2.2-3714. Violations and penalties.**

1538 In a proceeding commenced against any officer, employee, or member of a public body under §
1539 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through ~~2.2-3705.8~~ [2.2-3705.7](#), 2.2-3706, 2.2-3707,
1540 2.2-3708, 2.2-3708.1, 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully

1541 and knowingly made, shall impose upon such officer, employee, or member in his individual capacity,
1542 whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500
1543 nor more than \$2,000, which amount shall be paid into the State Literary Fund. For a second or
1544 subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

1545 **§ 2.2-3806. Rights of data subjects.**

1546 A. Any agency maintaining personal information shall:

1547 1. Inform an individual who is asked to supply personal information about himself whether he is
1548 legally required, or may refuse, to supply the information requested, and also of any specific
1549 consequences that are known to the agency of providing or not providing the information.

1550 2. Give notice to a data subject of the possible dissemination of part or all of this information to
1551 another agency, nongovernmental organization or system not having regular access authority, and
1552 indicate the use for which it is intended, and the specific consequences for the individual, which are
1553 known to the agency, of providing or not providing the information. However documented permission
1554 for dissemination in the hands of the other agency or organization shall satisfy the requirement of this
1555 subdivision. The notice may be given on applications or other data collection forms prepared by data
1556 subjects.

1557 3. Upon request and proper identification of any data subject, or of his authorized agent, grant
1558 the data subject or agent the right to inspect, in a form comprehensible to him:

1559 a. All personal information about that data subject except as provided in subdivision 1 of § 2.2-
1560 3705.1, subdivision 1 of § 2.2-3705.4, and subdivision 1 of § 2.2-3705.5.

1561 b. The nature of the sources of the information.

1562 c. The names of recipients, other than those with regular access authority, of personal
1563 information about the data subject including the identity of all persons and organizations involved and
1564 their relationship to the system when not having regular access authority, except that if the recipient has
1565 obtained the information as part of an ongoing criminal investigation such that disclosure of the
1566 investigation would jeopardize law-enforcement action, then no disclosure of such access shall be made
1567 to the data subject.

1568 4. Comply with the following minimum conditions of disclosure to data subjects:

1569 a. An agency shall make disclosures to data subjects required under this chapter, during normal
1570 business hours, in accordance with the procedures set forth in subsections B and C of § 2.2-3704 for
1571 responding to requests under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or within a
1572 time period as may be mutually agreed upon by the agency and the data subject.

1573 b. The disclosures to data subjects required under this chapter shall be made (i) in person, if he
1574 appears in person and furnishes proper identification, or (ii) by mail, if he has made a written request,
1575 with proper identification. Copies of the documents containing the personal information sought by a data
1576 subject shall be furnished to him or his representative at reasonable charges for document search and
1577 duplication in accordance with subsection F of § 2.2-3704.

1578 c. The data subject shall be permitted to be accompanied by a person of his choosing, who shall
1579 furnish reasonable identification. An agency may require the data subject to furnish a written statement
1580 granting the agency permission to discuss the individual's file in such person's presence.

1581 5. If the data subject gives notice that he wishes to challenge, correct, or explain information
1582 about him in the information system, the following minimum procedures shall be followed:

1583 a. The agency maintaining the information system shall investigate, and record the current status
1584 of that personal information.

1585 b. If, after such investigation, the information is found to be incomplete, inaccurate, not
1586 pertinent, not timely, or not necessary to be retained, it shall be promptly corrected or purged.

1587 c. If the investigation does not resolve the dispute, the data subject may file a statement of not
1588 more than 200 words setting forth his position.

1589 d. Whenever a statement of dispute is filed, the agency maintaining the information system shall
1590 supply any previous recipient with a copy of the statement and, in any subsequent dissemination or use
1591 of the information in question, clearly note that it is disputed and supply the statement of the data subject
1592 along with the information.

1593 e. The agency maintaining the information system shall clearly and conspicuously disclose to the
1594 data subject his rights to make such a request.

1595 f. Following any correction or purging of personal information the agency shall furnish to past
1596 recipients notification that the item has been purged or corrected whose receipt shall be acknowledged.

1597 B. Nothing in this chapter shall be construed to require an agency to disseminate any
1598 recommendation or letter of reference from or to a third party that is a part of the personnel file of any
1599 data subject nor to disseminate any test or examination used, administered or prepared by any public
1600 body for purposes of evaluation of (i) any student or any student's performance, (ii) any seeker's
1601 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license
1602 or certificate issued by any public body.

1603 As used in this subsection, "test or examination" includes (i) any scoring key for any such test or
1604 examination and (ii) any other document that would jeopardize the security of the test or examination.
1605 Nothing contained in this subsection shall prohibit the release of test scores or results as provided by
1606 law, or to limit access to individual records as provided by law; however, the subject of the employment
1607 tests shall be entitled to review and inspect all documents relative to his performance on those
1608 employment tests.

1609 When, in the reasonable opinion of the public body, any such test or examination no longer has
1610 any potential for future use, and the security of future tests or examinations will not be jeopardized, the
1611 test or examination shall be made available to the public. Minimum competency tests administered to
1612 public school children shall be made available to the public contemporaneously with statewide release of
1613 the scores of those taking such tests, but in no event shall such tests be made available to the public later
1614 than six months after the administration of such tests.

1615 C. Neither any provision of this chapter nor any provision of the Freedom of Information Act (§
1616 2.2-3700 et seq.) shall be construed to deny public access to records of the position, job classification,
1617 official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to
1618 any public officer, official or employee at any level of state, local or regional government in the
1619 Commonwealth. The provisions of this subsection shall not apply to records of the official salaries or
1620 rates of pay of public employees whose annual rate of pay is \$10,000 or less.

1621 D. Nothing in this section or in this chapter shall be construed to require an agency to
1622 disseminate information derived from tax returns ~~in violation of §§ 2.2-3705.7 and prohibited from~~
1623 ~~release pursuant to § 58.1-3.~~

1624 **§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from**
1625 **state regulations.**

1626 A. The Board of Education shall promulgate regulations establishing standards for accreditation
1627 pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include, but not be limited
1628 to, student outcome measures, requirements and guidelines for instructional programs and for the
1629 integration of educational technology into such instructional programs, administrative and instructional
1630 staffing levels and positions, including staff positions for supporting educational technology, student
1631 services, auxiliary education programs such as library and media services, requirements for graduation
1632 from high school, community relations, and the philosophy, goals, and objectives of public education in
1633 Virginia.

1634 The Board of Education shall promulgate regulations establishing standards for accreditation of
1635 public virtual schools under the authority of the local school board that enroll students full time.

1636 The Board shall review annually the accreditation status of all schools in the Commonwealth.
1637 The Board shall review the accreditation status of a school once every three years if the school has been
1638 fully accredited for three consecutive years. Upon such triennial review, the Board shall review the
1639 accreditation status of the school for each individual year within that triennial review period. If the
1640 Board finds that the school would have been accredited every year of that triennial review period the
1641 Board shall accredit the school for another three years. The Board may review the accreditation status of
1642 any other school once every two years or once every three years, provided that any school that receives a
1643 multiyear accreditation status other than full accreditation shall be covered by a Board-approved
1644 multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective
1645 action plan shall include annual written progress updates to the Board. A multiyear accreditation status
1646 shall not relieve any school or division of annual reporting requirements.

1647 Each local school board shall maintain schools that are fully accredited pursuant to the standards
1648 for accreditation as prescribed by the Board of Education. Each local school board shall report the
1649 accreditation status of all schools in the local school division annually in public session. Within the time
1650 specified by the Board of Education, each school board shall submit corrective action plans for any
1651 schools within its school division that have been designated as not meeting the standards as approved by
1652 the Board.

1653 When the Board of Education determines through the school academic review process that the
1654 failure of schools within a division to achieve full accreditation status is related to division-level failure
1655 to implement the Standards of Quality or other division-level action or inaction, the Board may require a
1656 division-level academic review. After the conduct of such review and within the time specified by the
1657 Board of Education, each school board shall submit to the Board for approval a corrective action plan,
1658 consistent with criteria established by the Board setting forth specific actions and a schedule designed to
1659 ensure that schools within its school division achieve full accreditation status. If the Board determines
1660 that the proposed corrective action plan is not sufficient to enable all schools within the division to
1661 achieve full accreditation, the Board may return the plan to the local school board with directions to
1662 submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the
1663 relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

1664 With such funds as are appropriated or otherwise received for this purpose, the Board shall adopt
1665 and implement an academic review process, to be conducted by the Department of Education, to assist
1666 schools that are accredited with warning. The Department shall forward a report of each academic
1667 review to the relevant local school board, and such school board shall report the results of such academic
1668 review and the required annual progress reports in public session. The local school board shall
1669 implement any actions identified through the academic review and utilize them for improvement
1670 planning.

1671 B. The Superintendent of Public Instruction shall develop and the Board of Education shall
1672 approve criteria for determining and recognizing educational performance in the Commonwealth's
1673 public school divisions and schools. Such criteria, when approved, shall become an integral part of the

1674 accreditation process and shall include student outcome measurements. The Superintendent of Public
1675 Instruction shall annually report to the Board on the accreditation status of all school divisions and
1676 schools. Such report shall include an analysis of the strengths and weaknesses of public education
1677 programs in the various school divisions in Virginia and recommendations to the General Assembly for
1678 further enhancing student learning uniformly across the Commonwealth. In recognizing educational
1679 performance in the school divisions, the Board shall include consideration of special school division
1680 accomplishments, such as numbers of dual enrollments and students in Advanced Placement and
1681 International Baccalaureate courses, and participation in academic year Governor's Schools.

1682 The Superintendent of Public Instruction shall assist local school boards in the implementation of
1683 action plans for increasing educational performance in those school divisions and schools that are
1684 identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor
1685 the implementation of and report to the Board of Education on the effectiveness of the corrective actions
1686 taken to improve the educational performance in such school divisions and schools.

1687 C. With such funds as are available for this purpose, the Board of Education shall prescribe
1688 assessment methods to determine the level of achievement of the Standards of Learning objectives by all
1689 students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and
1690 skills related to the Standards of Learning being assessed. The Board shall, with the assistance of
1691 independent testing experts, conduct a regular analysis and validation process for these assessments. The
1692 Department of Education shall make available to school divisions Standards of Learning assessments
1693 typically administered by the middle and high schools by December 1 of the school year in which such
1694 assessments are to be administered or when newly developed assessments are available, whichever is
1695 later.

1696 The Board shall also provide the option of industry certification and state licensure examinations
1697 as a student-selected credit.

1698 The Board of Education shall make publicly available such assessments in a timely manner and
1699 as soon as practicable following the administration of such tests, so long as the release of such
1700 assessments does not compromise test security or deplete the bank of assessment questions necessary to

1701 construct subsequent tests, or limit the ability to test students on demand and provide immediate results
1702 in the web-based assessment system.

1703 The Board shall include in the student outcome measures that are required by the Standards for
1704 Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including
1705 the completion of the alternative assessments implemented by each local school board, in accordance
1706 with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for
1707 English, mathematics, science, and history and social science and may be integrated to include multiple
1708 subject areas.

1709 The Board shall prescribe alternative methods of Standards of Learning assessment
1710 administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria
1711 established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's
1712 Individual Education Program team shall make the final determination as to whether an alternative
1713 method of administration is appropriate for the student.

1714 The Standards of Learning assessments administered to students in grades three through eight
1715 shall not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and
1716 science in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, and
1717 mathematics in grade eight; (e) science after the student receives instruction in the grade six science, life
1718 science, and physical science Standards of Learning and before the student completes grade eight; and
1719 (f) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each
1720 local school board.

1721 Each school board shall annually certify that it has provided instruction and administered an
1722 alternative assessment, consistent with Board guidelines, to students in grades three through eight in
1723 each Standards of Learning subject area in which a Standards of Learning assessment was not
1724 administered during the school year. Such guidelines shall (1) incorporate options for age-appropriate,
1725 authentic performance assessments and portfolios with rubrics and other methodologies designed to
1726 ensure that students are making adequate academic progress in the subject area and that the Standards of
1727 Learning content is being taught; (2) permit and encourage integrated assessments that include multiple

1728 subject areas; and (3) emphasize collaboration between teachers to administer and substantiate the
1729 assessments and the professional development of teachers to enable them to make the best use of
1730 alternative assessments.

1731 Local school divisions shall provide targeted mathematics remediation and intervention to
1732 students in grades six through eight who show computational deficiencies as demonstrated by their
1733 individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that
1734 measures non-calculator computational skills.

1735 The Department of Education shall award recovery credit to any student in grades three through
1736 eight who fails a Standards of Learning assessment in English reading or mathematics, receives
1737 remediation, and subsequently retakes and passes such an assessment, including any such student who
1738 subsequently retakes such an assessment on an expedited basis.

1739 In addition, to assess the educational progress of students, the Board of Education shall (A)
1740 develop appropriate assessments, which may include criterion-referenced tests and other assessment
1741 instruments that may be used by classroom teachers; (B) select appropriate industry certification and
1742 state licensure examinations; and (C) prescribe and provide measures, which may include nationally
1743 normed tests to be used to identify students who score in the bottom quartile at selected grade levels. An
1744 annual justification that includes evidence that the student meets the participation criteria defined by the
1745 Virginia Department of Education shall be provided for each student considered for the Virginia Grade
1746 Level Alternative. Each Individual Education Program team shall review such justification and make the
1747 final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the
1748 student. The superintendent and the school board chairman shall certify to the Board of Education, as a
1749 part of certifying compliance with the Standards of Quality, that there is a justification in the Individual
1750 Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with
1751 this requirement shall be monitored as a part of the special education monitoring process conducted by
1752 the Department of Education. The Board shall report to the Governor and General Assembly in its
1753 annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

1754 The Standards of Learning requirements, including all related assessments, shall be waived for
1755 any student awarded a scholarship under the Brown v. Board of Education Scholarship Program,
1756 pursuant to § 30-231.2, who is enrolled in a preparation program for a high school equivalency
1757 examination approved by the Board of Education or in an adult basic education program or an adult
1758 secondary education program to obtain the high school diploma or a high school equivalency certificate.

1759 The Department of Education shall develop processes for informing school divisions of changes
1760 in the Standards of Learning.

1761 The Board of Education may adopt special provisions related to the administration and use of
1762 any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period
1763 during which the Standards of Learning content or assessments in that area are being revised and phased
1764 in. Prior to statewide administration of such tests, the Board of Education shall provide notice to local
1765 school boards regarding such special provisions.

1766 The Board of Education shall not include in its calculation of the passage rate of a Standards of
1767 Learning assessment for the purposes of state accountability any student whose parent has decided to not
1768 have his child take such Standards of Learning assessment, unless such exclusions would result in the
1769 school's not meeting any required state or federal participation rate.

1770 D. The Board of Education may pursue all available civil remedies pursuant to § 22.1-19.1 or
1771 administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of
1772 test materials or test results.

1773 The Board may initiate or cause to be initiated a review or investigation of any alleged breach in
1774 security, unauthorized alteration, or improper administration of tests, including the exclusion of students
1775 from testing who are required to be assessed, by local school board employees responsible for the
1776 distribution or administration of the tests.

1777 Records and other information furnished to or prepared by the Board during the conduct of a
1778 review or investigation may be withheld pursuant to subdivision ~~4~~ 10 of § 2.2-3705.3. However, this
1779 section shall not prohibit the disclosure of records to (i) a local school board or division superintendent
1780 for the purpose of permitting such board or superintendent to consider or to take personnel action with

1781 regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form
1782 that (a) does not reveal the identity of any person making a complaint or supplying information to the
1783 Board on a confidential basis and (b) does not compromise the security of any test mandated by the
1784 Board. Any local school board or division superintendent receiving such records or other information
1785 shall, upon taking personnel action against a relevant employee, place copies of such records or
1786 information relating to the specific employee in such person's personnel file.

1787 Notwithstanding any other provision of state law, no test or examination authorized by this
1788 section, including the Standards of Learning assessments, shall be released or required to be released as
1789 minimum competency tests, if, in the judgment of the Board, such release would breach the security of
1790 such test or examination or deplete the bank of questions necessary to construct future secure tests.

1791 E. With such funds as may be appropriated, the Board of Education may provide, through an
1792 agreement with vendors having the technical capacity and expertise to provide computerized tests and
1793 assessments, and test construction, analysis, and security, for (i) web-based computerized tests and
1794 assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of
1795 student progress during and after remediation and (ii) the development of a remediation item bank
1796 directly related to the Standards of Learning.

1797 F. To assess the educational progress of students as individuals and as groups, each local school
1798 board shall require the use of Standards of Learning assessments, alternative assessments, and other
1799 relevant data, such as industry certification and state licensure examinations, to evaluate student
1800 progress and to determine educational performance. Each local school shall require the administration of
1801 appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests
1802 and shall include the Standards of Learning assessments, the local school board's alternative
1803 assessments, and the National Assessment of Educational Progress state-by-state assessment. Each
1804 school board shall analyze and report annually, in compliance with any criteria that may be established
1805 by the Board of Education, the results from the Stanford Achievement Test Series, Ninth Edition
1806 (Stanford Nine) assessment, if administered, industry certification examinations, and the Standards of
1807 Learning Assessments to the public.

1808 The Board of Education shall not require administration of the Stanford Achievement Test
1809 Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance
1810 with the requirements for home instruction pursuant to § 22.1-254.1.

1811 The Board shall include requirements for the reporting of the Standards of Learning assessment
1812 scores and averages for each year, regardless of accreditation frequency, as part of the Board's
1813 requirements relating to the School Performance Report Card. Such scores shall be disaggregated for
1814 each school by student subgroups on the Virginia assessment program as appropriate and shall be
1815 reported to the public within three months of their receipt. These reports (i) shall be posted on the
1816 portion of the Department of Education's website relating to the School Performance Report Card, in a
1817 format and in a manner that allows year-to-year comparisons, and (ii) may include the National
1818 Assessment of Educational Progress state-by-state assessment.

1819 G. Each local school division superintendent shall regularly review the division's submission of
1820 data and reports required by state and federal law and regulations to ensure that all information is
1821 accurate and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list
1822 of the required reports and data to division superintendents annually. The status of compliance with this
1823 requirement shall be included in the Board of Education's annual report to the Governor and the General
1824 Assembly as required by § 22.1-18.

1825 H. Any school board may request the Board of Education for release from state regulations or, on
1826 behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the
1827 evaluation of the performance of one or more of its schools as authorized for certain other schools by the
1828 Standards of Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code.
1829 Waivers of regulatory requirements may be granted by the Board of Education based on submission of a
1830 request from the division superintendent and chairman of the local school board. The Board of
1831 Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i)
1832 mandated by state or federal law or (ii) designed to promote health or safety. The school board shall
1833 provide in its waiver request a description of how the releases from state regulations are designed to
1834 increase the quality of instruction and improve the achievement of students in the affected school or

1835 schools. The Department of Education shall provide (a) guidance to any local school division that
1836 requests releases from state regulations and (b) information about opportunities to form partnerships
1837 with other agencies or entities to any local school division in which the school or schools granted
1838 releases from state regulations have demonstrated improvement in the quality of instruction and the
1839 achievement of students.

1840 The Board of Education may also grant local school boards waivers of specific requirements in §
1841 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the
1842 local school board, permitting the local school board to assign instructional personnel to the schools with
1843 the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide
1844 to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size
1845 maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its
1846 request a description of how the waivers from specific Standards of Quality staffing standards are
1847 designed to increase the quality of instruction and improve the achievement of students in the affected
1848 school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on
1849 student achievement results in the affected school or schools.

1850 **§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical**
1851 **emergency response plans required.**

1852 A. For the purposes of this section, unless the context requires otherwise:

1853 "School crisis, emergency management, and medical emergency response plan" means the
1854 essential procedures, operations, and assignments required to prevent, manage, and respond to a critical
1855 event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather;
1856 loss or disruption of power, water, communications or shelter; bus or other accidents; medical
1857 emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff
1858 member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to
1859 hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or
1860 kidnapping of a student; hostage situations; violence on school property or at school activities; incidents
1861 involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or

1862 facilities. The plan shall include a provision that the Department of Criminal Justice Services and the
1863 Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in
1864 the event of an emergency as defined in the emergency response plan when there are victims as defined
1865 in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries
1866 Compensation Fund shall be the lead coordinating agencies for those individuals determined to be
1867 victims, and the plan shall also contain current contact information for both agencies.

1868 "School safety audit" means a written assessment of the safety conditions in each public school
1869 to (i) identify and, if necessary, develop solutions for physical safety concerns, including building
1870 security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school
1871 property or at school-sponsored events. Solutions and responses shall include recommendations for
1872 structural adjustments, changes in school safety procedures, and revisions to the school board's standards
1873 for student conduct.

1874 B. The Virginia Center for School and Campus Safety, in consultation with the Department of
1875 Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required
1876 by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-
1877 279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by
1878 the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through
1879 environmental design principles.

1880 The Virginia Center for School and Campus Safety shall prescribe a standardized report format
1881 for school safety audits, additional reporting criteria, and procedures for report submission, which may
1882 include instructions for electronic submission.

1883 Each local school board shall require all schools under its supervisory control to annually
1884 conduct school safety audits as defined in this section and consistent with such list.

1885 The results of such school safety audits shall be made public within 90 days of completion. The
1886 local school board shall retain authority to withhold or limit the release of any security plans, walk-
1887 through checklists, and specific vulnerability assessment components as provided in subdivision ~~7.4~~ of §
1888 2.2-3705.2. The completed walk-through checklist shall be made available upon request to the chief

1889 law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school
1890 safety audit, which may exclude such security plans, walk-through checklists, and vulnerability
1891 assessment components, within the office of the school principal and shall make a copy of such report
1892 available for review upon written request.

1893 Each school shall submit a copy of its school safety audit to the relevant school division
1894 superintendent. The division superintendent shall collate and submit all such school safety audits, in the
1895 prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and
1896 shall make available upon request to the chief law-enforcement officer of the locality the results of such
1897 audits.

1898 C. The division superintendent shall establish a school safety audit committee to include, if
1899 available, representatives of parents, teachers, local law-enforcement, emergency services agencies,
1900 local community services boards, and judicial and public safety personnel. The school safety audit
1901 committee shall review the completed school safety audits and submit any plans, as needed, for
1902 improving school safety to the division superintendent for submission to the local school board.

1903 D. Each school board shall ensure that every school that it supervises shall develop a written
1904 school crisis, emergency management, and medical emergency response plan, consistent with the
1905 definition provided in this section, and shall provide copies of such plans to the chief law-enforcement
1906 officer, the fire chief, the chief of the emergency medical services agency, and the emergency
1907 management official of the locality. Each school division shall designate an emergency manager. The
1908 Department of Education and the Virginia Center for School and Campus Safety shall provide technical
1909 assistance to the school divisions of the Commonwealth in the development of the school crisis,
1910 emergency management, and medical emergency response plans that describe the components of a
1911 medical emergency response plan developed in coordination with local emergency medical services
1912 providers, the training of school personnel and students to respond to a life-threatening emergency, and
1913 the equipment required for this emergency response. The local school board shall annually review the
1914 written school crisis, emergency management, and medical emergency response plans. The local school
1915 board shall have the authority to withhold or limit the review of any security plans and specific

1916 | vulnerability assessment components as provided in subdivision [7.4](#) of § 2.2-3705.2. The local school
1917 | division superintendent shall certify this review in writing to the Virginia Center for School and Campus
1918 | Safety no later than August 31 of each year.

1919 | Upon consultation with local school boards, division superintendents, the Virginia Center for
1920 | School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education
1921 | shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and
1922 | medical emergency response plan for the purpose of assisting the public schools in Virginia in
1923 | developing viable, effective crisis, emergency management, and medical emergency response plans.
1924 | Such model shall set forth recommended effective procedures and means by which parents can contact
1925 | the relevant school or school division regarding the location and safety of their school children and by
1926 | which school officials may contact parents, with parental approval, during a critical event or emergency.

1927 | **§ 23.1-2425. Confidential and public information.**

1928 | A. The Authority is subject to the provisions of the Freedom of Information Act (§ 2.2-3700 et
1929 | seq.), including the exclusions set forth in subdivision [15.14](#) of § 2.2-3705.7 and subdivision A 23 of §
1930 | 2.2-3711.

1931 | B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the board
1932 | are not considered meetings of the board of visitors of the University. Meetings of the board may be
1933 | conducted through telephonic or video means as provided in § 2.2-3708.

1934 | **§ 32.1-48.08. Declaration of quarantine.**

1935 | A. The State Health Commissioner may declare a quarantine of any person or persons or any
1936 | affected area after he finds that the quarantine is the necessary means to contain a communicable disease
1937 | of public health threat as defined in § 32.1-48.06 to which such person or persons or the people of an
1938 | affected area have been or may have been exposed and thus may become infected.

1939 | B. The State Health Commissioner shall record his findings and any information on which he has
1940 | relied in making the finding required for quarantine pursuant to subsection A. The State Health
1941 | Commissioner's record of findings concerning any communicable disease of public health threat shall be
1942 | confidential and shall not be disclosed in accordance with subdivision [17.12](#) of § 2.2-3705.5.

1943 C. The State Health Commissioner may order the quarantined person or persons to remain in
1944 their residences, to remain in another place where they are present, or to report to a place or places
1945 designated by the State Health Commissioner for the duration of their quarantine. An electronic device
1946 may be used to enforce any such quarantine. The Commissioner's order of quarantine shall be for a
1947 duration consistent with the known incubation period for such disease or, if the incubation period is
1948 unknown, for a period anticipated as being consistent with the incubation period for other similar
1949 infectious agents.

1950 **§ 32.1-48.011. Isolation may be ordered under certain exceptional circumstances;**
1951 **Commissioner authorized to require hospitalization or other health care.**

1952 A. Whenever the State Health Commissioner makes a determination of exceptional
1953 circumstances pursuant to § 32.1-48.05 and that the isolation procedures set forth in Article 3.01 (§ 32.1-
1954 48.01 et seq.) of this chapter are insufficient control measures to contain a communicable disease of
1955 public health threat, the isolation procedures herein may be invoked.

1956 B. The State Health Commissioner may order the isolation of a person or persons upon a finding
1957 that (i) such person or persons are infected with or may reasonably be suspected to be infected with a
1958 communicable disease of public health threat and (ii) isolation is necessary to protect the public health,
1959 to ensure such isolated person or persons receive appropriate medical treatment, and to protect health
1960 care providers and others who may come into contact with such infected person or persons.

1961 C. The State Health Commissioner shall record his findings and any information on which he has
1962 relied in making the finding required for isolation pursuant to this section. The State Health
1963 Commissioner's record of findings concerning any communicable disease of public health threat that is
1964 involved in an order of isolation shall be confidential and shall not be disclosed in accordance with
1965 subdivision ~~17.12~~ [12](#) of § 2.2-3705.5.

1966 D. The Commissioner may order the isolated person or persons to remain in their places of
1967 residence, to remain in another place where they are present, or to report to a place or facility designated
1968 by the Commissioner for the duration of their isolation. An electronic device may be used to enforce any
1969 such isolation. The Commissioner's order of isolation shall be for a duration consistent with the known

1970 course of such communicable disease of public health threat or, if the course of the disease is unknown
1971 or uncertain, for a period consistent with the probable course of the communicable disease of public
1972 health threat.

1973 E. To the extent that persons subject to an order of isolation pursuant to this article require
1974 hospitalization or other health care services, the State Health Commissioner shall be authorized to
1975 require that such services be provided.

1976 F. The State Health Commissioner shall also have the authority to monitor the medical condition
1977 of any person or persons subject to an order of isolation pursuant to this article through regular visits by
1978 public health nurses or such other means as the Commissioner shall determine to be necessary.

1979 **§ 32.1-48.015. Authorization to disclose health records.**

1980 A. The provisions of this article are hereby declared to be necessary to prevent serious harm and
1981 serious threats to the health and safety of individuals and the public in Virginia for purposes of
1982 authorizing the State Health Commissioner or his designee to examine and review any health records of
1983 any person or persons subject to any order of quarantine or order of isolation pursuant to this article and
1984 the regulations of the Department of Health and Human Services promulgated in compliance with the
1985 Health Insurance Portability and Accountability Act of 1996, as amended. The State Health
1986 Commissioner shall authorize any designee in writing to so examine and review any health records of
1987 any person or persons subject to any order of quarantine or order of isolation pursuant to this article.

1988 B. Pursuant to the regulations concerning patient privacy promulgated by the federal Department
1989 of Health and Human Services, covered entities may disclose protected health information to the State
1990 Health Commissioner or his designee without obtaining consent or authorization for such disclosure
1991 from the person who is the subject of the records. Such protected health information shall be used to
1992 facilitate the health care of any person or persons who are subject to an order of quarantine or an order
1993 of isolation. The State Health Commissioner or his designee shall only redisclose such protected health
1994 information in compliance with the aforementioned federal regulations. Further, the protected health
1995 information disclosed to the State Health Commissioner or his designee shall be held confidential and
1996 shall not be disclosed pursuant to the provisions of subdivision ~~47.12~~ of § 2.2-3705.5.

1997 C. Pursuant to subsection G of § 32.1-116.3, any person requesting or requiring any employee of
1998 a public safety agency as defined in subsection J of § 32.1-45.2 to arrest, transfer, or otherwise exercise
1999 custodial supervision over an individual known to the requesting person (i) to be infected with any
2000 communicable disease or (ii) to be subject to an order of quarantine or an order of isolation pursuant to
2001 Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 shall inform such employee of a public safety agency of
2002 the potential risk of exposure to a communicable disease.

2003 **§ 32.1-283.1. State Child Fatality Review Team; membership; access to and maintenance of**
2004 **records; confidentiality; etc.**

2005 A. There is hereby created the State Child Fatality Review Team, referred to in this section as
2006 "the Team," which shall develop and implement procedures to ensure that child deaths occurring in
2007 Virginia are analyzed in a systematic way. The Team shall review (i) violent and unnatural child deaths,
2008 (ii) sudden child deaths occurring within the first 18 months of life, and (iii) those fatalities for which
2009 the cause or manner of death was not determined with reasonable medical certainty. No child death
2010 review shall be initiated by the Team until conclusion of any law-enforcement investigation or criminal
2011 prosecution. The Team shall (i) develop and revise as necessary operating procedures for the review of
2012 child deaths, including identification of cases to be reviewed and procedures for coordination among the
2013 agencies and professionals involved, (ii) improve the identification, data collection, and record keeping
2014 of the causes of child death, (iii) recommend components for prevention and education programs, (iv)
2015 recommend training to improve the investigation of child deaths, and (v) provide technical assistance,
2016 upon request, to any local child fatality teams that may be established. The operating procedures for the
2017 review of child deaths shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.)
2018 pursuant to subdivision B 17 of § 2.2-4002.

2019 B. The 16-member Team shall be chaired by the Chief Medical Examiner and shall be composed
2020 of the following persons or their designees: the Commissioner of Behavioral Health and Developmental
2021 Services; the Director of Child Protective Services within the Department of Social Services; the
2022 Superintendent of Public Instruction; the State Registrar of Vital Records; and the Director of the
2023 Department of Criminal Justice Services. In addition, one representative from each of the following

2024 entities shall be appointed by the Governor to serve for a term of three years: local law-enforcement
2025 agencies, local fire departments, local departments of social services, the Medical Society of Virginia,
2026 the Virginia College of Emergency Physicians, the Virginia Pediatric Society, local emergency medical
2027 services personnel, attorneys for the Commonwealth, and community services boards.

2028 C. Upon the request of the Chief Medical Examiner in his capacity as chair of the Team, made
2029 after the conclusion of any law-enforcement investigation or prosecution, information and records
2030 regarding a child whose death is being reviewed by the Team may be inspected and copied by the Chief
2031 Medical Examiner or his designee, including, but not limited to, any report of the circumstances of the
2032 event maintained by any state or local law-enforcement agency or medical examiner, and information or
2033 records maintained on such child by any school, social services agency or court. Information, records, or
2034 reports maintained by any attorney for the Commonwealth shall be made available for inspection and
2035 copying by the Chief Medical Examiner pursuant to procedures which shall be developed by the Chief
2036 Medical Examiner and the Commonwealth's Attorneys' Services Council established by § 2.2-2617. Any
2037 presentence report prepared pursuant to § 19.2-299 for any person convicted of a crime that led to the
2038 death of the child shall be made available for inspection and copying by the Office of the Chief Medical
2039 Examiner pursuant to procedures which shall be developed by the Chief Medical Examiner. In addition,
2040 the Office of the Chief Medical Examiner may inspect and copy from any Virginia health care provider,
2041 on behalf of the Team, (i) without obtaining consent, the health and mental health records of the child
2042 and those perinatal medical records of the child's mother that related to such child and (ii) upon
2043 obtaining consent from each adult regarding his personal records, or from a parent regarding the records
2044 of a minor child, the health and mental health records of the child's family. All such information and
2045 records shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-
2046 3700 et seq.) pursuant to subdivision [9.7](#) of § 2.2-3705.5. Upon the conclusion of the child death review,
2047 all information and records concerning the child and the child's family shall be shredded or otherwise
2048 destroyed by the Office of the Chief Medical Examiner in order to ensure confidentiality. Such
2049 information or records shall not be subject to subpoena or discovery or be admissible in any criminal or
2050 civil proceeding. If available from other sources, however, such information and records shall not be

2051 immune from subpoena, discovery, or introduction into evidence when obtained through such other
2052 sources solely because the information and records were presented to the Team during a child death
2053 review. Further, the findings of the Team may be disclosed or published in statistical or other form
2054 which shall not identify individuals. The portions of meetings in which individual child death cases are
2055 discussed by the Team shall be closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the
2056 requirements of § 2.2-3712, all team members, persons attending closed team meetings, and persons
2057 presenting information and records on specific child deaths to the Team during closed meetings shall
2058 execute a sworn statement to honor the confidentiality of the information, records, discussions, and
2059 opinions disclosed during any closed meeting to review a specific child death. Violations of this
2060 subsection are punishable as a Class 3 misdemeanor.

2061 D. Upon notification of a child death, any state or local government agency maintaining records
2062 on such child or such child's family which are periodically purged shall retain such records for the
2063 longer of 12 months or until such time as the State Child Fatality Review Team has completed its child
2064 death review of the specific case.

2065 E. The Team shall compile annual data which shall be made available to the Governor and the
2066 General Assembly as requested. These statistical data compilations shall not contain any personally
2067 identifying information and shall be public records.

2068 **§ 32.1-283.2. Local and regional child fatality review teams established; membership;**
2069 **authority; confidentiality; immunity.**

2070 A. Upon the initiative of any local or regional law-enforcement agency, fire department,
2071 department of social services, emergency medical services agency, attorney for the Commonwealth's
2072 office, or community services board, local or regional child fatality teams may be established for the
2073 purpose of conducting contemporaneous reviews of local child deaths in order to develop interventions
2074 and strategies for prevention specific to the locality or region. Each team shall establish rules and
2075 procedures to govern the review process. Agencies may share information but shall be bound by
2076 confidentiality and execute a sworn statement to honor the confidentiality of the information they share.

2077 Violations are punishable as a Class 3 misdemeanor. The State Child Fatality Review Team shall
2078 provide technical assistance and direction as provided for in subsection A of § 32.1-283.1.

2079 B. Local and regional teams may be composed of the following persons from the localities
2080 represented on a particular board or their designees: a medical examiner appointed pursuant to § 32.1-
2081 282, a local social services official in charge of child protective services, a director of the relevant local
2082 or district health department, a chief law-enforcement officer, a local fire marshal, a local emergency
2083 medical services agency chief, the attorney for the Commonwealth, an executive director of the local
2084 community services board or other local mental health agency, and such additional persons, not to
2085 exceed four, as may be appointed to serve by the chairperson of the local or regional team. The
2086 chairperson shall be elected from among the designated membership. The additional members appointed
2087 by the chairperson may include, but are not restricted to, representatives of local human services
2088 agencies; local public education agencies; local pediatricians, psychiatrists and psychologists; and local
2089 child advocacy organizations.

2090 C. Each team shall establish local rules and procedures to govern the review process prior to
2091 conducting the first child fatality review. The review of a death shall be delayed until any criminal
2092 investigations connected with the death are completed or the Commonwealth consents to the
2093 commencement of such review prior to the completion of the criminal investigation.

2094 D. All information and records obtained or created regarding the review of a fatality shall be
2095 confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)
2096 pursuant to subdivision [9.7](#) of § 2.2-3705.5. All such information and records shall be used by the team
2097 only in the exercise of its proper purpose and function and shall not be disclosed. Such information or
2098 records shall not be subject to subpoena, subpoena duces tecum, or discovery or be admissible in any
2099 criminal or civil proceeding. If available from other sources, however, such information and records
2100 shall not be immune from subpoena, subpoena duces tecum, discovery or introduction into evidence
2101 when obtained through such other sources solely because the information and records were presented to
2102 the team during a fatality review. No person who participated in the reviews nor any member of the
2103 team shall be required to make any statement as to what transpired during the review or what

2104 information was collected during the review. Upon the conclusion of the fatality review, all information
2105 and records concerning the victim and the family shall be returned to the originating agency or
2106 destroyed. However, the findings of the team may be disclosed or published in statistical or other form
2107 which shall not identify individuals. The portions of meetings in which individual cases are discussed by
2108 the team shall be closed pursuant to subdivision A 21 of § 2.2-3711. All team members, persons
2109 attending closed team meetings, and persons presenting information and records on specific fatalities to
2110 the team during closed meetings shall execute a sworn statement to honor the confidentiality of the
2111 information, records, discussions, and opinions disclosed during any closed meeting to review a specific
2112 death. Violations of this subsection are punishable as a Class 3 misdemeanor.

2113 E. Members of teams, as well as their agents and employees, shall be immune from civil liability
2114 for any act or omission made in connection with participation in a child fatality review team review,
2115 unless such act or omission was the result of gross negligence or willful misconduct. Any organization,
2116 institution, or person furnishing information, data, testimony, reports or records to review teams as part
2117 of such review, shall be immune from civil liability for any act or omission in furnishing such
2118 information, unless such act or omission was the result of gross negligence or willful misconduct.

2119 **§ 32.1-283.3. Family violence fatality review teams established; model protocol and data**
2120 **management; membership; authority; confidentiality, etc.**

2121 A. The Office of the Chief Medical Examiner shall develop a model protocol for the
2122 development and implementation of local family violence fatality review teams (teams) and such model
2123 protocol shall include relevant procedures for conducting reviews of fatal family violence incidents. A
2124 "fatal family violence incident" means any fatality that occurred or that is suspected of having occurred
2125 in the context of abuse between family members or intimate partners. The Office of the Chief Medical
2126 Examiner shall provide technical assistance to the local teams and serve as a clearinghouse for
2127 information.

2128 B. Subject to available funding, the Office of the Chief Medical Examiner shall provide ongoing
2129 surveillance of fatal family violence occurrences and promulgate an annual report based on accumulated
2130 data.

2131 C. Any county or city, or combination of counties, cities, or counties and cities, may establish a
2132 family violence fatality review team to examine fatal family violence incidents and to create a body of
2133 information to help prevent future family violence fatalities. The team shall have the authority to review
2134 the facts and circumstances of all fatal family violence incidents that occur within its designated
2135 geographic area.

2136 D. Membership in the team may include, but shall not be limited to, health care professionals,
2137 representatives from the local bar, attorneys for the Commonwealth, judges, law-enforcement officials,
2138 criminologists, medical examiners appointed pursuant to § 32.1-282, other experts in forensic medicine
2139 and pathology, family violence victim advocates, health department professionals, probation and parole
2140 professionals, adult and child protective services professionals, and representatives of family violence
2141 local coordinating councils.

2142 E. Each team shall establish local rules and procedures to govern the review process prior to the
2143 first fatal family violence incident review conducted. The review of a death shall be delayed until any
2144 criminal investigations or prosecutions connected with the death are completed.

2145 F. All information and records obtained or created regarding the review of a fatality shall be
2146 confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)
2147 pursuant to subdivision [9.7](#) of § 2.2-3705.5. All such information and records shall be used by the team
2148 only in the exercise of its proper purpose and function and shall not be disclosed. Such information or
2149 records shall not be subject to subpoena, subpoena duces tecum or discovery or be admissible in any
2150 criminal or civil proceeding. If available from other sources, however, such information and records
2151 shall not be immune from subpoena, subpoena duces tecum, discovery or introduction into evidence
2152 when obtained through such other sources solely because the information and records were presented to
2153 the team during a fatality review. No person who participated in the review nor any member of the team
2154 shall be required to make any statement as to what transpired during the review or what information was
2155 collected during the review. Upon the conclusion of the fatality review, all information and records
2156 concerning the victim and the family shall be returned to the originating agency or destroyed. However,
2157 the findings of the team may be disclosed or published in statistical or other form which shall not

2158 identify individuals. The portions of meetings in which individual cases are discussed by the team shall
2159 be closed pursuant to subdivision A 21 of § 2.2-3711. All team members, persons attending closed team
2160 meetings, and persons presenting information and records on specific fatalities to the team during closed
2161 meetings shall execute a sworn statement to honor the confidentiality of the information, records,
2162 discussions, and opinions disclosed during any closed meeting to review a specific death. Violations of
2163 this subsection are punishable as a Class 3 misdemeanor.

2164 G. Members of teams, as well as their agents and employees, shall be immune from civil liability
2165 for any act or omission made in connection with participation in a family violence fatality review, unless
2166 such act or omission was the result of gross negligence or willful misconduct. Any organization,
2167 institution, or person furnishing information, data, testimony, reports or records to review teams as part
2168 of such review, shall be immune from civil liability for any act or omission in furnishing such
2169 information, unless such act or omission was the result of gross negligence or willful misconduct.

2170 **§ 32.1-283.5. Adult Fatality Review Team; duties; membership; confidentiality; penalties;**
2171 **report; etc.**

2172 A. There is hereby created the Adult Fatality Review Team, referred to in this section as "the
2173 Team," which shall develop and implement procedures to ensure that adult deaths occurring in the
2174 Commonwealth are analyzed in a systematic way. The Team shall review the death of any person age 60
2175 years or older, or any adult age 18 years or older who is incapacitated, who resides in the
2176 Commonwealth, or who does not reside in the Commonwealth but who is temporarily in the
2177 Commonwealth and who is in need of temporary or emergency protective services (i) who was the
2178 subject of an adult protective services or law-enforcement investigation; (ii) whose death was due to
2179 abuse, neglect, or exploitation or acts suggesting abuse, neglect, or exploitation; or (iii) whose death
2180 came under the jurisdiction of or was investigated by the Office of the Chief Medical Examiner pursuant
2181 to § 32.1-283. The Team shall not initiate an adult death review until the conclusion of any law-
2182 enforcement investigation or criminal prosecution. The operating procedures for the review of adult
2183 deaths shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision
2184 B 17 of § 2.2-4002.

2185 B. The 16-member team shall consist of the following persons or their designees: the Chief
2186 Medical Examiner, the Commissioner of Behavioral Health and Developmental Services, the
2187 Commissioner for Aging and Rehabilitative Services, the Director of the Office of Licensure and
2188 Certification of the Department of Health, and the State Long-Term Care Ombudsman. In addition, the
2189 Governor shall appoint one representative from each of the following entities: a licensed funeral services
2190 provider, the Medical Society of Virginia, and local departments of social services, emergency medical
2191 services, attorneys for the Commonwealth, law-enforcement agencies, nurses specializing in geriatric
2192 care, psychiatrists specializing in geriatric care, and long-term care providers. The Team further shall
2193 include two members appointed by the Governor who are advocates for elderly or disabled populations
2194 in Virginia. The Chief Medical Examiner shall serve as chair of the Team.

2195 After the initial staggering of terms, members appointed by the Governor shall be appointed for a
2196 term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the
2197 unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All
2198 members may be reappointed. The Chief Medical Examiner and other ex officio members of the Team
2199 shall serve terms coincident with their terms of office.

2200 C. Upon the request of the chair of the Team, made after the conclusion of any law-enforcement
2201 investigation or prosecution, information and records regarding an adult whose death is being reviewed
2202 by the Team shall be inspected and copied by the chair or his designee, including but not limited to any
2203 report of the circumstances of the event maintained by any state or local law-enforcement agency or the
2204 Office of the Chief Medical Examiner and information or records on the adult maintained by any facility
2205 that provided services to the adult, by any social services agency, or by any court. Information, records,
2206 or reports maintained by any attorney for the Commonwealth shall be made available for inspection and
2207 copying by the chair or his designee pursuant to procedures that shall be developed by the Chief Medical
2208 Examiner and the Commonwealth Attorneys Services Council established by § 2.2-2617. In addition, a
2209 health care provider shall provide the Team, upon request, with access to the health and mental health
2210 records of (i) the adult whose death is subject to review, without authorization; (ii) any adult relative of
2211 the deceased, with authorization; and (iii) any minor child of the deceased, with the authorization of the

2212 minor's parent or guardian. The chair of the Team also may copy and inspect the presentence report,
2213 prepared pursuant to § 19.2-299, of any person convicted of a crime that led to the death of the adult
2214 who is the subject of review by the Team.

2215 D. All information obtained or generated by the Team regarding a review shall be confidential
2216 and excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision
2217 [9.7](#) of § 2.2-3705.5. Such information shall not be subject to subpoena or discovery or be admissible in
2218 any civil or criminal proceeding. If available from other sources, however, such information and records
2219 shall not be immune from subpoena, discovery, or introduction into evidence when obtained through
2220 such other sources solely because the information and records were presented to the Team during an
2221 adult death review. The Team shall compile all information collected during a review. The findings of
2222 the Team may be disclosed or published in statistical or other form, but shall not identify any
2223 individuals. The portions of meetings in which individual adult death cases are discussed by the Team
2224 shall be closed pursuant to subdivision A 21 of § 2.2-3711.

2225 E. All Team members and other persons attending closed Team meetings, including any persons
2226 presenting information or records on specific fatalities, shall execute a sworn statement to honor the
2227 confidentiality of the information, records, discussions, and opinions disclosed during meetings at which
2228 the Team reviews a specific death. No Team member or other person who participates in a review shall
2229 be required to make any statement regarding the review or any information collected during the review.
2230 Upon conclusion of a review, all information and records concerning the victim and the family shall be
2231 shredded or otherwise destroyed in order to ensure confidentiality. Violations of this subsection are
2232 punishable as a Class 3 misdemeanor.

2233 F. Upon notification of an adult death, any state or local government agency or facility that
2234 provided services to the adult or maintained records on the adult or the adult's family shall retain the
2235 records for the longer of 12 months or until such time as the Team has completed its review of the case.

2236 G. The Team shall compile an annual report by October 1 of each year that shall be made
2237 available to the Governor and the General Assembly. The annual report shall include any policy,
2238 regulatory, or budgetary recommendations developed by the Team. Any statistical compilations

2239 prepared by the Team shall be public record and shall not contain any personally identifying
2240 information.

2241 **§ 32.1-283.6. Local and regional adult fatality review teams established; membership;**
2242 **authority; confidentiality; immunity.**

2243 A. Upon the initiative of any local or regional law-enforcement agency, department of social
2244 services, emergency medical services agency, attorney for the Commonwealth's office, community
2245 services board, or official with the Adult Protective Services Unit established pursuant to § 51.5-148,
2246 local or regional adult fatality review teams may be established for the purpose of conducting
2247 contemporaneous reviews of local adult deaths in order to develop interventions and strategies for
2248 prevention specific to the locality or region. For the purposes of this section, the team may review the
2249 death of any person age 60 years or older, or any adult age 18 years or older who is incapacitated, who
2250 resides in the Commonwealth and who is in need of temporary or emergency protective services (i) who
2251 was the subject of an adult protective services or law-enforcement investigation; (ii) whose death was
2252 due to abuse, neglect, or exploitation or acts suggesting abuse, neglect, or exploitation; or (iii) whose
2253 death came under the jurisdiction of or was investigated by the Office of the Chief Medical Examiner as
2254 occurring in any suspicious, unusual, or unnatural manner, pursuant to § 32.1-283. Each team shall
2255 establish rules and procedures to govern the review process. Agencies may share information but shall
2256 be bound by confidentiality and execute a sworn statement to honor the confidentiality of the
2257 information they share. A violation of this subsection is punishable as a Class 3 misdemeanor. The
2258 Office of the Chief Medical Examiner shall develop a model protocol for the development and
2259 implementation of local or regional adult fatality review teams and such model protocol shall include
2260 relevant procedures for conducting reviews of adult fatalities.

2261 B. Local and regional teams may be composed of the following persons from the localities
2262 represented on a particular board or their designees: a medical examiner appointed pursuant to § 32.1-
2263 282, a local adult protective services official, a local social services official, a director of the relevant
2264 local or district health department, an executive director of the local area agency on aging or other
2265 department representing the interests of the elderly or disabled, a chief law-enforcement officer, the

2266 attorney for the Commonwealth, an executive director of the local community services board or other
2267 local mental health agency, a local judge, and such additional persons as may be appointed to serve by
2268 the chair of the local or regional team. The chair shall be elected from among the designated
2269 membership. The additional members appointed by the chair may include, but are not restricted to,
2270 representatives of local human services agencies, local health care professionals specializing in geriatric
2271 care or care of incapacitated adults, local emergency medical services personnel, local long-term care
2272 providers, representatives of local advocacy or service organizations for elderly or disabled populations,
2273 experts in forensic medicine and pathology, local funeral services providers, local centers for
2274 independent living, local long-term care ombudsmen, and representatives of the local bar.

2275 C. Each local or regional team shall establish operating procedures to govern the review process
2276 prior to conducting the first adult fatality review. The review of a death shall be delayed until any
2277 criminal investigations connected with the death are completed or the Commonwealth consents to the
2278 commencement of such review prior to the completion of the criminal investigation.

2279 D. All information and records obtained or created regarding a review of a fatality shall be
2280 confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)
2281 pursuant to subdivision [9.7](#) of § 2.2-3705.5. All such information and records shall be used by the team
2282 only in the exercise of its proper purpose and function and shall not be disclosed. Such information and
2283 records shall not be subject to subpoena, subpoena duces tecum, discovery, or introduction into evidence
2284 when obtained through such other sources solely because the information and records were presented to
2285 the team during the fatality review. No person who participated in the review and no member of the
2286 team shall be required to make any statement as to what transpired during the review or what
2287 information was collected during the review. Upon the conclusion of the fatality review, all information
2288 and records concerning the victim and family shall be returned to the originating agency or destroyed.
2289 However, the findings of the team may be disclosed or published in statistical or other form that does
2290 not identify any individuals. The portions of meetings in which individual cases are discussed by the
2291 team shall be closed pursuant to subdivision A 21 of § 2.2-3711. All team members, persons attending
2292 closed team meetings, and persons presenting information and records on specific fatalities to the team

2293 during closed meetings shall execute a sworn statement to honor the confidentiality of the information,
2294 records, discussions, and opinions disclosed during any closed meeting to review a specific death. A
2295 violation of this subsection is punishable as a Class 3 misdemeanor.

2296 E. Members of teams, as well as their agents and employees, shall be immune from civil liability
2297 for any act or omission made in connection with participation in an adult fatality review team review,
2298 unless such act or omission was the result of gross negligence or willful misconduct. Any organization,
2299 institution, or person furnishing information, data, testimony, reports, or records to review teams as part
2300 of such review shall be immune from civil liability for any act or omission in furnishing such
2301 information, unless such act or omission was the result of gross negligence or willful misconduct.

2302 **§ 44-146.18. Department of Emergency Services continued as Department of Emergency**
2303 **Management; administration and operational control; coordinator and other personnel; powers**
2304 **and duties.**

2305 A. The State Office of Emergency Services is continued and shall hereafter be known as the
2306 Department of Emergency Management. Wherever the words "State Department of Emergency
2307 Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency
2308 Management. During a declared emergency this Department shall revert to the operational control of the
2309 Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure
2310 of the Governor and also serve as State Emergency Planning Director. The Department shall employ the
2311 professional, technical, secretarial, and clerical employees necessary for the performance of its
2312 functions.

2313 B. The Department of Emergency Management shall in the administration of emergency services
2314 and disaster preparedness programs:

2315 1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth
2316 has up-to-date assessments and preparedness plans to prevent, respond to and recover from all disasters
2317 including acts of terrorism;

2318 2. Conduct a statewide emergency management assessment in cooperation with political
2319 subdivisions, private industry and other public and private entities deemed vital to preparedness, public

2320 safety and security. The assessment shall include a review of emergency response plans, which include
2321 the variety of hazards, natural and man-made. The assessment shall be updated annually;

2322 3. Submit to the Governor and to the General Assembly, no later than the first day of each
2323 regular session of the General Assembly, an annual executive summary and report on the status of
2324 emergency management response plans throughout the Commonwealth and other measures taken or
2325 recommended to prevent, respond to and recover from disasters, including acts of terrorism. This report
2326 shall be made available to the Division of Legislative Automated Systems for the processing of
2327 legislative documents and reports. Information submitted in accordance with the procedures set forth in
2328 subdivision [4.14](#) of § 2.2-3705.2 shall not be disclosed unless:

2329 a. It is requested by law-enforcement authorities in furtherance of an official investigation or the
2330 prosecution of a criminal act;

2331 b. The agency holding the record is served with a proper judicial order; or

2332 c. The agency holding the record has obtained written consent to release the information from the
2333 Department of Emergency Management;

2334 4. Promulgate plans and programs that are conducive to adequate disaster mitigation
2335 preparedness, response and recovery programs;

2336 5. Prepare and maintain a State Emergency Operations Plan for disaster response and recovery
2337 operations that assigns primary and support responsibilities for basic emergency services functions to
2338 state agencies, organizations and personnel as appropriate;

2339 6. Coordinate and administer disaster mitigation, preparedness, response and recovery plans and
2340 programs with the proponent federal, state and local government agencies and related groups;

2341 7. Provide guidance and assistance to state agencies and units of local government in developing
2342 and maintaining emergency management and continuity of operations (COOP) programs, plans and
2343 systems;

2344 8. Make necessary recommendations to agencies of the federal, state, or local governments on
2345 preventive and preparedness measures designed to eliminate or reduce disasters and their impact;

2346 9. Determine requirements of the Commonwealth and its political subdivisions for those
2347 necessities needed in the event of a declared emergency which are not otherwise readily available;

2348 10. Assist state agencies and political subdivisions in establishing and operating training
2349 programs and programs of public information and education regarding emergency services and disaster
2350 preparedness activities;

2351 11. Consult with the Board of Education regarding the development and revision of a model
2352 school crisis and emergency management plan for the purpose of assisting public schools in
2353 establishing, operating, and maintaining emergency services and disaster preparedness activities;

2354 12. Consult with the State Council of Higher Education in the development and revision of a
2355 model institutional crisis and emergency management plan for the purpose of assisting public and
2356 private two-year and four-year institutions of higher education in establishing, operating, and
2357 maintaining emergency services and disaster preparedness activities and, as needed, in developing an
2358 institutional crisis and emergency management plan pursuant to § 23.1-804;

2359 13. Develop standards, provide guidance and encourage the maintenance of local and state
2360 agency emergency operations plans, which shall include the requirement for a provision that the
2361 Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be
2362 contacted immediately to deploy assistance in the event of an emergency as defined in the emergency
2363 response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice
2364 Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies
2365 for those individuals determined to be victims, and the plan shall also contain current contact
2366 information for both agencies;

2367 14. Prepare, maintain, coordinate or implement emergency resource management plans and
2368 programs with federal, state and local government agencies and related groups, and make such surveys
2369 of industries, resources, and facilities within the Commonwealth, both public and private, as are
2370 necessary to carry out the purposes of this chapter;

2371 15. Coordinate with the federal government and any public or private agency or entity in
2372 achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation,
2373 preparation, response, and recovery;

2374 16. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants
2375 as authorized by the Governor;

2376 17. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency
2377 services intelligence pertaining to all probable hazards affecting the Commonwealth;

2378 18. Coordinate intelligence activities relating to terrorism with the Department of State Police;
2379 and

2380 19. Develop an emergency response plan to address the needs of individuals with household pets
2381 and service animals in the event of a disaster and assist and coordinate with local agencies in developing
2382 an emergency response plan for household pets and service animals.

2383 The Department of Emergency Management shall ensure that all such plans, assessments, and
2384 programs required by this subsection include specific preparedness for, and response to, disasters
2385 resulting from electromagnetic pulses and geomagnetic disturbances.

2386 C. The Department of Emergency Management shall during a period of impending emergency or
2387 declared emergency be responsible for:

2388 1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual
2389 disaster;

2390 2. Providing facilities from which state agencies and supporting organizations may conduct
2391 emergency operations;

2392 3. Providing an adequate communications and warning system capable of notifying all political
2393 subdivisions in the Commonwealth of an impending disaster within a reasonable time;

2394 4. Establishing and maintaining liaison with affected political subdivisions;

2395 5. Determining requirements for disaster relief and recovery assistance;

2396 6. Coordinating disaster response actions of federal, state and volunteer relief agencies;

2397 7. Coordinating and providing guidance and assistance to affected political subdivisions to
2398 ensure orderly and timely response to and recovery from disaster effects.

2399 D. The Department of Emergency Management shall be provided the necessary facilities and
2400 equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of
2401 the various federal, state, and other agencies during a state of emergency declaration by the Governor or
2402 following a major disaster declaration by the President.

2403 E. The Department of Emergency Management is authorized to enter into all contracts and
2404 agreements necessary or incidental to performance of any of its duties stated in this section or otherwise
2405 assigned to it by law, including contracts with the United States, other states, agencies and government
2406 subdivisions of the Commonwealth, and other appropriate public and private entities.

2407 F. The Department of Emergency Management shall encourage private industries whose goods
2408 and services are deemed vital to the public good to provide annually updated preparedness assessments
2409 to the local coordinator of emergency management on or before April 1 of each year, to facilitate overall
2410 Commonwealth preparedness. For the purposes of this section, "private industry" means companies,
2411 private hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency
2412 Management to be essential to the public safety and well-being of the citizens of the Commonwealth.

2413 G. The Department of Emergency Management shall establish a Coordinator of Search and
2414 Rescue. Powers and duties of the Coordinator shall include:

- 2415 1. Coordinating the search and rescue function of the Department of Emergency Management;
- 2416 2. Coordinating with local, state, and federal agencies involved in search and rescue;
- 2417 3. Coordinating the activities of search and rescue organizations involved in search and rescue;
- 2418 4. Maintaining a register of search and rescue certifications, training, and responses;
- 2419 5. Establishing a memorandum of understanding with the Virginia Search and Rescue Council
2420 and its respective member agencies regarding search and rescue efforts;
- 2421 6. Providing on-scene search and rescue coordination when requested by an authorized person;

2422 7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency
2423 managers, volunteer search and rescue responders, and others who might have a duty to respond to a
2424 search and rescue emergency;

2425 8. Gathering and maintaining statistics on search and rescue in the Commonwealth;

2426 9. Compiling, maintaining, and making available an inventory of search and rescue resources
2427 available in the Commonwealth;

2428 10. Periodically reviewing search and rescue cases and developing best professional practices;
2429 and

2430 11. Providing an annual report to the Secretary of Public Safety and Homeland Security on the
2431 current readiness of Virginia's search and rescue efforts.

2432 Nothing in this chapter shall be construed as authorizing the Department of Emergency
2433 Management to take direct operational responsibilities from local, state, or federal law enforcement in
2434 the course of search and rescue or missing person cases.

2435 **§ 44-146.22. Development of measures to prevent or reduce harmful consequences of**
2436 **disasters; disclosure of information.**

2437 A. In addition to disaster prevention measures included in state, local and interjurisdictional
2438 emergency operations plans, the Governor shall consider, on a continuing basis, hazard mitigation or
2439 other measures that could be taken to prevent or reduce the harmful consequences of disasters. At his
2440 direction, and pursuant to any other authority, state agencies, including, but not limited to, those charged
2441 with responsibilities in connection with floodplain management, stream encroachment and flow
2442 regulation, weather modification, fire prevention and control, air quality, public works, critical
2443 infrastructure protection, land use and land-use planning, and construction standards, shall make studies
2444 of disaster prevention. The Governor, from time to time, shall make recommendations to the General
2445 Assembly, local governments, and other appropriate public and private entities as may facilitate
2446 measures for prevention or reduction of the harmful consequences of disasters.

2447 B. The Governor or agencies acting on his behalf may receive information, voluntarily submitted
2448 from both public and nonpublic entities, related to the protection of the nation's critical infrastructure

2449 sectors and components that are located in Virginia or affect the health, safety, and welfare of the
2450 citizens of Virginia. Information submitted by any public or nonpublic entity in accordance with the
2451 procedures set forth in subdivision [4.14](#) of § 2.2-3705.2 shall not be disclosed unless:

- 2452 1. It is requested by law-enforcement authorities in furtherance of an official investigation or the
2453 prosecution of a criminal act;
- 2454 2. The agency holding the record is served with a proper judicial order; or
- 2455 3. The agency holding the record has obtained the written consent to release the information
2456 from the entity voluntarily submitting it.

2457 **§ 54.1-2517. Health Practitioners' Monitoring Program Committee; certain meetings,**
2458 **decisions to be excepted from the Freedom of Information Act; confidentiality of records;**
2459 **immunity from liability.**

2460 A. The Health Practitioners' Monitoring Program Committee shall consist of nine persons
2461 appointed by the Director to advise and assist in the operation of the Program, of whom eight shall be
2462 licensed, certified, or registered practitioners and one shall be a citizen member. Of the members who
2463 are licensed, certified, or registered practitioners, at least one shall be licensed to practice medicine or
2464 osteopathy in Virginia and engaged in active clinical practice, at least one shall be a registered nurse
2465 engaged in active practice, and all shall be knowledgeable about impairment and rehabilitation,
2466 particularly as related to the monitoring of health care practitioners. The Committee shall have the
2467 following powers and duties:

- 2468 1. To determine, in accordance with the regulations, eligibility to enter into the Program;
- 2469 2. To determine, in accordance with the regulations, those Program participants who are eligible
2470 for stayed disciplinary action;
- 2471 3. To enter into written contracts with practitioners which may include, among other terms and
2472 conditions, withdrawal from practice or limitations on the scope of the practice for a period of time;
- 2473 4. To report to the Director and the health regulatory boards as necessary on the status of
2474 applicants for and participants in the Program;
- 2475 5. To report to the Director, at least annually, on the performance of the Program; and

2476 6. To assist the Director in carrying out the provisions of this chapter.

2477 B. Records of the Program, to the extent such records identify individual practitioners in the
2478 Program, shall be privileged and confidential, and shall not be disclosed consistent with the Virginia
2479 Freedom of Information Act (§ 2.2-3700 et seq.). Such records shall be used only in the exercise of the
2480 proper functions as set forth in this chapter and shall not be public records nor shall such records be
2481 subject to court order, except as provided in subdivision C 4, or be subject to discovery or introduction
2482 as evidence in any civil, criminal, or administrative proceedings except those conducted by a health
2483 regulatory board.

2484 C. Notwithstanding the provisions of subsection B and of subdivision ~~11.2~~ of § 2.2-3705.5, the
2485 Committee may disclose such records relative to an impaired practitioner only:

2486 1. When disclosure of the information is essential to the monitoring needs of the impaired
2487 practitioner;

2488 2. When release of the information has been authorized in writing by the impaired practitioner;

2489 3. To a health regulatory board within the Department of Health Professions; or

2490 4. When an order by a court of competent jurisdiction has been granted, upon a showing of good
2491 cause therefor, including the need to avert a substantial risk of death or serious bodily harm. In assessing
2492 good cause, the court shall weigh the public interest and the need for disclosure against the injury to the
2493 patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such
2494 order, the court, in determining the extent to which any disclosure of all or any part of any record is
2495 necessary, shall impose appropriate protections against unauthorized disclosures.

2496 D. Pursuant to subdivision A 24 of § 2.2-3711, the proceedings of the Committee which in any
2497 way pertain or refer to a specific practitioner who may be, or who is actually, impaired and who may be
2498 or is, by reason of such impairment, subject to disciplinary action by the relevant board shall be
2499 excluded from the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.) and may be
2500 closed. Such proceedings shall be privileged and confidential.

2501 E. The members of the Committee shall be immune from liability resulting from the exercise of
2502 the powers and duties of the Committee as provided in § 8.01-581.13.

§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of

Director.

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision ~~45.2~~ of § 2.2-3705.5. Records in possession of the Prescription Monitoring Program shall not be available for civil subpoena, nor shall such records be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

2530 4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber
2531 to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

2532 5. Information relevant to a specific investigation, supervision, or monitoring of a specific
2533 recipient for purposes of the administration of criminal justice pursuant to Chapter 1 (§ 9.1-100 et seq.)
2534 of Title 9.1 to a probation or parole officer as described in Article 2 (§ 53.1-141 et seq.) of Chapter 4 of
2535 Title 53.1 or a local community-based probation officer as described in § 9.1-176.1 who has completed
2536 the Virginia State Police Drug Diversion School designated by the Director of the Department of
2537 Corrections or his designee.

2538 C. In accordance with the Department's regulations and applicable federal law and regulations,
2539 the Director may, in his discretion, disclose:

2540 1. Information in the possession of the program concerning a recipient who is over the age of 18
2541 to that recipient. The information shall be mailed to the street or mailing address indicated on the
2542 recipient request form.

2543 2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of
2544 establishing the treatment history of the specific recipient when such recipient is either under care and
2545 treatment by the prescriber or the prescriber is consulting on or initiating treatment of such recipient. In
2546 a manner specified by the Director in regulation, notice shall be given to patients that information may
2547 be requested by the prescriber from the Prescription Monitoring Program.

2548 3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription
2549 history to assist the dispenser in (i) determining the validity of a prescription in accordance with § 54.1-
2550 3303 or (ii) providing clinical consultation on the care and treatment of the recipient. In a manner
2551 specified by the Director in regulation, notice shall be given to patients that information may be
2552 requested by the dispenser from the Prescription Monitoring Program.

2553 4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or
2554 prescriber to other regulatory authorities concerned with granting, limiting or denying licenses,
2555 certificates or registrations to practice a health profession when such regulatory authority licenses such

2556 dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory
2557 authority.

2558 5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a
2559 participating provider in the Virginia Medicaid program or information relevant to an investigation
2560 relating to a specific recipient who is currently eligible for and receiving or who has been eligible for
2561 and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the
2562 Attorney General or to designated employees of the Department of Medical Assistance Services, as
2563 appropriate.

2564 6. Information relevant to determination of the cause of death of a specific recipient to the
2565 designated employees of the Office of the Chief Medical Examiner.

2566 7. Information for the purpose of bona fide research or education to qualified personnel;
2567 however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall
2568 be deleted or redacted from such information prior to disclosure. Further, release of the information shall
2569 only be made pursuant to a written agreement between such qualified personnel and the Director in
2570 order to ensure compliance with this subdivision.

2571 8. Information relating to prescriptions for covered substances issued by a specific prescriber,
2572 which have been dispensed and reported to the Program, to that prescriber.

2573 9. Information about a specific recipient who is a member of a Virginia Medicaid managed care
2574 program to a physician or pharmacist licensed in the Commonwealth and employed by the Virginia
2575 Medicaid managed care program. Such information shall only be used to determine eligibility for and to
2576 manage the care of the specific recipient in a Patient Utilization Management Safety or similar program.
2577 Notice shall be given to recipients that information may be requested by a licensed physician or
2578 pharmacist employed by the Virginia Medicaid managed care program from the Prescription Monitoring
2579 Program.

2580 10. (Expires July 1, 2022) Information to the Board of Medicine about prescribers who meet a
2581 certain threshold for prescribing covered substances for the purpose of requiring relevant continuing

2582 education. The threshold shall be determined by the Board of Medicine in consultation with the
2583 Program.

2584 D. The Director may enter into agreements for mutual exchange of information among
2585 prescription monitoring programs in other jurisdictions, which shall only use the information for
2586 purposes allowed by this chapter.

2587 E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the
2588 divulging of confidential records relating to investigative information.

2589 F. Confidential information that has been received, maintained or developed by any board or
2590 disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for
2591 discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action
2592 for damages arising out of the provision of or failure to provide services. However, this subsection shall
2593 not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247
2594 et seq.) of Chapter 7 of Title 18.2.

2595 **2. That the provisions of § 2.2-3704, subdivisions 10 and 14 of § 2.2-3705.2, subdivisions 2 and 3 of**
2596 **§ 2.2-3705.5, and subdivision 29 of § 2.2-3705.6 of the Code of Virginia, as amended by this act,**
2597 **are declaratory of existing law.**

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