

## SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend and reenact §§ 2.2-3706, 2.2-3711, 19.2-174.1, and 19.2-368.3 of the Code of Virginia  
2 and to amend the Code of Virginia by adding a section numbered 2.2-3706.1, relating to the  
3 Virginia Freedom of Information Act; law-enforcement criminal incident information; criminal  
4 investigative files.

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

6 **1. That §§ 2.2-3706, 2.2-3711, 19.2-174.1, and 19.2-368.3 of the Code of Virginia are amended and**  
7 **reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-3706.1 as**  
8 **follows:**

9 **§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations.**

10 A. Records required to be released. All public bodies engaged in criminal law-enforcement  
11 activities shall provide the following records when requested in accordance with the provisions of this  
12 chapter:

13 1. ~~Criminal incident information relating to felony offenses, which shall include:~~

14 ~~a. A general description of the criminal activity reported;~~

15 ~~b. The date the alleged crime was committed;~~

16 ~~c. The general location where the alleged crime was committed;~~

17 ~~d. The identity of the investigating officer or other point of contact; and~~

18 ~~e. A general description of any injuries suffered or property damaged or stolen.~~

19 ~~A verbal response as agreed to by the requester and the public body is sufficient to satisfy the~~  
20 ~~requirements of subdivision 1.~~

21 ~~Where the release of criminal incident information, however, is likely to jeopardize an ongoing~~  
22 ~~investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or~~  
23 ~~result in the destruction of evidence, such information may be withheld until the above-referenced damage~~  
24 ~~is no longer likely to occur from release of the information. Nothing in subdivision 1 shall be construed~~

25 ~~to authorize the withholding of those portions of such information that are not likely to cause the above-~~  
26 ~~referenced damage;~~

27 2. Adult arrestee photographs taken during the initial intake following the arrest and as part of the  
28 routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases  
29 until such time as the release of the photograph will no longer jeopardize the investigation;

30 ~~3-2.~~ Information relative to the identity of any individual, other than a juvenile, who is arrested  
31 and charged, and the status of the charge or arrest; and

32 4-3. Records of completed unattended death investigations to the parent or spouse of the decedent  
33 or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided  
34 the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death"  
35 means a death determined to be a suicide, accidental or natural death where no criminal charges will be  
36 initiated, and "immediate family" means the decedent's personal representative or, if no personal  
37 representative has qualified, the decedent's next of kin in order of intestate succession as set forth in §  
38 64.2-200.

39 B. Discretionary releases. The following records are excluded from the mandatory disclosure  
40 provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such  
41 disclosure is prohibited by law:

42 1. Criminal investigative files, defined as any documents and information, including complaints,  
43 court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness  
44 statements, and evidence, relating to a criminal investigation or prosecution, ~~other than criminal incident~~  
45 ~~information subject to release in accordance with subdivision A 1 not required to be disclosed in~~  
46 accordance with § 2.2-3706.1;

47 2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii)  
48 investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments  
49 of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter  
50 8 of Title 23.1;

51           3. Records of local law-enforcement agencies relating to neighborhood watch programs that  
52 include the names, addresses, and operating schedules of individual participants in the program that are  
53 provided to such agencies under a promise of anonymity;

54           4. All records of persons imprisoned in penal institutions in the Commonwealth provided such  
55 records relate to the imprisonment;

56           5. Records of law-enforcement agencies, to the extent that such records contain specific tactical  
57 plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the  
58 general public;

59           6. All records of adult persons under (i) investigation or supervision by a local pretrial services  
60 agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation,  
61 probation supervision, or monitoring by a local community-based probation services agency in accordance  
62 with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state  
63 probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

64           7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for  
65 cellular telephones, pagers, or comparable portable communication devices provided to its personnel for  
66 use in the performance of their official duties;

67           8. Those portions of any records containing information related to undercover operations or  
68 protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations  
69 or protective details. Nothing in this subdivision shall operate to allow the withholding of information  
70 concerning the overall costs or expenses associated with undercover operations or protective details;

71           9. Records of (i) background investigations of applicants for law-enforcement agency  
72 employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a  
73 law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement  
74 agencies that are made confidential by law;

75           10. The identity of any victim, witness, or undercover officer, or investigative techniques or  
76 procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or  
77 restricted under § 19.2-11.2; and

78 11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the  
79 Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information  
80 obtained from state, local, and regional officials, except to the extent that information is required to be  
81 posted on the Internet pursuant to § 9.1-913.

82 C. Prohibited releases. The identity of any individual providing information about a crime or  
83 criminal activity under a promise of anonymity shall not be disclosed.

84 D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in  
85 fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing  
86 calls for service or other communications to an emergency 911 system or any other equivalent reporting  
87 system may withhold those portions of noncriminal incident or other noncriminal investigative reports or  
88 materials that contain identifying information of a personal, medical, or financial nature where the release  
89 of such information would jeopardize the safety or privacy of any person. Access to personnel records of  
90 persons employed by a law-enforcement agency shall be governed by the provisions of subdivision B 9  
91 of this section and subdivision 1 of § 2.2-3705.1, as applicable.

92 E. Records of any call for service or other communication to an emergency 911 system or  
93 communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

94 F. Conflict resolution. In the event of conflict between this section as it relates to requests made  
95 under this section and other provisions of law, this section shall control.

96 **§ 2.2-3706.1. Disclosure of law-enforcement records; criminal incident information and**  
97 **certain criminal investigative files; limitations.**

98 **A. For purposes of this section:**

99 **"Immediate family" means the decedent's personal representative or, if no personal representative**  
100 **has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.**

101 **"Ongoing" refers to a proceeding in which the prosecution has not been finally adjudicated or more**  
102 **than three years have not yet elapsed from when a decision to take no action was made.**

103 **B. All public bodies engaged in criminal law-enforcement activities shall provide the following**  
104 **records and information when requested in accordance with the provisions of this chapter:**

105 1. Criminal incident information relating to felony offenses contained in any report, notes,  
106 electronic communication, or other document, including filings through an incident-based reporting  
107 system, which shall include:

- 108 a. A general description of the criminal activity reported;  
109 b. The date and time the alleged crime was committed;  
110 c. The general location where the alleged crime was committed;  
111 d. The identity of the investigating officer or other point of contact;  
112 e. A description of any injuries suffered or property damaged or stolen; and  
113 f. Any diagrams related to the alleged crime or the location where the alleged crime was  
114 committed.

115 A verbal response as agreed to by the requester and the public body is sufficient to satisfy the  
116 requirements of this subdivision 1; and

117 2. Criminal investigative files, defined as any documents and information, including complaints,  
118 court orders, memoranda, notes, initial incident reports, filings through any incident-based reporting  
119 system, diagrams, maps, photographs, correspondence, reports, witness statements, or evidence, relating  
120 to a criminal investigation or proceeding that is not ongoing.

121 C. The provisions of subsection B shall not apply if a court in the locality wherein the public body  
122 is located finds by a preponderance of the evidence that the release of such information:

123 1. Would interfere with a particular ongoing criminal investigation or proceeding in a particularly  
124 identifiable manner;

125 2. Would deprive a person of a right to a fair trial or an impartial adjudication;

126 3. Would constitute an unwarranted invasion of personal privacy;

127 4. Would disclose (i) the identity of a confidential source or (ii) in the case of a record compiled  
128 by a law-enforcement agency in the course of a criminal investigation, information furnished only by a  
129 confidential source;

130 5. Would disclose law-enforcement investigative techniques and procedures; or

131 6. Would endanger the life or physical safety of any individual.

132 Nothing in this subsection shall be construed to authorize the withholding of those portions of such  
133 information that are unlikely to cause any effect listed herein.

134 D. Nothing in this section shall prohibit the disclosure of current anonymized, aggregate location  
135 and demographic data collected pursuant to § 52-30.2 or similar data documenting law-enforcement  
136 officer encounters with members of the public.

137 No photographic, audio, video, or other record depicting a victim or allowing for a victim to be  
138 readily identified shall be released to anyone except (i) the victim; (ii) members of the immediate family  
139 of the victim, if the victim is deceased; or (iii) the parent or guardian of the victim, if the victim is a minor.

140 E. In the event of a conflict between this section as it relates to requests made under this section  
141 and other provisions of law, this section controls except to the extent that the other provision of law  
142 provides for more protections for a victim, witness, undercover officer, or confidential source or family  
143 members of such victim, witness, undercover officer, or confidential source.

144 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

156 2. Discussion or consideration of admission or disciplinary matters or any other matters that would  
157 involve the disclosure of information contained in a scholastic record concerning any student of any public  
158 institution of higher education in the Commonwealth or any state school system. However, any such

159 student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be  
160 permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if  
161 such student, parents, or guardians so request in writing and such request is submitted to the presiding  
162 officer of the appropriate board.

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

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

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

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

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

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

184 9. Discussion or consideration by governing boards of public institutions of higher education of  
185 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or

186 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,  
187 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and  
188 accepted by a public institution of higher education in the Commonwealth shall be subject to public  
189 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,  
190 (i) "foreign government" means any government other than the United States government or the  
191 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity  
192 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the  
193 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the  
194 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under  
195 the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or  
196 national of the United States or a trust territory or protectorate thereof.

197 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the  
198 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,  
199 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private  
200 sources.

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

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

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

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

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

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

217 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to  
218 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and  
219 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game  
220 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3  
221 and subdivision 11 of § 2.2-3705.7.

222 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or  
223 discloses the identity of, or information tending to identify, any prisoner who (i) provides information  
224 about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or  
225 in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders  
226 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

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

235 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30,  
236 or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of  
237 trustees of a trust established by one or more local public bodies to invest funds for postemployment  
238 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2,  
239 or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board

240 of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or  
241 disposition of a security or other ownership interest in an entity, where such security or ownership interest  
242 is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i)  
243 concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared  
244 by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings  
245 Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia  
246 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or  
247 the future financial performance of the entity, and (ii) would have an adverse effect on the value of the  
248 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of  
249 trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing  
250 in this subdivision shall be construed to prevent the disclosure of information relating to the identity of  
251 any investment held, the amount invested or the present value of such investment.

252 21. Those portions of meetings in which individual child death cases are discussed by the State  
253 Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which  
254 individual child death cases are discussed by a regional or local child fatality review team established  
255 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
256 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
257 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
258 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed  
259 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of  
260 meetings in which individual death cases are discussed by overdose fatality review teams established  
261 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are  
262 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of  
263 meetings in which individual death cases of persons with developmental disabilities are discussed by the  
264 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

265 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern  
266 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any

267 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern  
268 Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary,  
269 business-related information pertaining to the operations of the University of Virginia Medical Center or  
270 Eastern Virginia Medical School, as the case may be, including business development or marketing  
271 strategies and activities with existing or future joint venturers, partners, or other parties with whom the  
272 University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed,  
273 or forms, any arrangement for the delivery of health care, if disclosure of such information would  
274 adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as  
275 the case may be.

276 23. Discussion or consideration by the Virginia Commonwealth University Health System  
277 Authority or the board of visitors of Virginia Commonwealth University of any of the following: the  
278 acquisition or disposition by the Authority of real property, equipment, or technology software or  
279 hardware and related goods or services, where disclosure would adversely affect the bargaining position  
280 or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities  
281 of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing  
282 or operational strategies plans of the Authority where disclosure of such strategies or plans would  
283 adversely affect the competitive position of the Authority; and members of the Authority's medical and  
284 teaching staffs and qualifications for appointments thereto.

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

288 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein  
289 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by  
290 or on behalf of individuals who have requested information about, applied for, or entered into prepaid  
291 tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title  
292 23.1 is discussed.

293 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery  
294 Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as  
295 defined in § 56-484.12, related to the provision of wireless E-911 service.

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

302 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-  
303 3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in  
304 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible  
305 public entity concerning such records.

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

310 30. Discussion or consideration of grant or loan application information subject to the exclusion  
311 in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

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

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

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

323 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting  
324 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

325 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory  
326 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal  
327 investigative files ~~subject to the exclusion in subdivision B 1 of § 2.2-3706.~~

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

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

336 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
337 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,  
338 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
339 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory  
340 Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of  
341 § 2.2-3705.7.

342 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-  
343 3705.6 related to economic development.

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

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

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

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

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

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

368 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage  
369 Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to  
370 investigations of applicants for licenses and permits and of licensees and permittees.

371 47. Discussion or consideration of grant, loan, or investment application records subject to the  
372 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-  
373 2351 et seq.) of Chapter 22.

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

377 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response  
378 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses  
379 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)  
380 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to  
381 §§ 15.2-1627.5 and 63.2-1605.

382 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
383 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the  
384 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to  
385 subdivision 33 of § 2.2-3705.7.

386 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic  
387 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and  
388 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of  
389 § 60.2-114.

390 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership  
391 Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the  
392 Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

393 53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to  
394 § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion,  
395 consideration, or review of matters related to investigations exempt from disclosure under subdivision 1  
396 of § 2.2-3705.3.

397 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007  
398 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting  
399 and any discussion, consideration, or review of matters related to investigations excluded from mandatory  
400 disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

411 E. This section shall not be construed to (i) require the disclosure of any contract between the  
412 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§  
413 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to  
414 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered  
415 to issue industrial revenue bonds by general or special law, to identify a business or industry to which  
416 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record  
417 at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

418 **§ 19.2-174.1. Information required prior to admission to a mental health facility.**

419 Prior to any person being placed into the custody of the Commissioner for evaluation or treatment  
420 pursuant to §§ 19.2-169.2, 19.2-169.3, 19.2-169.6, 19.2-182.2, and 19.2-182.3, and Chapter 9 (§ 37.2-900  
421 et seq.) of Title 37.2, the court or special justice shall provide the Commissioner with the following, if  
422 available: (i) the commitment order, (ii) the names and addresses for the attorney for the Commonwealth,  
423 the attorney for the person and the judge holding jurisdiction over the person, (iii) a copy of the warrant

424 or indictment, and (iv) a copy of the criminal incident information as defined in § ~~2.2-3706~~ 2.2-3706.1 or  
425 a copy of the arrest report or a summary of the facts relating to the crime. The party requesting the  
426 placement into the Commissioner's custody or, in the case of admissions pursuant to §§ 19.2-169.3 and  
427 19.2-169.6, and Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the person having custody over the defendant  
428 or inmate shall gather the above information for submission to the court at the hearing. If the information  
429 is not available at the hearing, it shall be provided by the party requesting placement or the person having  
430 custody directly to the Commissioner within 96 hours of the person being placed into the Commissioner's  
431 custody. If the 96-hour period expires on a Saturday, Sunday or legal holiday, the 96 hours shall be  
432 extended to the next day that is not a Saturday, Sunday or legal holiday.

433 **§ 19.2-368.3. Powers and duties of Commission.**

434 The Commission shall have the following powers and duties in the administration of the provisions  
435 of this chapter:

436 1. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the  
437 provisions and purposes of this chapter, to include a distinct policy (i) for the payment of physical evidence  
438 recovery kit examinations and (ii) to require each health care provider as defined in § 8.01-581.1 that  
439 provides services under this chapter to negotiate with the Commission or its designee to establish  
440 prospective agreements relating to rates for payment of claims for such services allowed under § 19.2-  
441 368.11:1, such rates to discharge the obligation to the provider in full except where the provider is an  
442 agency of the Commonwealth and the claimant receives a third party recovery in addition to the payment  
443 from the Fund.

444 2. Notwithstanding the provisions of ~~§§ 2.2-3706~~ and 2.2-3706.1, to acquire from the attorneys  
445 for the Commonwealth, State Police, local police departments, sheriffs' departments, and the Chief  
446 Medical Examiner such investigative results, information and data as will enable the Commission to  
447 determine if, in fact, a crime was committed or attempted, and the extent, if any, to which the victim or  
448 claimant was responsible for his own injury. These data shall include prior adult arrest records and juvenile  
449 court disposition records of the offender. For such purposes and in accordance with § 16.1-305, the  
450 Commission may also acquire from the juvenile and domestic relations district courts a copy of the order

451 of disposition relating to the crime. The use of any information received by the Commission pursuant to  
452 this subdivision shall be limited to carrying out the purposes set forth in this section, and this information  
453 shall be confidential and shall not be disseminated further. The agency from which the information is  
454 requested may submit original reports, portions thereof, summaries, or such other configurations of  
455 information as will comply with the requirements of this section.

456 3. To hear and determine all claims for awards filed with the Commission pursuant to this chapter,  
457 and to reinvestigate or reopen cases as the Commission deems necessary.

458 4. To require and direct medical examination of victims.

459 5. To hold hearings, administer oaths or affirmations, examine any person under oath or  
460 affirmation and to issue summonses requiring the attendance and giving of testimony of witnesses and  
461 require the production of any books, papers, documentary or other evidence. The powers provided in this  
462 subsection may be delegated by the Commission to any member or employee thereof.

463 6. To take or cause to be taken affidavits or depositions within or without the Commonwealth.

464 7. To render each year to the Governor and to the General Assembly a written report of its  
465 activities. This report shall include a detailed section on all unclaimed restitution collected and disbursed  
466 to the victim from the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1.

467 8. To accept from the government of the United States grants of federal moneys for disbursement  
468 under the provisions of this chapter.

469 9. To collect and disburse unclaimed restitution pursuant to subsection I of § 19.2-305.1 and  
470 develop, in consultation with circuit court clerks and the Office of the Executive Secretary of the Supreme  
471 Court of Virginia, policies and procedures for the receipt, collection, and disbursement of unclaimed  
472 restitution to victims of crime.

473 10. To identify and locate victims of crime for whom restitution owed to such victims has been  
474 deposited into the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1.  
475 Notwithstanding the provisions of ~~§§ 2.2-3706~~ and 2.2-3706.1, the Commission may acquire from the  
476 attorneys for the Commonwealth, State Police, local police departments, and sheriffs' departments such  
477 information as will enable the Commission to identify and locate such victims. The use of any information

**478** received by the Commission pursuant to this subdivision shall be limited to carrying out the purposes set  
**479** forth in this section, and this information shall be confidential and shall not be disseminated further.

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