

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-507, 2.2-510, 2.2-3701, 2.2-3705.7, and 2.2-3713 of the Code of
2 Virginia, relating to the Virginia Freedom of Information Act; discretionary exemption for social
3 media records of members of the General Assembly; representation of members of the General
4 Assembly by the Office of the Attorney General.

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

6 **1. That §§ 2.2-507, 2.2-510, 2.2-3701, 2.2-3705.7, and 2.2-3713 of the Code of Virginia are amended**
7 **and reenacted as follows:**

8 **§ 2.2-507. Legal service in civil matters.**

9 A. All legal service in civil matters for the Commonwealth, the Governor, and every state
10 department, institution, division, commission, board, bureau, agency, entity, official, court, or judge,
11 including the conduct of all civil litigation in which any of them are interested, shall be rendered and
12 performed by the Attorney General, except as provided in this chapter and except for any litigation
13 concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel
14 shall be employed for or by the Governor or any state department, institution, division, commission, board,
15 bureau, agency, entity, or official. The Attorney General may represent personally or through one or more
16 of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus,
17 agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in
18 the same civil or administrative proceeding and may represent multiple interests within the same
19 department, institution, division, commission, board, bureau, agency, or entity. The soil and water
20 conservation district directors or districts may request legal advice from local, public, or private sources;
21 however, upon request of the soil and water conservation district directors or districts, the Attorney
22 General shall provide legal service in civil matters for such district directors or districts.

23 B. The Attorney General may represent personally or through one of his assistants any of the
24 following persons who are made defendant in any civil action for damages arising out of any matter
25 connected with their official duties:

- 26 1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority;
- 27 2. Agents inspecting or investigators appointed by the State Corporation Commission;
- 28 3. Agents, investigators, or auditors employed by the Department of Taxation;
- 29 4. Members, agents, or employees of the State Board of Behavioral Health and Developmental
- 30 Services, the Department of Behavioral Health and Developmental Services, the State Board of Health,
- 31 the State Department of Health, the Department of General Services, the State Board of Social Services,
- 32 the Department of Social Services, the State Board of Corrections, the Department of Corrections, the
- 33 State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the
- 34 Department of Agriculture and Consumer Services;
- 35 5. Persons employed by the Commonwealth Transportation Board, the Department of
- 36 Transportation, or the Department of Rail and Public Transportation;
- 37 6. Persons employed by the Commissioner of Motor Vehicles;
- 38 7. Persons appointed by the Commissioner of Marine Resources;
- 39 8. Police officers appointed by the Superintendent of State Police;
- 40 9. Conservation police officers appointed by the Department of Game and Inland Fisheries;
- 41 10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;
- 42 11. Staff members or volunteers participating in a court-appointed special advocate program
- 43 pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
- 44 12. Any emergency medical services agency that is a licensee of the Department of Health in any
- 45 civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged
- 46 errors or omissions in the discharge of his court-appointed duties;
- 47 13. Conservation officers of the Department of Conservation and Recreation; or
- 48 14. A person appointed by written order of a circuit court judge to run an existing corporation or
- 49 company as the judge's representative, when that person is acting in execution of a lawful order of the
- 50 court and the order specifically refers to this section and appoints such person to serve as an agent of the
- 51 Commonwealth.

52 Upon request of the affected individual, the Attorney General may represent personally or through
53 one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing
54 a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense
55 of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly
56 in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of
57 Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

58 C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal
59 service to be rendered by him or one of his assistants, he may employ special counsel for this purpose,
60 whose compensation shall be fixed by the Attorney General. The compensation for such special counsel
61 shall be paid out of the funds appropriated for the administration of the board, commission, division, or
62 department being represented or whose members, officers, inspectors, investigators, or other employees
63 are being represented pursuant to this section. Notwithstanding any provision of this section to the
64 contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in
65 which it, or any justice, is a party.

66 D. Nothing herein shall limit the powers granted in § 16.1-88.03.

67 **§ 2.2-510. Employment of special counsel generally.**

68 No special counsel shall be employed for or by the Governor or any state department, institution,
69 division, commission, board, bureau, agency, entity, official, justice of the Supreme Court, or judge of
70 any circuit court or district court except in the following cases:

71 1. When the Governor determines that, because of the nature of the legal service to be performed,
72 the Attorney General's office is unable to render such service, then the Governor shall issue an exemption
73 order stating with particularity the facts and reasons leading to the conclusion that the Attorney General's
74 office is unable to render such service. The Governor may then employ special counsel to render such
75 service as he may deem necessary and proper. The compensation for such special counsel shall be paid
76 out of the funds appropriated for the administration of the board, commission, division, or department to
77 be represented or whose members, officers, inspectors, investigators, or other employees are to be
78 represented pursuant to this section.

79 2. In cases of legal services in civil matters to be performed for the Commonwealth, where it is
80 impracticable or uneconomical for the Attorney General to render such service, he may employ special
81 counsel whose compensation shall be paid out of the appropriation for the Attorney General's office.

82 3. In cases of legal services in civil matters to be performed for any state department, institution,
83 division, commission, board, bureau, agency, entity, official, member of the General Assembly, justice of
84 the Supreme Court, or judge of any circuit court or district court where it is impracticable or uneconomical
85 for the Attorney General's office to render such service, special counsel may be employed but only as set
86 forth in subsection D of § 2.2-507, upon the written recommendation of the Attorney General, who shall
87 approve all requisitions drawn upon the Comptroller for warrants as compensation for such special counsel
88 before the Comptroller shall have authority to issue such warrants.

89 4. In cases where the Attorney General certifies to the Governor that he is unable to render certain
90 legal services, the Governor may employ special counsel or other assistance to render such services as
91 may be necessary.

92 **§ 2.2-3701. Definitions.**

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

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

95 "Electronic communication" means the use of technology having electrical, digital, magnetic,
96 wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

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

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

102 "Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or
103 through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal
104 assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent
105 membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any

106 public body. Neither the gathering of employees of a public body nor the gathering or attendance of two
107 or more members of a public body (a) at any place or function where no part of the purpose of such
108 gathering or attendance is the discussion or transaction of any public business, and such gathering or
109 attendance was not called or prearranged with any purpose of discussing or transacting any business of
110 the public body, or (b) at a public forum, candidate appearance, or debate, the purpose of which is to
111 inform the electorate and not to transact public business or to hold discussions relating to the transaction
112 of public business, even though the performance of the members individually or collectively in the conduct
113 of public business may be a topic of discussion or debate at such public meeting, shall be deemed a
114 "meeting" subject to the provisions of this chapter.

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

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

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

131 "Public records" means all writings and recordings that consist of letters, words or numbers, or
132 their equivalent, set down by handwriting, typewriting, printing, photostatting, photography, magnetic

133 impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data
134 compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or
135 in the possession of a public body or its officers, employees or agents in the transaction of public business.
136 Records that are not prepared or owned by, or in the possession of, a public body or its officers, employees,
137 or agents in the transaction of public business are not public records.

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

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

143 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and**
144 **certain other limited exclusions.**

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

149 1. State income, business, and estate tax returns, personal property tax returns, and confidential
150 records held pursuant to § 58.1-3.

151 2. a. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor,
152 or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or
153 the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any
154 political subdivision of the Commonwealth; or the president or other chief executive officer of any public
155 institution of higher education in the Commonwealth. However, no information that is otherwise open to
156 inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or
157 incorporated within any working paper or correspondence. Further, information publicly available or not
158 otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated,
159 combined, or changed in format without substantive analysis or revision shall not be deemed working

160 papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or
161 applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

162 b. Social media records of the members of the General Assembly when such records (i) relate to
163 the use of a social media account by a member in such member's individual capacity and (ii) are not
164 prepared or owned by, or in the possession of, a public body or its officers, employees, or agents in the
165 transaction of public business.

166 As used in this subdivision 2:

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

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

172 "Social media account" means a personal account with an electronic medium, service, or
173 application through which users may create, share, or view user-generated content, including videos,
174 photographs, blogs, podcasts, messages, emails, and website profiles and locations.

175 "Working papers" means those records prepared by or for a public official identified in this
176 subdivision for his personal or deliberative use.

177 3. Information contained in library records that can be used to identify (i) both (a) any library
178 patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any
179 library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the
180 parent, including a noncustodial parent, or guardian of such library patron.

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

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

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

191 7. Customer account information of a public utility affiliated with a political subdivision of the
192 Commonwealth, including the customer's name and service address, but excluding the amount of utility
193 service provided and the amount of money charged or paid for such utility service.

194 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development
195 Authority concerning individuals who have applied for or received loans or other housing assistance or
196 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
197 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the
198 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and
199 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting
200 list for housing assistance programs funded by local governments or by any such authority; or (iv) filed
201 with any local redevelopment and housing authority created pursuant to § 36-4 or any other local
202 government agency concerning persons who have applied for occupancy or who have occupied affordable
203 dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own
204 information shall not be denied.

205 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-
206 1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a
207 governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

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

221 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a
222 local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
223 a trust established by one or more local public bodies to invest funds for post-retirement benefits other
224 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the
225 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors
226 of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College
227 Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security
228 or other ownership interest in an entity, where such security or ownership interest is not traded on a
229 governmentally regulated securities exchange, if disclosure of such information would (i) reveal
230 confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the
231 board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a
232 local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement
233 system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise
234 of confidentiality of the future value of such ownership interest or the future financial performance of the
235 entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of
236 by the retirement system, a local finance board or board of trustees, the board of visitors of the University
237 of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College
238 Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information

239 relating to the identity of any investment held, the amount invested, or the present value of such
240 investment.

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

244 14. Information held by the Virginia Commonwealth University Health System Authority
245 pertaining to any of the following: an individual's qualifications for or continued membership on its
246 medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from
247 third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use
248 in awarding contracts for construction or the purchase of goods or services; information of a proprietary
249 nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial
250 statements not publicly available that may be filed with the Authority from third parties; the identity,
251 accounts, or account status of any customer of the Authority; consulting or other reports paid for by the
252 Authority to assist the Authority in connection with its strategic planning and goals; the determination of
253 marketing and operational strategies where disclosure of such strategies would be harmful to the
254 competitive position of the Authority; and information of a proprietary nature produced or collected by or
255 for employees of the Authority, other than the Authority's financial or administrative records, in the
256 conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether
257 sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when
258 such information has not been publicly released, published, copyrighted, or patented. This exclusion shall
259 also apply when such information is in the possession of Virginia Commonwealth University.

260 15. Information held by the Department of Environmental Quality, the State Water Control Board,
261 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active
262 federal environmental enforcement actions that are considered confidential under federal law and (ii)
263 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such
264 information shall be disclosed after a proposed sanction resulting from the investigation has been proposed
265 to the director of the agency. This subdivision shall not be construed to prevent the disclosure of

266 information related to inspection reports, notices of violation, and documents detailing the nature of any
267 environmental contamination that may have occurred or similar documents.

268 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or
269 travel itinerary, including vehicle identification data or vehicle enforcement system information; video or
270 photographic images; Social Security or other identification numbers appearing on driver's licenses; credit
271 card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility
272 use.

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

278 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a
279 person regulated by the Board, where such person has tested negative or has not been the subject of a
280 disciplinary action by the Board for a positive test result.

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

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

289 21. Information held by state or local park and recreation departments and local and regional park
290 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
291 subdivision shall operate to prevent the disclosure of information defined as directory information under
292 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the

293 public body has undertaken the parental notification and opt-out requirements provided by such
294 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such
295 person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has
296 restricted or denied such access. For such information of persons who are emancipated, the right of access
297 may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the
298 information may waive, in writing, the protections afforded by this subdivision. If the protections are so
299 waived, the public body shall open such information for inspection and copying.

300 22. Information submitted for inclusion in the Statewide Alert Network administered by the
301 Department of Emergency Management that reveal names, physical addresses, email addresses, computer
302 or internet protocol information, telephone numbers, pager numbers, other wireless or portable
303 communications device information, or operating schedules of individuals or agencies, where the release
304 of such information would compromise the security of the Statewide Alert Network or individuals
305 participating in the Statewide Alert Network.

306 23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-
307 913.

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

311 a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings
312 Plan on the pursuit of particular investment strategies, or the selection or termination of investment
313 managers, prior to the execution of such investment strategies or the selection or termination of such
314 managers, if disclosure of such information would have an adverse impact on the financial interest of the
315 retirement system or the Virginia College Savings Plan; and

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

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

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

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

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

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

328 Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount
329 of any investment held or the present value and performance of all asset classes and subclasses.

330 25. Information held by the Department of Corrections made confidential by § 53.1-233.

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

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

337 28. Information maintained in connection with fundraising activities by the Veterans Services
338 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone
339 number, social security number or other identification number appearing on a driver's license, or credit
340 card or bank account data of identifiable donors, except that access shall not be denied to the person who
341 is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the
342 disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the
343 identity of the donor, unless the donor has requested anonymity in connection with or as a condition of
344 making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from
345 disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the
346 performance of services or other work or (ii) the terms and conditions of such grants or contracts.

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

352 30. Information provided to the Department of Aviation by other entities of the Commonwealth in
353 connection with the operation of aircraft where the information would not be subject to disclosure by the
354 entity providing the information. The entity providing the information to the Department of Aviation shall
355 identify the specific information to be protected and the applicable provision of this chapter that excludes
356 the information from mandatory disclosure.

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

359 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases
360 are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child
361 abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse
362 teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published
363 in statistical or other aggregated form that does not disclose the identity of specific individuals.

364 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by
365 the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target
366 companies, specific allocation of resources and staff for marketing activities, and specific marketing
367 activities that would reveal to the Commonwealth's competitors for economic development projects the
368 strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest
369 of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational
370 plan shall not be redacted or withheld pursuant to this subdivision.

371 **§ 2.2-3713. Proceedings for enforcement of chapter.**

372 A. Any person, including the attorney for the Commonwealth acting in his official or individual
373 capacity, denied the rights and privileges conferred by this chapter may proceed to enforce such rights and

374 privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause.
375 Such petition may be brought in the name of the person notwithstanding that a request for public records
376 was made by the person's attorney in his representative capacity. Venue for the petition shall be addressed
377 as follows:

378 1. In a case involving a local public body, to the general district court or circuit court of the county
379 or city from which the public body has been elected or appointed to serve and in which such rights and
380 privileges were so denied;

381 2. In a case involving a regional public body, to the general district or circuit court of the county
382 or city where the principal business office of such body is located; and

383 3. In a case involving a board, bureau, commission, authority, district, institution, or agency of the
384 state government, including a public institution of higher education, or a standing or other committee of
385 the General Assembly, to the general district court or the circuit court of the residence of the aggrieved
386 party or of the City of Richmond.

387 B. In any action brought before a general district court, a corporate petitioner may appear through
388 its officer, director or managing agent without the assistance of counsel, notwithstanding any provision of
389 law or Rule of the Supreme Court of Virginia to the contrary.

390 C. Notwithstanding the provisions of § 8.01-644, the petition for mandamus or injunction shall be
391 heard within seven days of the date when the same is made, provided the party against whom the petition
392 is brought has received a copy of the petition at least three working days prior to filing. The hearing on
393 any petition made outside of the regular terms of the circuit court of a locality that is included in a judicial
394 circuit with another locality or localities shall be given precedence on the docket of such court over all
395 cases that are not otherwise given precedence by law.

396 D. The petition shall allege with reasonable specificity the circumstances of the denial of the rights
397 and privileges conferred by this chapter. A single instance of denial of the rights and privileges conferred
398 by this chapter shall be sufficient to invoke the remedies granted herein. If the court finds the denial to be
399 in violation of the provisions of this chapter, the petitioner shall be entitled to recover reasonable costs,
400 ~~including costs and reasonable fees for expert witnesses,~~ and ~~attorneys' attorney~~ fees from the public body.

401 such costs including costs and reasonable fees for expert witnesses, if the petitioner substantially prevails
402 on the merits of the case, unless special circumstances would make an award unjust. In making this
403 determination, a court may consider, among other things, the reliance of a public body on an opinion of
404 the Attorney General or a decision of a court that substantially supports the public body's position.

405 E. In any action to enforce the provisions of this chapter, the public body shall bear the burden of
406 proof to establish an exclusion by a preponderance of the evidence. No court shall be required to accord
407 any weight to the determination of a public body as to whether an exclusion applies. Any failure by a
408 public body to follow the procedures established by this chapter shall be presumed to be a violation of this
409 chapter.

410 F. Failure by any person to request and receive notice of the time and place of meetings as provided
411 in § 2.2-3707 shall not preclude any person from enforcing his rights and privileges conferred by this
412 chapter.

413 G. The public body shall be a necessary party to any enforcement proceeding brought pursuant to
414 this section even though an officer, employee, or member may also be named in his official capacity.

415 #