

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

1 A BILL to amend and reenact §§ 2.2-3703, 2.2-3705.7, and 2.2-3711 of the Code of Virginia, relating to  
2 the Virginia Freedom of Information Act; applicability; sexual assault response teams and  
3 multidisciplinary child sexual abuse response teams.

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

5 **1. That §§ 2.2-3703, 2.2-3705.7, and 2.2-3711 of the Code of Virginia are amended and reenacted**  
6 **as follows:**

7 **§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and**  
8 **election records; access by persons incarcerated in a state, local, or federal correctional facility.**

9 A. The provisions of this chapter shall not apply to:

10 1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board  
11 providing the number of inmates considered by the Board for discretionary parole, the number of  
12 inmates granted or denied parole, and the number of parolees returned to the custody of the Department  
13 of Corrections solely as a result of a determination by the Board of a violation of parole shall be open to  
14 inspection and available for release, on a monthly basis, as provided by § 2.2-3704; (ii) all guidance  
15 documents, as defined in § 2.2-4001, shall be public records and subject to the provisions of this chapter;  
16 and (iii) all records concerning the finances of the Virginia Parole Board shall be public records and  
17 subject to the provisions of this chapter. The information required by clause (i) shall be furnished by  
18 offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the  
19 request of the party seeking the information. The information required by clause (ii) shall include all  
20 documents establishing the policy of the Board or any change in or clarification of such policy with  
21 respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process  
22 for consideration thereof, and shall be clearly and conspicuously posted on the Board's website.  
23 However, such information shall not include any portion of any document reflecting the application of  
24 any policy or policy change or clarification of such policy to an individual inmate;

25 2. Petit juries and grand juries;

26 3. Family assessment and planning teams established pursuant to § 2.2-5207;  
27 4. Sexual assault response teams established pursuant to § 15.2-1627.4, except that records  
28 relating to (i) protocols and policies of the sexual assault response team and (ii) guidelines for the  
29 community's response established by the sexual assault response team shall be public records and  
30 subject to the provisions of this chapter;  
31 5. Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;  
32 6. The Virginia State Crime Commission; and  
33 ~~5-7.~~ The records required by law to be maintained by the clerks of the courts of record, as  
34 defined in § 1-212, and courts not of record, as defined in § 16.1-69.5. However, other records  
35 maintained by the clerks of such courts shall be public records and subject to the provisions of this  
36 chapter.

37 B. Public access to voter registration and election records shall be governed by the provisions of  
38 Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

39 C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to  
40 afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or  
41 not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private  
42 Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent  
43 Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such  
44 persons from exercising their constitutionally protected rights, including, but not limited to, their right to  
45 call for evidence in their favor in a criminal prosecution.

46 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and**  
47 **certain other limited exclusions.**

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

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

54 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor,  
55 or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or  
56 the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of  
57 any political subdivision of the Commonwealth; or the president or other chief executive officer of any  
58 public institution of higher education in the Commonwealth. However, no information that is otherwise  
59 open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been  
60 attached to or incorporated within any working paper or correspondence. Further, information publicly  
61 available or not otherwise subject to an exclusion under this chapter or other provision of law that has  
62 been aggregated, combined, or changed in format without substantive analysis or revision shall not be  
63 deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of  
64 any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-  
65 106 or 2.2-107.

66 As used in this subdivision:

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

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

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

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

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

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

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

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

91 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing  
92 Development Authority concerning individuals who have applied for or received loans or other housing  
93 assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise  
94 assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or  
95 persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local  
96 redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or  
97 persons on the waiting list for housing assistance programs funded by local governments or by any such  
98 authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or  
99 any other local government agency concerning persons who have applied for occupancy or who have  
100 occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access  
101 to one's own information shall not be denied.

102 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-  
103 1441, if disclosure of such information would have a detrimental effect upon the negotiating position of

104 a governing body or on the establishment of the terms, conditions, and provisions of the siting  
105 agreement.

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

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

119 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a  
120 local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of  
121 a trust established by one or more local public bodies to invest funds for post-retirement benefits other  
122 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the  
123 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Virginia College  
124 Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a  
125 security or other ownership interest in an entity, where such security or ownership interest is not traded  
126 on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal  
127 confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the  
128 retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or  
129 provided to the retirement system, a local finance board or board of trustees, or the Virginia College  
130 Savings Plan under a promise of confidentiality of the future value of such ownership interest or the

131 future financial performance of the entity and (ii) have an adverse effect on the value of the investment  
132 to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees,  
133 the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this  
134 subdivision shall be construed to prevent the disclosure of information relating to the identity of any  
135 investment held, the amount invested, or the present value of such investment.

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

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

156 15. Information held by the Department of Environmental Quality, the State Water Control  
157 Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i)

158 active federal environmental enforcement actions that are considered confidential under federal law and  
159 (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such  
160 information shall be disclosed after a proposed sanction resulting from the investigation has been  
161 proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure  
162 of information related to inspection reports, notices of violation, and documents detailing the nature of  
163 any environmental contamination that may have occurred or similar documents.

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

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

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

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

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

185           21. Information held by state or local park and recreation departments and local and regional  
186 park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this  
187 subdivision shall operate to prevent the disclosure of information defined as directory information under  
188 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the  
189 public body has undertaken the parental notification and opt-out requirements provided by such  
190 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of  
191 such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction  
192 has restricted or denied such access. For such information of persons who are emancipated, the right of  
193 access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of  
194 the information may waive, in writing, the protections afforded by this subdivision. If the protections are  
195 so waived, the public body shall open such information for inspection and copying.

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

202           23. Information held by the Judicial Inquiry and Review Commission made confidential by §  
203 17.1-913.

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

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

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

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

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

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

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

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

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

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

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

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

233 28. Information maintained in connection with fundraising activities by the Veterans Services  
234 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or  
235 telephone number, social security number or other identification number appearing on a driver's license,  
236 or credit card or bank account data of identifiable donors, except that access shall not be denied to the  
237 person who is the subject of the information. Nothing in this subdivision, however, shall be construed to  
238 prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or

239 donation or the identity of the donor, unless the donor has requested anonymity in connection with or as  
240 a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply  
241 to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the  
242 foundation for the performance of services or other work or (ii) the terms and conditions of such grants  
243 or contracts.

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

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

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

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

262 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by  
263 the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target  
264 companies, specific allocation of resources and staff for marketing activities, and specific marketing  
265 activities that would reveal to the Commonwealth's competitors for economic development projects the

266 strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial  
267 interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and  
268 operational plan shall not be redacted or withheld pursuant to this subdivision.

269 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

282 2. Discussion or consideration of admission or disciplinary matters or any other matters that  
283 would involve the disclosure of information contained in a scholastic record concerning any student of  
284 any public institution of higher education in the Commonwealth or any state school system. However,  
285 any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians  
286 shall be permitted to be present during the taking of testimony or presentation of evidence at a closed  
287 meeting, if such student, parents, or guardians so request in writing and such request is submitted to the  
288 presiding officer of the appropriate board.

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

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

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

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

299 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to  
300 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect  
301 the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable  
302 litigation" means litigation that has been specifically threatened or on which the public body or its legal  
303 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in  
304 this subdivision shall be construed to permit the closure of a meeting merely because an attorney  
305 representing the public body is in attendance or is consulted on a matter.

306 8. Consultation with legal counsel employed or retained by a public body regarding specific legal  
307 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be  
308 construed to permit the closure of a meeting merely because an attorney representing the public body is  
309 in attendance or is consulted on a matter.

310 9. Discussion or consideration by governing boards of public institutions of higher education of  
311 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or  
312 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,  
313 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and  
314 accepted by a public institution of higher education in the Commonwealth shall be subject to public  
315 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,  
316 (i) "foreign government" means any government other than the United States government or the  
317 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity  
318 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of  
319 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the

320 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created  
321 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a  
322 citizen or national of the United States or a trust territory or protectorate thereof.

323 10 Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts,  
324 the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science  
325 Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

326 11. Discussion or consideration of honorary degrees or special awards.

327 12. Discussion or consideration of tests, examinations, or other information used, administered,  
328 or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

329 13. Discussion, consideration, or review by the appropriate House or Senate committees of  
330 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure  
331 statement filed by the member, provided the member may request in writing that the committee meeting  
332 not be conducted in a closed meeting.

333 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement  
334 or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the  
335 governing body in open meeting finds that an open meeting will have an adverse effect upon the  
336 negotiating position of the governing body or the establishment of the terms, conditions and provisions  
337 of the siting agreement, or both. All discussions with the applicant or its representatives may be  
338 conducted in a closed meeting.

339 15. Discussion by the Governor and any economic advisory board reviewing forecasts of  
340 economic activity and estimating general and nongeneral fund revenues.

341 16. Discussion or consideration of medical and mental health records subject to the exclusion in  
342 subdivision 1 of § 2.2-3705.5.

343 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant  
344 to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent;  
345 and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game

346 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3  
347 and subdivision 11 of § 2.2-3705.7.

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

353 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific  
354 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-  
355 enforcement or emergency service officials concerning actions taken to respond to such matters or a  
356 related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14  
357 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the  
358 security of any facility, building, structure, information technology system, or software program; or  
359 discussion of reports or plans related to the security of any governmental facility, building or structure,  
360 or the safety of persons using such facility, building or structure.

361 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-  
362 124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or  
363 board of trustees of a trust established by one or more local public bodies to invest funds for  
364 postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of  
365 Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to §  
366 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706,  
367 regarding the acquisition, holding or disposition of a security or other ownership interest in an entity,  
368 where such security or ownership interest is not traded on a governmentally regulated securities  
369 exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of  
370 visitors of the University of Virginia, prepared by the retirement system, or a local finance board or  
371 board of trustees, or the Virginia College Savings Plan or provided to the retirement system a local  
372 finance board or board of trustees, or the Virginia College Savings Plan under a promise of

373 confidentiality, of the future value of such ownership interest or the future financial performance of the  
374 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or  
375 disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of  
376 the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be  
377 construed to prevent the disclosure of information relating to the identity of any investment held, the  
378 amount invested or the present value of such investment.

379 21. Those portions of meetings in which individual child death cases are discussed by the State  
380 Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which  
381 individual child death cases are discussed by a regional or local child fatality review team established  
382 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
383 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
384 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
385 pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are  
386 discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

387 22. Those portions of meetings of the board of visitors of the University of Virginia or the  
388 Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings  
389 of any persons to whom management responsibilities for the University of Virginia Medical Center or  
390 Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed  
391 proprietary, business-related information pertaining to the operations of the University of Virginia  
392 Medical Center or Eastern Virginia Medical School, as the case may be, including business development  
393 or marketing strategies and activities with existing or future joint venturers, partners, or other parties  
394 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case  
395 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such  
396 information would adversely affect the competitive position of the Medical Center or Eastern Virginia  
397 Medical School, as the case may be.

398 23. Discussion or consideration by the Virginia Commonwealth University Health System  
399 Authority or the board of visitors of Virginia Commonwealth University of any of the following: the

400 acquisition or disposition by the Authority of real property, equipment, or technology software or  
401 hardware and related goods or services, where disclosure would adversely affect the bargaining position  
402 or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising  
403 activities of, the Authority; grants and contracts for services or work to be performed by the Authority;  
404 marketing or operational strategies plans of the Authority where disclosure of such strategies or plans  
405 would adversely affect the competitive position of the Authority; and members of the Authority's  
406 medical and teaching staffs and qualifications for appointments thereto.

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

410 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein  
411 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees  
412 by or on behalf of individuals who have requested information about, applied for, or entered into prepaid  
413 tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title  
414 23.1 is discussed.

415 26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee  
416 created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-  
417 336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of  
418 wireless E-911 service.

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

425 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of §  
426 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are

427 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the  
428 responsible public entity concerning such records.

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

433 30. Discussion or consideration of grant or loan application information subject to the exclusion  
434 in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation  
435 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory  
436 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

437 31. Discussion or consideration by the Commitment Review Committee of information subject  
438 to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as  
439 sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

440 32. Discussion or consideration of confidential proprietary information and trade secrets  
441 developed and held by a local public body providing certain telecommunication services or cable  
442 television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the  
443 exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU  
444 Authority Act (§ 15.2-7200 et seq.).

445 33. Discussion or consideration by a local authority created in accordance with the Virginia  
446 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and  
447 trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

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

450 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory  
451 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal  
452 investigative files subject to the exclusion in subdivision A 2 a of § 2.2-3706.

453 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
454 information or confidential matters subject to the exclusion in subdivision 3 of § 2.2-3705.4, and  
455 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and  
456 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or  
457 recover scholarship awards.

458 37. Discussion or consideration by the Virginia Port Authority of information subject to the  
459 exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for  
460 the Virginia Port Authority.

461 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System  
462 acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-  
463 124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia  
464 College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's  
465 Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the  
466 exclusion in subdivision 24 of § 2.2-3705.7.

467 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-  
468 3705.6 related to economic development.

469 40. Discussion or consideration by the Board of Education of information relating to the denial,  
470 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

471 41. Those portions of meetings of the Virginia Military Advisory Council or any commission  
472 created by executive order for the purpose of studying and making recommendations regarding  
473 preventing closure or realignment of federal military and national security installations and facilities  
474 located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs  
475 organization appointed by a local governing body, during which there is discussion of information  
476 subject to the exclusion in subdivision 8 of § 2.2-3705.2.

477 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
478 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
479 information of donors.

480 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
481 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information  
482 contained in grant applications.

483 44. Discussion or consideration by the board of directors of the Commercial Space Flight  
484 Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate  
485 structures or charges for the use of projects of, the sale of products of, or services rendered by the  
486 Authority and certain proprietary information of a private entity provided to the Authority.

487 45. Discussion or consideration of personal and proprietary information related to the resource  
488 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)  
489 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records  
490 that contain information that has been certified for release by the person who is the subject of the  
491 information or transformed into a statistical or aggregate form that does not allow identification of the  
492 person who supplied, or is the subject of, the information.

493 46. (Effective January 15, 2018) Discussion or consideration by the Board of Directors of the  
494 Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1  
495 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and  
496 permittees.

497 47. Discussion or consideration of grant or loan application records subject to the exclusion in  
498 subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the  
499 Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title  
500 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-  
501 3133 or by the Virginia Research Investment Committee.

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

505 49. ~~Discussion or consideration of (i) individual sexual assault cases by a sexual assault team~~  
506 ~~established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses~~  
507 ~~involving a child by a child abuse team established pursuant to § 15.2-1627.5.~~

508 ~~50.~~ Discussion or consideration by the Board of the Virginia Economic Development Partnership  
509 Authority, or any subcommittee thereof, of the portions of the strategic plan, marketing plan, or  
510 operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

511 ~~51.~~ 50. Those portions of meetings of the subcommittee of the Board of the Virginia Economic  
512 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and  
513 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of  
514 § 60.2-114.

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

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

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

525 E. This section shall not be construed to (i) require the disclosure of any contract between the  
526 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§  
527 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to  
528 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered  
529 to issue industrial revenue bonds by general or special law, to identify a business or industry to which  
530 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public

**531** record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such  
**532** bonds.

**533** #