

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

1 A BILL to amend and reenact § 2.2-3701 of the Code of Virginia, relating to the Virginia Freedom of  
2 Information Act; definition of proprietary information.

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

4 **1. That § 2.2-3701 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 2.2-3701. Definitions.**

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

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

8 "Electronic communication" means any audio or combined audio and visual communication  
9 method.

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

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

15 "Meeting" or "meetings" means the meetings including work sessions, when sitting physically,  
16 or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as  
17 an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the  
18 constituent membership, wherever held, with or without minutes being taken, whether or not votes are  
19 cast, of any public body. Neither the gathering of employees of a public body nor the gathering or  
20 attendance of two or more members of a public body (i) at any place or function where no part of the  
21 purpose of such gathering or attendance is the discussion or transaction of any public business, and such  
22 gathering or attendance was not called or prearranged with any purpose of discussing or transacting any  
23 business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of  
24 which is to inform the electorate and not to transact public business or to hold discussions relating to the  
25 transaction of public business, even though the performance of the members individually or collectively

26 in the conduct of public business may be a topic of discussion or debate at such public meeting, shall be  
27 deemed a "meeting" subject to the provisions of this chapter.

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

29 "Proprietary information" means information that has not been publicly disseminated or which is  
30 unavailable from other sources, the release of which may cause the creator or submitter of the  
31 information competitive harm.

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

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

47 "Public records" means all writings and recordings that consist of letters, words or numbers, or  
48 their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic  
49 impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data  
50 compilation, however stored, and regardless of physical form or characteristics, prepared or owned by,  
51 or in the possession of a public body or its officers, employees or agents in the transaction of public

52 business. Records that are not prepared for or used in the transaction of public business are not public  
53 records.

54 "Regional public body" means a unit of government organized as provided by law within defined  
55 boundaries, as determined by the General Assembly, whose members are appointed by the participating  
56 local governing bodies, and such unit includes two or more counties or cities.

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

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