

## **Proposal to Amend § 2.2-3704.1, Relating to Notices of FOIA Rights and Responsibilities**

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- The proposal extends the requirement to create a notice of rights and responsibilities from only “state public bodies created in the executive branch” (line 3) to also include each “regional public body, local governing body, school board, and authority,” (lines 7-8). This is intended to include public bodies that operate as independent organizations, but not subordinate public bodies such as subcommittees, municipal departments, and local boards.
- Rather than directing public bodies to “make available” the required information (line 4), with no direct guidance on how that should be done, the proposal requires the information to be proactively created and maintained as “a written statement” (line 8), therefore clarifying that all the normal provisions of how to respond to a FOIA request apply.
- Since lines 18-21 were added to this section by the 2009 General Assembly with only state public bodies in mind, the proposal keeps the new provisions limited to such bodies (lines 18 and 20).
- The proposal requires public bodies to post the statement in the same places they are currently required to post meeting notices, as well as in the office of the FOIA point of contact specified in the statement (lines 26-30). The proposal also requires public bodies to post the statements on their Web sites if they have them (lines 30-32).

1 § 2.2-3704.1. Posting of notice of rights and responsibilities by state public bodies; assistance by  
2 the Freedom of Information Advisory Council.

3 ~~A. All state public bodies created in the executive branch of state government and subject to the~~  
4 ~~provisions of this chapter shall make available the following information to the public upon~~  
5 ~~request and shall post such information on the Internet:~~

6 *Each state public body created in the executive branch of state government and subject to the*  
7 *provisions of this chapter, and each regional public body, local governing body, school board,*  
8 *and authority subject to this chapter, shall create, and annually update, a written statement that*  
9 *includes the following information:*

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

16 2. Contact information for the person designated by the public body to (i) assist a requester in  
17 making a request for records or (ii) respond to requests for public records;

18 3. *For state public bodies only, a* ~~A~~ general description, summary, list, or index of the types of  
19 public records maintained by such state public body;

20 4. *For state public bodies only, a* ~~A~~ general description, summary, list, or index of any  
21 exemptions in law that permit or require such public records to be withheld from release; and

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

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

26 *C. Each public body required to maintain the statement described in subsection A shall post the*  
27 *statement in the prominent public location at which notices are regularly posted pursuant to*  
28 *§ 2.2-3707(C), in the office of the person designated in subsection A(2) herein, and in the office*  
29 *of the clerk of the public body (or in the case of a public body that has no clerk, in the office of*  
30 *the chief administrator). Each public body required to maintain the statement described in*  
31 *subsection A and that operates a public Web site shall link to a copy of the statement from the*  
32 *homepage of such Web site.*