



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

COMMONWEALTH OF VIRGINIA

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VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL
Tuesday, May 15, 2017 - 1:30 p.m.
House Room 1, Capitol Building

SUGGESTED AGENDA

ANNOTATED

- 1. Call to Order, introduction of members.**
- 2. Bills referred to Council for study by 2017 Session of General Assembly;**
presentations by Patrons: *Patrons were invited to attend to discuss their bills.*
 - HB 2223, Kory: Virginia Freedom of Information Act; right to speak at open meetings.
 - HB 2316, Marshall, D.W.; Tobacco Region Revitalization Commission; meetings by teleconference.
 - SB 972, DeSteph: Requests for information by members of the General Assembly; responses not subject to redaction.¹

¹ HB 2223, Kory: Requires that every public body afford an opportunity for public comment during any open meeting and requires that the public comment periods be noticed on the public body's agenda. The bill permits the public body to have discretion in where it places the public comment period on its agenda and permits the public body to adopt reasonable rules governing the public comment portion of the meeting, including imposing reasonable restrictions on time, place, and manner. The bill requires that for meetings of all public bodies, not just those state public bodies on which there is at least one member appointed by the Governor as in current law, the notice provided for any such meeting include a statement as to approximately at what point during the meeting public comment will be received.

HB 2316, Marshall, D.W.: Provides that the remote locations from which additional members of the Commission participate in a Commission meeting that is conducted through electronic communication means shall not be required to be open to the public.

SB 972, DeSteph: Requires all departments, agencies, and institutions of the Commonwealth and staff and employees thereof to respond to a request for information made by a member of the General Assembly. The bill further provides that notwithstanding the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), a response to a request for information made by a member of the General Assembly shall not be subject to redaction.

3. **Public Comment.**
4. **Discussion.**
5. **Trade Secrets and Proprietary Records Subcommittee Report.**
6. **Review of Trade Secrets Draft.**
7. **Public Comment.**
8. **Discussion and recommendations, if any.**
9. **Review of Proprietary Records Draft.**
10. **Public Comment.**
11. **Discussion.**
12. **Other Business.**
 - **HB 1971 Massie, Virginia Freedom of Information Act; record and meeting exclusions for multidisciplinary child abuse teams.** Excludes the records of a multidisciplinary team as they relate to individual child abuse or neglect cases or sex offenses involving a child from mandatory disclosure under the Virginia Freedom of Information Act. The bill also provides an exemption from open meeting requirements to such teams and sexual assault response teams. *Note: The issue is whether these bodies should be exempt from all provisions of FOIA much like family assessment and planning teams established pursuant to § 2.2-5207. See §2.2-3703.*
 - **HB 2143 Implementation - FOIA Officer online training, list of FOIA officers, and contact information form.** *House Bill 2143 (LeMunyon, 2017), which goes into effect July 1, 2017, requires the Council to maintain on its website a listing of all FOIA officers, including name, contact information, and the name of the public body such FOIA officers serve. The bill requires the name and contact information of FOIA officers trained by legal counsel of a public body to be submitted to the Council by July 1 of each year on a form developed by the Council for that purpose and to be updated in a timely manner in the event of any changes to such information. The bill also provides that training through an online course offered by the Council shall satisfy the annual training requirement for FOIA officers. A free online training program for FOIA Officers has been made available through the Commonwealth of Virginia Learning Center website maintained by the Department of Human Resource Management. Staff has begun compiling a list of FOIA officers, and has prepared a form for FOIA officers to use to submit their contact information to the Council.*
 - **Issuance of formal advisory opinions in cases where the facts are in dispute; guidance to staff from Council.**

- **Definition of "public body:"...wholly or principally supported by public funds."** Discussion of policy and practical issues.
- **Cybersecurity and FOIA requests made via email.**
- **UPDATE: *Daily Press v. Office of the Executive Secretary of the Supreme Court.*** As you will recall, the Daily Press filed a petition against the Office of the Executive Secretary (OES) seeking access to OES' compilation of case data received from various circuit courts. The lower court ruled in favor of OES, and the Daily Press appeal to the Supreme Court of Virginia, which heard oral argument in the case on April 21, 2017. A decision is expected sometime later this year.
- **Closing of General Assembly Building and moving to the Pocahontas Building.** As a reminder, staff of the FOIA Council is scheduled to move from the General Assembly Building and into the Pocahontas Building (900 E. Main St., Richmond, Virginia 23219) in the last two weeks of June, 2017.

13. Discussion.

14. Public Comment.

15. Future meetings.

Next meetings of the FOIA Council are scheduled as follows:

- **Monday, August 14, 2017 at 1:30 p.m.** in House Room 1 in the Capitol, Richmond, Virginia;
- **Monday, November 20, 2017 at 1:30 p.m.** in House Room 1 in the Capitol, Richmond, Virginia;

16. Adjournment.

Council Members

Delegate James M. LeMunyon, Chair
 Sandra G. Treadway
 Stephanie Hamlett
 Mark Vucci
 Marisa Porto
 William "Billy" Coleburn

Senator Richard H. Stuart, Vice-Chair
 Ed Jones
 Kathleen Dooley
 Shawri King-Casey
 Michael Stern
 Cullen Seltzer

Staff

Maria J.K. Everett, Executive Director and Senior Attorney
 Alan Gernhardt, Senior Attorney
 Jessica L. Budd, Staff Attorney

The FOIA Council's web site is: [http:// foiacouncil.dls.virginia.gov](http://foiacouncil.dls.virginia.gov). To assist us in providing Internet dissemination of materials, presenters are requested to submit written comments and handouts in electronic format by (i) e-mail to staff prior to meetings or (ii) diskette furnished to staff at

meetings. Presenters are also requested to bring 20 copies of their remarks or handouts to meetings. These copies will be provided to FOIA Council members and the public.
E-mail: foiacouncil@dls.virginia.gov.