



# VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

## COMMONWEALTH OF VIRGINIA

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## **2010 FOIA LEGISLATIVE UPDATE**

NOTE: *Unless otherwise stated, the changes in the law described herein will take effect July 1, 2010.*

### **I. Introduction**

The General Assembly passed a total of 12 bills amending the Virginia Freedom of Information Act (FOIA) during the 2010 Session. House Bill 434 (Griffith), which allows the redaction of financial account numbers and routing information, passed as a recommendation of the Freedom of Information Advisory Council (FOIA Council). Note that this bill was passed with an emergency clause and became law effective April 11, 2010. The General Assembly also passed House Bill 433 (Griffith), which sets out the original date (January 1, 1975) when social security numbers were authorized to be collected or required by state and local agencies under federal law, and makes other changes to the Government Data Collection and Dissemination Practices Act (GDCDPA), as a recommendation of the FOIA Council.

Of the 12 bills, six bills created four new record exemptions to FOIA as follows:

- Exempts from mandatory disclosure financial account numbers and routing information. (HB 434 amending § 2.2-3705.1, effective April 11, 2010);
- Exempts certain records of threat assessment teams at public institutions of higher education related to specific individuals. (HB 903 and identical SB 207 amending § 2.2-3705.4);
- Exempts certain records of the Virginia Tobacco Indemnification and Community Revitalization Commission, and provides a corresponding closed meeting exemption. (HB 1073 and SB 555 amending §§ 2.2-3705.6 and 2.2-3711; note that each bill uses identical language for the meetings exemption, but not for the records exemption);
- Exempts certain records related to the Statewide Agencies Radio System (STARS) and similar communications systems. (SB 432 amending § 2.2-3705.2).

Two bills add one new closed meeting exemption to § 2.2-3711:

- Allows closed meetings to be held for the discussion or consideration of certain exempt records of the Virginia Tobacco Indemnification and Community Revitalization Commission. (HB 1073 and SB 555 amending §§ 2.2-3705.6 and 2.2-3711; as stated above, note that each bill uses identical language for the meetings exemption, but not for the records exemption).

Six bills amend existing provisions of FOIA as follows:

- Amends the definition of "scholastic record" to include records of applicants for admission. (HB 211 amending § 2.2-3701);
- Clarifies that a FOIA action may be brought in the name of a person notwithstanding that a request for public records was made by the person's attorney in his representative capacity, and that costs and reasonable fees for expert witnesses may be recovered by the petitioner. (HB 431 amending § 2.2-3713);
- Includes the Clerks of the House of Delegates and Senate of Virginia among those who may invoke the existing exemption for working papers and correspondence (HB 432 amending § 2.2-3705.7);
- Clarifies who is the custodian of records transferred for storage, maintenance, or archiving; defines "criminal investigative file" and clarifies what records are exempt from FOIA as so defined; provides that undercover operations and protective detail records as well as records of background and internal affairs investigations held by any state or local law-enforcement agencies are exempt. (HB 518 amending §§ 2.2-3704 and 2.2-3706);
- Technical amendment to reflect name change from "Innovative Technology Authority" to "Innovation and Entrepreneurship Investment Authority." (HB 678 amending § 2.2-3711);
- Prohibits any public body from conducting a meeting required to be open in any building or facility where any recording devices are prohibited, and clarifies that no public body may prohibit or prevent any person from recording any portion of a meeting required to be open. (HB 1028 amending § 2.2-3707).

Section II of this update presents a brief overview of amendments to FOIA section by section in order to provide context and organization to the numerous bills. Section III presents a brief overview of other access-related legislation passed during the 2010 Session of the General Assembly.

For more specific information on the particulars of each bill, please see the bill itself. Unless otherwise indicated, the changes will become effective July 1, 2010.

## **II. Amendments to the Freedom of Information Act**

### **§ 2.2-3701. Definitions.**

**Definition of scholastic record.** Includes in the definition of scholastic records, those records of an applicant for admission that are maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution. HB 211 (2010 Acts of Assembly c. 706.)

### **§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges.**

**Applicability; disclosure of criminal records; noncriminal incident information.** Provides that in the event a public body transferred possession of public records for storage, maintenance or archiving, the public body initiating the transfer shall remain the custodian of the records for the purpose of responding to FOIA requests. Also makes changes in § 2.2-3706, *infra*. HB 518 (2010 Acts of Assembly, c. 627).

### **§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies.**

**Exemption for credit card and bank account data.** Exempts from the mandatory disclosure provisions of the Freedom of Information Act those portions of records that contain account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or public body. The bill provides, however, that access shall not be denied to the person who is the subject of the record. The bill defines "financial institution" and contains an emergency clause. The bill is a recommendation of the Freedom of Information Advisory Council. HB 434 (2010 Acts of Assembly, c. 553). **Note:** *This bill passed with an emergency clause and became effective April 11, 2010.*

### **§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.**

**Record exemption for the Statewide Agencies Radio System.** Provides an exemption from FOIA for documentation or other information that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system (similar communications system) (ii) relates to radio frequencies assigned to or utilized by STARS or similar communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, programming maintained by or utilized by STARS or similar communications system; those portions of engineering and construction drawings and plans that reveal critical structural components, interconnectivity, security equipment and systems, network monitoring, network

operation center, master sites, ventilation systems, fire protection equipment, mandatory building emergency equipment, electrical systems, and other utility equipment and systems related to STARS or similar communications system; and special event plans, operational plans, storm plans, or other pre-arranged programming, the disclosure of which would reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols, to the extent such disclosure would jeopardize the security of any governmental facility, building or structure or the safety of any person. SB 432 (2010 Acts of Assembly, c. 672).

**§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.**

**Threat assessment teams; records.** Authorizes threat assessment teams to receive health and criminal history records of students for the purposes of assessment and intervention, and exempts records of threat assessment teams from the Freedom of Information Act. However, if an individual who had been under assessment commits certain violent acts, any records created by the team shall be made publicly available. HB 903 (2010 Acts of Assembly, c. 524), SB 207 (2010 Acts of Assembly, c. 456).

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

**Proprietary records of the Virginia Tobacco Indemnification and Community Revitalization Commission.** Excludes from the mandatory disclosure provisions of FOIA trade secrets and certain proprietary records disclosed to, provided to, or held by the Virginia Tobacco Indemnification and Community Revitalization Commission in support of or as may be required for an application for or the awarding of a grant. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission. The bill requires the grant applicant to specify the records for which protection is sought before submitting them to the Commission. The bill contains a corresponding meeting exemption for the Commission when discussing the excluded records. HB 1073 (2010 Acts of Assembly, c. 310), SB 555 (2010 Acts of Assembly, c. 808). **Note:** *Each bill uses identical language for the meetings exemption, but they vary slightly as to the records exemption.*

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exemptions.**

**Working papers and correspondence of the Clerks of the House of Delegates and the Senate of Virginia.** Provides an exemption from the mandatory disclosure requirements of FOIA for the working papers and correspondence of the Clerks of the House of Delegates and the Senate of Virginia. HB 432 (2010 Acts of Assembly, c. 300).

**§ 2.2-3706. Disclosure of criminal records; limitations.**

**Applicability; disclosure of criminal records; noncriminal incident information.** In addition to changes to § 2.2-3704, *supra*, adds a definition of "criminal investigative file" and clarifies what records are exempt from FOIA as so defined. The bill provides that undercover operations and protective detail records as well as records of background and internal affairs investigations held by any state or local law-enforcement agencies are exempt from the mandatory disclosure provisions of FOIA. HB 518 (2010 Acts of Assembly, c. 627).

**§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.**

**Recording of public meetings.** Prohibits any public body from conducting a meeting required to be open in any building or facility where any recording devices are prohibited. The bill also clarifies that no public body may prohibit or prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. HB 1028 (2010 Acts of Assembly, c. 309).

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

**Innovation and Entrepreneurship Investment Authority (IEIA) and the Commonwealth Research and Commercialization Fund (CRCF).** Updates obsolete references to the predecessors of the IEIA and the CRCF. HB 678 (2010 Acts of Assembly, c. 630).

**Proprietary records of the Virginia Tobacco Indemnification and Community Revitalization Commission.** In addition to providing an exemption for certain records containing trade secrets or proprietary information in § 2.2-3705.6, *supra*, contains a corresponding meeting exemption for the Commission when discussing the excluded records. HB 1073 (2010 Acts of Assembly, c. 310), SB 555 (2010 Acts of Assembly, c. 808). **Note:** *Each bill uses identical language for the meetings exemption, but they vary slightly as to the records exemption.*

**§ 2.2-3713. Proceedings for enforcement of chapter.**

**Proceedings for enforcement.** Clarifies that a FOIA action may be brought in the name of a person notwithstanding that a request for public records was made by the person's attorney in his representative capacity. The bill also clarifies that costs and reasonable fees for expert witnesses may be recovered by the petitioner in a FOIA action. HB 431 (2010 Acts of Assembly, c. 299).

### **III. Other Access-Related Legislation**

#### **Joint Resolutions**

**Commending Edward W. Jones.** SJ 261. **Note:** Commends Mr. Jones, the editor of Fredericksburg's *Free Lance-Star*, for his participation on a state panel working on the Virginia Freedom of Information Act (FOIA) in the 1980's and also on the Virginia Press Association's Freedom of Information Committee in the 1990's. Also of note, Mr. Jones has been appointed as a member of the FOIA Council for a 4-year term beginning July 1, 2010.

#### **Uncodified Acts**

**Virginia Network for Geospatial Health Research Authority; created.** Requires the Secretaries of Health and Human Resources and Technology to evaluate opportunities to partner with nonprofit organizations and institutions of higher education in the Commonwealth to develop a network for geospatial health research, and to report on their findings to the Governor; the Senate Committees on Education and Health, Finance, and General Laws and Technology; and the House Committees on Appropriations, Health, Welfare, and Institutions, and Science and Technology no later than December 1, 2010. SB 549 (2010 Acts of Assembly, c. 679).

#### **Title 2.2 Administration of Government**

**Government Data Collection and Dissemination Practices Act; collection of social security numbers.** Sets out the original date (January 1, 1975) when social security numbers were authorized to be collected/required by state and local agencies under federal law, which is a recommendation of the Freedom of Information Advisory Council. The bill also provides that nothing shall be construed to prohibit the collection of a social security number for the sole purpose of debt collection by state and local agencies. HB 433 (2010 Acts of Assembly, c. 749).

**Open Education Curriculum Board; established.** Establishes the Open Education Curriculum Board. The purpose of the Board is to designate qualifying entities as Open Education Consortia and set the standards for submission of education materials and subsequent licensing of educational curriculum developed by the Consortia. Materials submitted to a Consortium may be edited in any manner and released under a Creative Commons license or licensed for use as a commercial product, subject to restrictions developed by the Board. Consortia may offer incentives to encourage individuals to submit educational materials to the Consortium. SB 241 (2010 Acts of Assembly, c. 787).

**Land conservation practices; information management.** Requires the Secretary of Natural Resources, with assistance from the Secretary of Agriculture and Forestry, to establish and maintain a database of the critical data attributes for onsite best management practices that limit the amount of nutrients and sediment entering state

waters. The database is intended to document voluntary actions taken by the agricultural and silvicultural sectors and should enable the application of the collected data towards projections of progress towards Virginia's water quality goals. The bill declares that an emergency exists and that the bill is effective upon passage. SB 346 (2010 Acts of Assembly, c. 172). **Note:** *The bill was enacted effective March 13, 2010.*

**Workforce and education program evaluation and policy analysis.** Provides for certain agencies to share encrypted (de-identified) data to create one-time restricted-use data sets in order to evaluate postsecondary and career readiness programs, pursuant to specified requirements. SB 459 (2010 Acts of Assembly, c. 803). **Note:** *The bill as introduced amended the Government Data Collection and Dissemination Practices Act (GDCDPA). However, the bill as enacted does not amend the GDCDPA, but instead adds a new section in the law regarding Coordination of Workforce Development (Chapter 4.2 of Title 2.2).*

## **Title 6.2 Financial Institutions and Services**

**Revision of Title 6.1.** Creates proposed Title 6.2 (Financial Institutions and Services) as a revision of existing Title 6.1 (Banking and Finance). Proposed Title 6.2 consists of 22 chapters divided into four subtitles: Subtitle I (General Provisions); Subtitle II (Depository Institutions and Trust Organizations); Subtitle III (Other Regulated Providers of Financial Services); and Subtitle IV (Other Financial Activities). Subtitle I includes title-wide definitions and chapters addressing money and currency, interest and usury, lending practices generally, including credit card laws currently in Title 11, and equal credit opportunity laws that are currently in Title 59.1. Subtitle II addresses deposits and accounts at financial institutions, as well as provisions applicable to specific types of depository institutions, including financial institution holding companies, banks, savings institutions, credit unions, and entities conducting trust business. Subtitle III sets out provisions relating to providers of financial services that are subject to licensure or registration with the State Corporation Commission, including industrial loan associations, consumer finance companies, mortgage lenders and brokers, mortgage loan originators, payday lenders, money order sellers and money transmitters, agencies providing debt management plans, and check cashers. Subtitle IV includes provisions regulating the conduct of other financial activities, including refund anticipation loans, safe deposit boxes, and securitization transactions. The Wet Settlement Act and provisions regarding real estate settlement agents are relocated to Title 55. SB 295 (2010 Acts of Assembly, c. 794). **Note:** *The bill recodifies an exemption for a payday loan database, currently found at § 6.1-453.1.*

## **Title 8.01 Civil Remedies and Procedure**

**Technological efficiencies in circuit court clerks' offices; fees.** Makes technical changes in circuit court clerks' handling of electronic or digital filing and their maintenance and support of electronic filing. HB 974 (2010 Acts of Assembly, c. 430).

**Attorney-client privilege; work product protection; limitations on waivers.** Provides that when the disclosure of a communication or information covered by attorney-client privilege or work product protection made in a proceeding or to any public body operates as a waiver of the privilege or protection, such waiver only extends to undisclosed communications or information if (i) the waiver was intentional, and (ii) the disclosed and undisclosed communications or information concern the same subject matter and ought in fairness be considered together. Inadvertent disclosures do not operate as a waiver if reasonable steps were taken to prevent disclosure and to rectify the error. The bill also provides that an agreement between parties as to the effect of a disclosure is only binding upon the parties to the agreement unless it has been incorporated into a court order. The bill does not limit any otherwise applicable waiver of attorney-client privilege or work product protection by an inmate who files an action challenging his conviction or sentence. As introduced, this bill was a recommendation of the Boyd-Graves Conference. SB 384 (2010 Acts of Assembly, c. 350).

## **Title 9.1 Commonwealth Public Safety**

**Availability of presentence reports to counsel for convicted person.** Provides that counsel representing a person who has been convicted of a crime for which a presentence report was prepared by a probation officer may be provided a copy of the report, without a court order, when the convicted person is pursuing a post-conviction remedy. HB 13 (2010 Acts of Assembly, c. 223).

**Line of Duty Act; access to records of investigation.** Provides that evidence and documents obtained by or created by, and the report of investigation prepared by, the Department of State Police in carrying out the provisions of the Line of Duty Act shall (i) be deemed confidential, (ii) be exempt from disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.), and (iii) not be released in whole or in part by any person to any person except as provided in the Line of Duty Act. HB 857 (2010 Acts of Assembly, c. 568).

## **Title 12.1 State Corporation Commission**

**Personal identifying information; State Corporation Commission filings.** Declares that a person preparing or submitting a document or information that is filed with the clerk of the State Corporation Commission is responsible for ensuring that the document or information does not contain any personal identifiable information, which includes a social security number or other number on a driver's license, information on credit cards or other electronic billing and payment systems, an individual's date of birth or parent's maiden name, and financial account numbers. The provision does not apply if the information is publicly available or is required or authorized by law to be included in the filed information. The measure also authorizes the clerk of the Commission to remove, delete, or obliterate such information from a document, and to refuse to accept for filing any document that includes personal identifiable information. The State Corporation Commission, its members, the clerk of the Commission, and any member of his staff are



declared to be immune from liability for any acts or omissions in implementing these provisions. HB 526 (2010 Acts of Assembly, c. 513).

## **Title 15.2 Counties, Cities, and Towns**

**Bristol Virginia Utilities Authority.** Creates an authority and converts Bristol Virginia Utilities into that authority, to be known as the BVU Authority. HB 27 (2010 Acts of Assembly, c. 210), SB 12 (2010 Acts of Assembly, c. 117). **Note:** *The bill contains provisions concerning access to certain records of the Authority, as well as certain meeting requirements unique to the Authority.*

**Certain firearms taxes; destruction of records.** Repeals local authority to impose a license tax of not more than \$25 on persons engaged in the business of selling pistols and revolvers. Also, a recordkeeping requirement for such persons is deleted and the clerk of the circuit court shall destroy any such existing records. HB 109 (2010 Acts of Assembly, c. 495).

## **Title 16.1 Courts Not of Record**

**Electronic filing of civil actions.** Provides that the general district courts shall accept case data in an electronic format for any civil action filed. The use of the electronic transfer shall be at the option of the plaintiff or the plaintiff's attorney, and if electronic transfer is utilized, the plaintiff or the plaintiff's attorney shall comply with the security and data configuration standards established by the Office of the Executive Secretary of the Supreme Court. HB 283 (2010 Acts of Assembly, c. 622).

**Exception to confidentiality of juvenile records; fugitives and escapees.** Allows for the release of identifying information of a juvenile who is charged with or convicted of any misdemeanor or felony and is a fugitive from justice or an escapee. Currently, only juveniles charged with or convicted of certain serious offenses (e.g., murder, rape, robbery) may have identifying information released once they become a fugitive or escapee. HB 918 (2010 Acts of Assembly, c. 526).

**Juvenile records; gang information; exceptions to confidentiality.** Places an affirmative duty on the Department of Juvenile Justice to provide information to law enforcement that may aid in initiating or furthering an investigation of a criminal street gang. The bill also requires, rather than allows, the Department and locally operated court services unit to release to law enforcement information on a juvenile's criminal street gang involvement and the criminal street gang-related activity of others. The Department is prohibited from releasing information on a juvenile who is not affiliated with a gang unless the information relates to a specific crime. The Department is required to provide information to the Organized Criminal Gang File maintained by the State Police. HB 1121 (2010 Acts of Assembly, c. 367), SB 486 (2010 Acts of Assembly, c. 472).

## **Title 17.1 Courts of Record**

**Technological efficiencies in circuit court clerks' offices; fees.** See entry under Title 8.01, *supra*. HB 974 (2010 Acts of Assembly, c. 430).

## **Title 18.2 Crimes and Offenses Generally**

**Public disclosure of personal information; law-enforcement officers.** Prohibits a state or local agency from publicly posting or displaying on the Internet the home address or personal telephone numbers of a law-enforcement officer if the officer has made a written demand that such information not be disclosed. The written demand must include a copy of a court order authorizing the state or locality to remove the information. The bill also clarifies that the publication of a person's primary residence address along with his name or photograph with the intent to coerce, intimidate, or harass is unlawful. HB 1382 (2010 Acts of Assembly, c. 767).

## **Title 19.2 Criminal Procedure**

**Availability of presentence reports to counsel for convicted person.** See entry under Title 9.1, *supra*. HB 13 (2010 Acts of Assembly, c. 223).

**Bail bondsman to receive criminal history information.** Provides that if a judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall, upon request of the bondsman, provide the bondsman with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman may review the record on the premises only and must promptly return it to the magistrate. The bondsman will pay a \$15 fee which will be payable to the state treasury to be credited to the Literary Fund. HB 1255 (2010 Acts of Assembly, c. 862).

**Admissibility in evidence of non-existence of an official record.** Provides that at a hearing or trial an affidavit signed by a government official who is competent to testify, deemed to have custody of an official record, or signed by his designee, stating that after a diligent search, no record or entry of such record is found to exist among the records in his custody, is admissible as evidence that his office has no such record or entry, provided that the procedures for admission of such an affidavit as set forth in the statute governing admission of affidavits indicating non-registration of a sex offender have been followed, *mutatis mutandis*. SB 385 (2010 Acts of Assembly, c. 464).

## **Title 22.1 Education**

**Reports of certain acts to school authorities.** Provides that for any report from local law-enforcement authorities to the principal or his designee and the division superintendent regarding certain offenses committed by a juvenile student that would be an adult misdemeanor, local law-enforcement authorities and attorneys for the

Commonwealth shall also be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court to the superintendent of such student's school division. HB 907 (2010 Acts of Assembly, c. 525).

## **Title 23 Educational Institutions**

**State Council of Higher Education for Virginia; duties.** Provides that when performing its duty to develop a uniform, comprehensive data information system designed to gather all information necessary to the performance of the Council's duties, the Council may contract with private entities to create de-identified student records for the purpose of assessing the performance of institutions and specific programs relative to the workforce needs of the Commonwealth. HB 7 (2010 Acts of Assembly, c. 68).

## **Title 24.2 Elections**

**Campaign finance information and reports; public access.** Clarifies that information, not required to be entered into the campaign finance database that candidates or committees may include in campaign finance report-creation software managed by or for the State Board is not required to be disclosed to the public. HB 1387 (2010 Acts of Assembly, c. 297).

**Lists of registered voters; disclosure to commissioners of the revenue and treasurers.** Allows the State Board of Elections to furnish, for a reasonable fee, lists of registered voters to commissioners of the revenue and city or county treasurers for tax assessment, collection, and enforcement purposes. SB 137 (2010 Acts of Assembly, c. 452).

## **Title 30 General Assembly**

**General Assembly Conflicts of Interests Act; House and Senate Ethics Advisory Panels.** Opens ethics inquiries to the public after a preliminary investigation. During the preliminary investigation, the Panel will require that (i) the facts stated in the complaint taken to be true are sufficient to show a violation of the Conflicts of Interests Act, (ii) the complainant appear and testify under oath as to the complaint and the allegations, and (iii) such violation has occurred by a preponderance of the evidence. Once the Panel determines to proceed with an inquiry into the conduct of any legislator, the Panel shall complete its investigations notwithstanding the resignation of the legislator during the course of the Panel's proceedings. HB 655 (2010 Acts of Assembly, c. 876).

**General Assembly Conflicts of Interests Act; disclosure of salary.** Requires a member of the General Assembly to disclose in his annual disclosure of personal interests any salary and wages in excess of \$10,000 paid to him or his immediate family for employment with a state or local government or advisory agency, except for his salary received as a member of the General Assembly. HB 740 (2010 Acts of Assembly, c. 418), SB 512 (2010 Acts of Assembly c. 474).

**State Government Spending Accountability Act.** Directs the Auditor of Public Accounts to include on a searchable database a register of all funds expended for major agencies of the Commonwealth. In regard to the registry, the database would include the vendor name, date of payment, and a description of the expense, including also credit card purchases with the same information. The bill also requires the Auditor of Public Accounts to conduct a review of searchable databases used by other states and incorporate best practices for ease of use and transparency of state agency expenditures. SB 431 (2010 Acts of Assembly, c. 671).

## **Title 32.1 Health**

**Notification of breach of medical information.** Requires notification to residents of the Commonwealth if their unredacted or unencrypted medical information or health insurance information is the subject of a database breach. The notification required by this section would apply only to state and local government entities. This bill would become effective January 1, 2011. HB 1039 (2010 Acts of Assembly, c. 852).

## **Title 46.2 Motor Vehicles**

**DMV records; release of photographs.** Provides for release by DMV of a hard copy image of any photographs of deceased persons who held driver's licenses or special identification cards when requested by members of the deceased person's family or the executor of his estate. HB 61 (2010 Acts of Assembly, c. 15).

**Disabled parking; windshield placard contents.** Provides that permanent and removable windshield placards shall not show the name, age, and sex of the person to whom issued. Instead, holders of permanent windshield placards are required to carry Disabled Parking Placard Identification Cards issued by DMV. SB 45 (2010 Acts of Assembly, c. 47).

**Salvage vehicles; maintenance and contents of records; reports.** Clarifies items that must be contained in the records that licensees maintain on receipt of any vehicles and allows the governing body of any locality to require that the records be reported to the police. The bill further provides that licensees keep vehicles for up to 10 days before crushing them. SB 406 (2010 Acts of Assembly, c. 873).

## **Title 52 Police (State)**

**Juvenile records; gang information; exceptions to confidentiality.** See entry under Title 16.1, *supra*. HB 1121 (2010 Acts of Assembly, c. 367), SB 486 (2010 Acts of Assembly, c. 472).

## **Title 67 Virginia Energy Plan**

**Virginia Offshore Wind Project Development Authority.** Creates the Virginia Offshore Wind Development Authority to facilitate and support the development of the offshore wind industry and wind-powered electric energy facilities located off the coast of the Commonwealth beyond the Commonwealth's three-mile jurisdictional limit. The Authority is charged with, among other tasks, (i) identifying existing state and regulatory or administrative barriers to the development of the offshore wind industry, (ii) collecting metocean and environmental data, (iii) upgrading port facilities to accommodate the manufacturing and assembly of project components and vessels that will support such projects, and (iv) applying to the U.S. Department of Energy for loan guarantees for such projects. HB 389 (2010 Acts of Assembly, c. 507), SB 577 (2010 Acts of Assembly, c. 601). **Note:** *The bill contains provisions concerning access to certain records of the Authority, and explicitly states that members of the Authority are subject to FOIA.*

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