



# VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

## COMMONWEALTH OF VIRGINIA

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## ***VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL***

**July 19, 2021 - 2:00 pm**  
**Shared Committee Room, Pocahontas Building**  
**Richmond, VA**

[Click HERE for the Live Stream of the Meeting.](#)

### **SUGGESTED AGENDA**

**\*ANNOTATED\***

- 1. Call to Order, introduction of members.**
- 2. Introduction of new member.** *Lola Rodriguez Perkins, Senior Deputy City Attorney for the City of Hampton, was appointed by the Senate Rules Committee to replace Sterling Rives who resigned in January. She will serve as a member of the Records Issues Subcommittee.*
- 3. Subcommittee Reports.** *At its meeting on April 28, 2021, the FOIA Council assigned bills referred by the 2021 Session of the General Assembly along with another issue related to proper meeting notice under FOIA to two subcommittees for further study as listed below. A brief synopsis of each subcommittee's activities to date appears below.*

#### Records Issues Subcommittee

*The Records Issues Subcommittee met on May 18, 2021, to consider HB 2000 and HB 2196. The Subcommittee asked Council staff to conduct research on how other states approach fees for the production of public records and to compile the different options for the Subcommittee to consider at its meeting that was held on June 14, 2021. At the meeting on June 14, 2021, the*

*Subcommittee heard extensive public comment on HB 2000 and HB 2196, and agreed to utilize the next meeting of the Subcommittee to discuss each bill in detail and determine what specific recommendations to recommend to the full Council.*

- **[HB 2000](#) (Roem) Virginia Freedom of Information Act; charges for production of public records.** Prohibits a public body from charging a requester for any costs incurred during the first two hours spent accessing or searching for requested records when such requester has made four or fewer individual records requests to such public body within 31 consecutive days. The bill provides that for any additional time spent accessing or searching for such records, or when such requester makes five or more individual records requests to such public body within any 31-consecutive-day period, the public body shall not charge an hourly rate for accessing or searching for the records exceeding the lesser of the hourly rate of pay of the lowest-paid individual capable of fulfilling the request or \$33 per hour. The bill also requires public bodies to post on their website or otherwise publish a written policy (a) explaining how the public body assesses charges for accessing or searching for requested records and (b) noting the current fee charged, if any, by the public body for accessing and searching for the requested records.
- **[HB 2196](#) (Mullin) Virginia Freedom of Information Act; required release of law-enforcement disciplinary records; exceptions.** Requires the release of law-enforcement disciplinary records related to completed disciplinary investigations. The bill defines "law-enforcement disciplinary records" as any record created in furtherance of a law-enforcement disciplinary proceeding or any other administrative or judicial proceeding, whether such proceeding takes place in the Commonwealth or in another jurisdiction. The bill allows for the redaction of certain personal contact information of the law-enforcement officer, complainant, and witness or their families; social security numbers; and certain medical information of the law-enforcement officer and complainant.

#### Meetings Issues Subcommittee

*The Meetings Issues Subcommittee met on May 26, 2021, to consider HB 1997 and the issue regarding the lack of a definition for "official public government website" under FOIA. The Subcommittee voted to recommend against HB 1997, and asked Staff to draft legislation that defines "official public government website" for the purposes of FOIA to be considered at the Subcommittee's next meeting which was held on June 24, 2021. The Subcommittee met on June 24, 2021, to consider draft language defining "official public government website" and voted to recommend an amended version of the draft to the full Council. The Subcommittee also studied the different statutory schemes that allow public bodies to meet by electronic communication means under current law and decided not to recommend any changes to the electronic meetings laws at this time.*

- **[HB 1997](#) (Murphy) Virginia Freedom of Information Act; definition of "meeting."** Increases from three to four the number of members of a public body meeting as an informal assemblage that constitutes a meeting under the Virginia Freedom of Information Act.

- Due to a recent general district court case that held that only ".gov" websites would be considered "official public government websites" for purposes of proper meeting notice pursuant to FOIA, the Council charged the Subcommittee with determining whether or how to define "official public government website" for purposes of FOIA.

**4. Discussion.**

**5. Other Business.**

- *FOIA Council Policy on Individual Participation in Electronic Meetings*

**6. Public Comment.**

**7. Set Future Meeting Dates.**

**8. Adjournment.**

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**Council Members**

**Senator Mamie E. Locke, Chair**  
**Senator Richard H. Stuart**  
**Sandra G. Treadway**  
**Bruce Potter**  
**Amigo Wade**  
**William "Billy" Coleburn**  
**Pamela O'Berry**

**Delegate Marcus B. Simon, Vice-Chair**  
**Delegate William Wampler III**  
**Lee Bujakowski**  
**Matthew Conrad**  
**Michael Stern**  
**Cullen Seltzer**  
**Lola Rodriguez Perkins**

**Staff**

Alan Gernhardt, Executive Director  
 Ashley Binns, Attorney

The FOIA Council's website 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 email to staff prior to 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](mailto:foiacouncil@dls.virginia.gov)