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COMMONWEALTH OF VIRGINIA

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2024 FOIA LEGISLATIVE UPDATE

NOTE: Unless otherwise stated, the changes in the law described in this update will take effect July 1, 2024.

I. Introduction

The General Assembly passed a total of 17 bills amending the Virginia Freedom of Information Act (FOIA) during the 2024 Session. Seven legislative drafts were recommended by the Virginia Freedom of Information Advisory Council (the Council) to the 2024 Session of the General Assembly and were subsequently enacted either as introduced or in amended forms: HB 816 (Cherry) and SB 244 (McPike) validate otherwise lawful actions taken by public bodies at electronic meetings conducted during the COVID-19 state of emergency and were recommended in response to the case *Berry v. Bd. of Supervisors* (Va. 2023); HB 818 (Cherry) and SB 36 (Locke) amend the definition of "meeting" and were recommended in response to the case *Gloss v. Wheeler* (Va. 2023); HB 1040 (Bennett-Parker) and SB 85 (Favola) provide that persons with disabilities and their caregivers may be counted as physically present for quorum purposes when they are using remote participation and that policies on electronic participation in meetings shall not restrict or prohibit voting by members participating electronically; and HB 1412 (Cherry) amends an existing exemption for names, addresses, and phone numbers of certain complainants furnished in confidence to a local governing body to exempt personal contact information of such complainants.

Section II of this update lists the 17 bills enacted at the 2024 Session as each relates to the sections of FOIA. Section III presents a brief overview of amendments to FOIA by Code section in order to provide context and organization to the numerous bills. Section IV presents a brief overview of other access-related legislation passed during the 2024 Session.

For more specific information regarding each bill, please see the bill itself. Unless otherwise indicated, the changes will become effective July 1, 2024.

II. Bills Enacted at the 2024 Session that Amend FOIA

One bill adds a new meetings exemption in FOIA as follows:

- SB 88 (Locke) makes various changes to the provisions related to decertification of law-enforcement officers and jail officers. Among other changes, the bill provides that records provided to the Criminal Justice Services Board or Department of Criminal Justice Services for the purposes of decertification of an identifiable law-enforcement officer or jail officer

may be withheld from the public in accordance with FOIA and those meetings concerning the decertification of an identifiable law-enforcement or jail officer may be closed (amending §§ 2.2-3711, 9.1-102, 15.2-1707, 15.2-1708, and 19.2-83.7).

Sixteen bills amend existing provisions of FOIA as follows:

- HB 581 (Simonds) requires attorneys for the Commonwealth to establish multidisciplinary human trafficking response teams. The bill provides that each team shall hold a meeting, at least annually, to (i) discuss implementation of protocols and policies; (ii) establish and review guidelines for the community's response to various forms of human trafficking, including sex trafficking and labor trafficking; and (iii) review protocols for the trauma-informed, victim-centered collection, preservation, and secure storage of evidence from physical evidence recovery kit examinations. The bill also provides that FOIA shall not apply to human trafficking response teams, with certain exceptions (amending §§ 2.2-3703, 2.2-3705.7, and 2.2-3711 and adding § 15.2-1527.6).
- HB 815 (Cherry) increases from six months to 12 months the maximum expiration date allowable for a cannabis product after registration absent stability testing. The bill allows pharmaceutical processors to employ as pharmacy technician trainees individuals who have less than one year of experience and allows pharmaceutical processors to employ persons with less than one year of experience to perform certain other supervised duties for which current law requires two years of experience. The bill also provides for the confidentiality of certain records and other information of the Board of Directors of the Virginia Cannabis Control Authority, including the exemption of certain information from the mandatory disclosure provisions of FOIA (amending §§ 2.2-3705.3, 4.1-1602, and 4.1-1603 and adding § 4.1-1606).
- HB 816 (Cherry) and SB 244 (McPike) provide that the provisions for conducting a meeting by electronic means due to a state of emergency stated in FOIA are declarative of existing law since March 20, 2020, with respect to the Governor's declared state of emergency due to COVID-19. Under the bills, any meeting by a public body using electronic communication means occurring from that date until July 1, 2021, and any otherwise lawful action taken at it is validated with respect to FOIA if the body provided public notice, public access, and public comment commensurate with the requirements of existing FOIA provisions regarding electronic and closed meetings. The bills are a response to the case *Berry v. Bd. of Supervisors* (Va. 2023) and are a recommendation of the Council. *Note: The bills amend the third enactment of Chapter 597 of the Acts of Assembly of 2022; because they do not amend a Code section, the bills do not appear in Section III below.*
- HB 818 (Cherry) and SB 36 (Locke) exempt certain public meetings from the definition of "meeting" under FOIA to clarify that three or more members of a public body may appear and participate in such public meeting without violating FOIA, provided that no public business is transacted or discussed. The bills also exempt members of a public body who attend a public meeting of a second public body without violating FOIA, provided that no public business is transacted or discussed. Finally, the bills define "public business" as activity that a public body has undertaken or proposed to undertake on behalf of the people it represents. The bills state that their provisions are declarative of existing law (amending § 2.2-3701).
- HB 894 (Bennett-Parker) and SB 734 (Marsden) amend the number of all-virtual public meetings that public bodies, with certain exceptions, may convene in a calendar year to no

more than two times per calendar year or 50 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. Current law limits the number of all-virtual public meetings to no more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. The bills also provide that with respect to all-virtual public meetings, when audio-visual technology is available, a member of a public body shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails (amending § 2.2-3708.3).

- HB 1040 (Bennett-Parker) and SB 85 (Favola) provide that for purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a person with a disability or a caregiver, defined in the bill, and uses remote participation counts toward the quorum as if the individual was physically present. The bills also provide that the participation policy adopted by a public body, as required by FOIA, shall not prohibit or restrict any individual member of a public body who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the public body. As introduced, the bills were a recommendation of the Council (amending §§ 2.2-3701 and 2.2-3708.3).
- HB 1133 (Carr) renames the Virginia College Savings Plan as the Commonwealth Savers Plan (amending numerous Code sections to make corresponding technical changes, including §§ 2.2-3705.4, 2.2-3705.7, and 2.2-3711).
- HB 1412 (Cherry) amends an existing exemption from mandatory disclosure under FOIA for names, addresses, and phone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code or the Statewide Fire Prevention Code made to a local governing body to exempt personal contact information of such complainants as defined in the bill (amending § 2.2-3705.3).
- SB 204 (Diggs) exempts a victim's insurance company and attorney from the prohibition on releasing photographic, audio, video, or other records depicting such victim. The bill also permits a victim, a victim's immediate family members if the victim is deceased, a victim's parent or guardian, the victim's insurance company, or the victim's attorney to waive the 14-day period for a public body to respond to a request for criminal investigative files (amending § 2.2-3706.1).
- SB 215 (Perry) removes the requirement that persons to whom non-ongoing criminal investigation files shall otherwise be disclosed be citizens of the Commonwealth. Current law limits disclosure of public records to individuals who are citizens of the Commonwealth unless a clear exception applies (amending §§ 2.2-3706.1 and 8.01-622.2).
- SB 324 (Roem) prohibits a public body from charging a requester for any costs incurred during the first hour spent accessing, duplicating, supplying, or searching for records requested in conjunction with the requester's first request and makes various other changes related to charges for public records. The bill directs the Council to study whether public bodies should charge requesters pursuant to the bill and report on its findings by December 2024. The provisions of the bill amending the Code of Virginia do not become effective unless reenacted by the 2025 Session of the General Assembly (amending § 2.2-3704).
- SB 340 (Salim) clarifies that the name of a public employee, officer, or official as it appears on a purchase card statement or other payment record and the description of individual

purchases are not exempt from disclosure by the State Comptroller (amending § 2.2-3705.2).

III. Amendments to FOIA by Code Section

§ 2.2-3701. Definitions.

HB 818 and SB 36 Virginia Freedom of Information Act; definitions of meetings and public business. Exempt certain public meetings from the definition of "meeting" under FOIA to clarify that three or more members of a public body may appear and participate in such public meeting without violating FOIA, provided that no public business is transacted or discussed. The bills also exempt members of a public body who attend a public meeting of a second public body without violating FOIA, provided that no public business is transacted or discussed. Finally, the bills define "public business" as activity that a public body has undertaken or proposed to undertake on behalf of the people it represents. The bills state that their provisions are declarative of existing law (2024 Acts of Assembly, cc. 733 and 756).

HB 1040 and SB 85 Virginia Freedom of Information Act; definition of "caregiver"; remote participation in meetings by persons with disabilities and caregivers; remote voting. Provide that for purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a person with a disability or a caregiver, defined in the bills, and uses remote participation counts toward the quorum as if the individual was physically present. The bills also provide that the participation policy adopted by a public body, as required by FOIA, shall not prohibit or restrict any individual member of a public body who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the public body. As introduced, the bills were a recommendation of the Council (2024 Acts of Assembly, cc. 610 and 617).

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.

HB 581 Human trafficking response teams. Requires attorneys for the Commonwealth to establish multidisciplinary human trafficking response teams. The bill provides that each team shall hold a meeting, at least annually, to (i) discuss implementation of protocols and policies; (ii) establish and review guidelines for the community's response to various forms of human trafficking, including sex trafficking and labor trafficking; and (iii) review protocols for the trauma-informed, victim-centered collection, preservation, and secure storage of evidence from physical evidence recovery kit examinations. The bill also provides that FOIA shall not apply to human trafficking response teams, with certain exceptions (2024 Acts of Assembly, c. 366).

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc.

SB 324 Virginia Freedom of Information Act; charges for production of public records; report. Prohibits a public body from charging a requester for any costs incurred during the first

hour spent accessing, duplicating, supplying, or searching for records requested in conjunction with the requester's first request. The bill provides that for any additional time spent accessing, duplicating, supplying, or searching for such records, or for any additional record requests, the public body shall not charge an hourly rate for accessing, duplicating, supplying, 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 \$40 per hour. The bill allows a public body to petition the appropriate court for relief from the \$40-per-hour fee cap upon showing by a preponderance of the evidence that there is no qualified individual capable of fulfilling the request for \$40 per hour or less and requires such petition to be heard within seven days of when the petition is made, provided that the public body has sent and the requester has received a copy of the petition at least three working days prior to filing. The bill also provides that in certain instances a hearing on any petition shall be given precedence on a circuit court's docket over all cases that are not otherwise given precedence by law and that the time period the public body has to respond to a record request shall be tolled between the requester's receipt of the petition and the final disposition of the court. The bill prohibits a public body from charging a requester for any court costs or fees resulting from a petition. The bill directs the Council to study whether public bodies should charge requesters pursuant to the bill and report on its findings by December 2024. The provisions of the bill amending the Code of Virginia do not become effective unless reenacted by the 2025 Session of the General Assembly (2024 Acts of Assembly, c. 669).

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

SB 340 Virginia Freedom of Information Act; exclusions from mandatory disclosure; purchase card statement. Clarifies that the name of a public employee, officer, or official as it appears on a purchase card statement or other payment record and the description of individual purchases are not exempt from disclosure by the State Comptroller (2024 Acts of Assembly, c. 671).

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

HB 815 Medical cannabis program; product expiration; confidentiality; penalty. Increases from six months to 12 months the maximum expiration date allowable for a cannabis product after registration absent stability testing. The bill allows pharmaceutical processors to employ as pharmacy technician trainees individuals who have less than one year of experience and allows pharmaceutical processors to employ persons with less than one year of experience to perform certain other supervised duties for which current law requires two years of experience. The bill also provides for the confidentiality of certain records and other information of the Board of Directors of the Virginia Cannabis Control Authority, including the exemption of certain information from the mandatory disclosure provisions of FOIA (2024 Acts of Assembly, c. 732).

HB 1412 Virginia Freedom of Information Act; exemption for complainant personal contact information. Amends an existing exemption from mandatory disclosure under FOIA for names, addresses, and phone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform

Statewide Building Code or the Statewide Fire Prevention Code made to a local governing body to exempt personal contact information of such complainants as defined in the bill (2024 Acts of Assembly, c. 64).

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

HB 1133 Virginia College Savings Plan; renamed Commonwealth Savers Plan. Renames the Virginia College Savings Plan as the Commonwealth Savers Plan (2024 Acts of Assembly, c. 217).
Note: The bill makes technical changes to several existing records and meetings exemptions.

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

HB 581 Human trafficking response teams. *See summary under § 2.2-3703, supra (2024 Acts of Assembly, c. 366).*

HB 1133 Virginia College Savings Plan; renamed Commonwealth Savers Plan. *See summary under § 2.2-3705.4, supra (2024 Acts of Assembly, c. 217).*

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

SB 204 Virginia Freedom of Information Act; release of criminal investigative files exception. Exempts a victim's insurance company and attorney from the prohibition on releasing photographic, audio, video, or other records depicting such victim. The bill also permits a victim, a victim's immediate family members if the victim is deceased, a victim's parent or guardian, the victim's insurance company, or the victim's attorney to waive the 14-day period for a public body to respond to a request for criminal investigative files (2024 Acts of Assembly, c. 580).

SB 215 Virginia Freedom of Information Act; removal of Virginia residency requirement for access to certain criminal investigation files. Removes the requirement that persons to whom non-ongoing criminal investigation files shall otherwise be disclosed be citizens of the Commonwealth. Current law limits disclosure of public records to individuals who are citizens of the Commonwealth unless a clear exception applies (2024 Acts of Assembly, c. 582).

§ 2.2-3708.3 Meetings held through electronic communication means; situations other than declared states of emergency.

HB 894 and SB 734 Virginia Freedom of Information Act; electronic meetings. Amend the number of all-virtual public meetings that public bodies, with certain exceptions, may convene in a calendar year to no more than two times per calendar year or 50 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. Current law limits the number of all-virtual public meetings to no more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. The bills also provide that with respect to all-virtual public meetings, when audio-visual

technology is available, a member of a public body shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails (2024 Acts of Assembly, cc. 56 and 129).

HB 1040 and SB 85 Virginia Freedom of Information Act; definition of "caregiver"; remote participation in meetings by persons with disabilities and caregivers; remote voting. *See summary under § 2.2-3701, supra (2024 Acts of Assembly, cc. 610 and 617).*

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

HB 581 Human trafficking response teams. *See summary under § 2.2-3703, supra (2024 Acts of Assembly, c. 366).*

HB 1133 Virginia College Savings Plan; renamed Commonwealth Savers Plan. *See summary under § 2.2-3705.4, supra (2024 Acts of Assembly, c. 217).*

SB 88 Decertification of law-enforcement officers and jail officers. Makes various changes to the provisions related to decertification of law-enforcement officers and jail officers. The bill provides that the Department of Criminal Justice Services may conduct decertification review hearings in accordance with the provisions of the Administrative Process Act. The bill provides that the findings and decision of the Department may be appealed to the Criminal Justice Services Board and that the final administrative decision of the Board may be then appealed and reviewed by a court. The bill also provides that records provided to the Board or Department for the purposes of decertification of an identifiable law-enforcement officer or jail officer may be withheld from the public in accordance with FOIA and those meetings concerning the decertification of an identifiable law-enforcement or jail officer may be closed. The bill also allows the Department to grant a continuance of any informal fact-finding conference or formal hearing upon motion by the decertified officer or his counsel or the Attorney General for good cause shown. The bill requires an officer to remain decertified during a period of continuance of any informal fact-finding conference or formal hearing for a pending criminal charge unless the Department finds the officer's continued decertification may cause circumstances that constitute a manifest injustice to the officer, in which case the officer's certification may be reinstated during the period of continuance until the conviction becomes final. Current law allows the Board, when an officer's conviction has not become final, to decline to decertify such officer after considering the likelihood of irreparable damage to the officer if such officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or damage to the public if the officer is not decertified, and the seriousness of the offense. Additionally, the bill allows for the decertification of an officer who is terminated or resigns for an act committed while in the performance of his duties that compromises an officer's credibility, integrity, or honesty or that constitutes exculpatory or impeachment evidence in a criminal case. The bill also provides that persons who are currently in a recruit or field training status and have committed an act that would be any basis for decertification are ineligible for certification. The bill also specifies that the required notification to the Department related to an officer being terminated or resigning (i) for engaging in serious misconduct; (ii) while such officer is the subject of a pending internal investigation involving serious misconduct; or (iii) for an act committed while in the performance of his duties that compromises an officer's credibility, integrity, or honesty or constitutes exculpatory or

impeachment evidence in a criminal case shall be within 48 hours of completion of an internal investigation. Under current law, such notification is required to be within 48 hours of the termination or resignation. The bill also requires the Department to establish standards and procedures for when the Department may grant a petition for reinstatement of certification of a decertified officer. The bill directs the Department to adopt emergency regulations to implement the provisions of the bill (2024 Acts of Assembly, c. 494).

IV. Other Access-Related Legislation

Section 1

HB 580 and SB 411 Task Force on Transparency in Publicly Funded Animal Testing Facilities; report. Requires the Department of Agriculture and Consumer Services to convene a Task Force on Transparency in Publicly Funded Animal Testing Facilities, consisting of legislators and stakeholders, for the purpose of identifying potential deficiencies in publicly funded animal testing facilities in the Commonwealth and recommending methods and context for making certain information about such animal testing facilities publicly available. The bill requires the Task Force to report its findings to certain committees of the General Assembly no later than November 1, 2024 (2024 Acts of Assembly, cc. 693 and 675). *Note: The bills require a member of the Council to serve on the Task Force.*

Title 2.2. Administration of Government

HB 589 Office of Data Governance and Analytics; reciprocal data-sharing agreements; veteran-specific data. Allows the Office of Data Governance and Analytics to enter into reciprocal data agreements with state agencies for the purpose of sharing veteran-specific data in order to support data-informed outreach plans for veterans (2024 Acts of Assembly, c. 292).

HB 1146 Department of Law; Address Confidentiality Program; victims of child abduction. Expands to victims of child abduction eligibility for the Address Confidentiality Program established by the Statewide Facilitator for Victims of Domestic Violence (2024 Acts of Assembly, c. 413).

SB 222 Commonwealth information security requirements. Exempts cybersecurity information, defined in the bill, from the provisions of FOIA and the Government Data Collection and Dissemination Practices Act while in possession of the Virginia Information Technologies Agency (VITA). The bill requires VITA to keep such cybersecurity information confidential unless the Chief Information Officer or his designee authorizes publication or disclosure of reports or aggregate cybersecurity information (2024 Acts of Assembly, c. 503).

Title 4.1. Alcoholic Beverage and Cannabis Control

HB 815 Medical cannabis program; product expiration; confidentiality; penalty. *See summary under § 2.2-3705.3, supra (2024 Acts of Assembly, c. 732).*

Title 6.2 Financial Institutions and Services

HB 692 and SB 174 Financial institutions; reporting financial exploitation of elderly or vulnerable adults. Permit a financial institution to allow an elderly or vulnerable adult, as defined in the bills, to submit and periodically update a list of trusted persons whom such financial institution or financial institution staff, as defined in the bills, may contact in the case of the suspected financial exploitation of such adult. The bills also permit a financial institution to conduct a training to instruct its staff on how to identify and report the suspected financial exploitation of an elderly or vulnerable adult internally at such financial institution, to a designated trusted contact, and to various other authorities. The bills direct the Bureau of Financial Institutions of the State Corporation Commission to develop and publish guidelines for such training by January 1, 2026. The bills provide that no financial institution staff that have received such training shall be liable in any civil or administrative proceeding for disclosing the suspected financial exploitation of an elderly or vulnerable adult pursuant to the bills' provisions if such disclosure was made in good faith and with reasonable care. The bills provide that no financial institution that has provided such training shall be liable for any such disclosure by financial institution staff (2024 Acts of Assembly, cc. 530 and 578).

Title 8.01. Civil Remedies and Procedure

HB 264 and SB 157 Legal notices and publications; online-only news publications; requirements. Provide that, where any ordinance, resolution, notice, or advertisement is required by law to be published in a newspaper, such ordinance, resolution, notice, or advertisement instead may be published in an online-only news publication subject to certain requirements specified in the bills. The bills set out a process by which an online-only news publication shall petition the circuit court of the appropriate jurisdiction to publish such ordinances, resolutions, notices, or advertisements and authorize the court to grant such online-only news publication the authority to publish such ordinances, resolutions, notices, or advertisements for a period of one year. The bills also describe the process by which an online-only news publication may continue renewing such authority to publish in each successive year (2024 Acts of Assembly, cc. 277 and 341).

SB 215 Virginia Freedom of Information Act; removal of Virginia residency requirement for access to certain criminal investigation files. *See summary under § 2.2-3706.1, supra (2024 Acts of Assembly, c. 582).*

Title 9.1 Commonwealth Public Safety

SB 88 Decertification of law-enforcement officers and jail officers. *See summary under § 2.2-3711, supra (2024 Acts of Assembly, c. 494).*

Title 15.2. Counties, Cities and Towns

HB 581 Human trafficking response teams. *See summary under § 2.2-3703, supra (2024 Acts of Assembly, c. 366).*

HB 1488 and SB 413 Local government; standardization of public notice requirements for certain meetings, hearings, or intended actions. Standardize the frequency with which and length of time in which notices of certain meetings, hearings, and other intended actions of localities must be published. The notice provisions included in the bills are organized into three

groups: (i) publication required at least seven days before the meeting, hearing, or intended action; (ii) publication required twice, with the first notice appearing no more than 28 days before and the second notice appearing no less than seven days before the meeting, hearing, or intended action; and (iii) publication required three times, with the first notice appearing no more than 35 days before and the third notice appearing no less than seven days before the meeting, hearing, or intended action. The bills also standardize descriptive information in such notices related to (a) proposing, amending, or repealing ordinances; (b) local budget adoption; and (c) zoning ordinances and planning-related actions (2024 Acts of Assembly, cc. 225 and 242).

SB 88 Decertification of law-enforcement officers and jail officers. *See summary under § 2.2-3711, supra (2024 Acts of Assembly, c. 494).*

Title 18.2. Crimes and Offenses Generally

SB 397 Gaming; posting of illegal gaming tip line information. Requires those legally authorized to sell Virginia lottery tickets or conduct charitable gaming, horse racing with pari-mutuel wagering, and casino gaming in the Commonwealth to post in a conspicuous place on their premises a sign that bears the toll-free telephone number and website of the illegal gaming tip line established and administered by the Office of the Gaming Enforcement Coordinator in the Department of State Police for members of the public to report concerns about, or suspected instances of, illegal gaming activities (2024 Acts of Assembly, c. 593).

Title 19.2 Criminal Procedure

SB 88 Decertification of law-enforcement officers and jail officers. *See summary under § 2.2-3711, supra (2024 Acts of Assembly, c. 494).*

SB 321 Protected information in administrative and civil proceedings; newsmen engaged in journalism. Expands the protected information privilege for newsmen to administrative and civil proceedings. Under current law, a newsmen engaged in journalism shall not be compelled by the Commonwealth or a locality to testify about, disclose, or produce protected information, with certain exceptions, in criminal proceedings only (2024 Acts of Assembly, c. 589).

Title 21 Drainage, Soil Conservation, Sanitation and Public Facilities Districts

HB 1488 and SB 413 Local government; standardization of public notice requirements for certain meetings, hearings, or intended actions. *See summary under Title 15.2, supra (2024 Acts of Assembly, cc. 225 and 242).*

Title 22.1. Education

HB 253 School boards; meetings; public comment or citizen participation; enrolled students. Requires each school board to permit any student enrolled in a public elementary or secondary school in the local school division who provides acceptable proof of identification, if requested, and who signs up in accordance with the sign-up procedures for the respective school board meeting to submit oral comments during any public comment portion of such meeting, subject to

the same reasonable time, place, and manner restrictions imposed by such school board on the expression of any other citizen participant in such meetings (2024 Acts of Assembly, c. 689).

HB 561 Virginia Center for School and Campus Safety; school safety audits; list of items required to be reviewed. Requires the Virginia Center for School and Campus Safety to include specific technology systems in the list of items to be reviewed and evaluated in required annual school safety audits (2024 Acts of Assembly, c. 429).

HB 1488 and SB 413 Local government; standardization of public notice requirements for certain meetings, hearings, or intended actions. *See summary under Title 15.2, supra (2024 Acts of Assembly, cc. 225 and 242).*

SB 420 Virginia School for the Deaf and the Blind Board of Visitors; membership; powers and duties; meetings. Expands the total membership of the Board of Visitors of the Virginia School for the Deaf and the Blind from 11 to 15 members by increasing the number of nonlegislative citizen members from seven to 11. The bill provides that of the 11 nonlegislative citizen members, two shall be parents of current students at the Virginia School for the Deaf and the Blind, of whom (i) one is the parent of a student who is deaf or hard of hearing and one is the parent of a student who is vision impaired and (ii) one represents the Eastern region of the Commonwealth and one represents the Western region of the Commonwealth; two shall be representatives of the Virginia School for the Deaf and the Blind Alumni Association who are deaf or hard of hearing; and two shall be representatives of the Alumni Association who are vision impaired. Under current law, the requirements for the parent representatives are less specific and there is only one representative of the Alumni Association. The bill also amends the powers and duties of the Board of Visitors to include supervising the superintendent, other officers, and the faculty of the school. The bill provides that, in accordance with FOIA, any notice of a meeting of the Board of Visitors shall state whether public comment will be received and, if so, the approximate point at which it will be received. The bill requires that at each meeting at which public comment will be received each interested individual is allotted three minutes to speak and prohibits limiting that allotted time without adequate notice prior to the date of the meeting. The bill also requires the Board of Visitors to meet no less than four times each year. Current law provides that the Board of Visitors shall meet no more than four times each year. Finally, the bill defines the terms "deaf," "hard of hearing," and "vision impaired" (2024 Acts of Assembly, c. 351).

Title 24.2. Elections

HB 69 Vacancies in elected local offices; interim appointments; notice requirement. Requires the local governing body or elected school board making an interim appointment to fill a vacancy in the membership of such body or board to hold a public meeting at least seven days prior to making such appointment. The bill specifies that at such meeting, the body or board shall announce the names of all persons being proposed for the interim appointment and shall make available for inspection each person's resume and any other materials required by the body or board (2024 Acts of Assembly, c. 168).

Title 30. General Assembly

HB 1488 and SB 413 Local government; standardization of public notice requirements for certain meetings, hearings, or intended actions. *See summary under Title 15.2, supra (2024 Acts of Assembly, cc. 225 and 242).*

Title 33.2 Highways and Other Surface Transportation Systems

HB 1488 and SB 413 Local government; standardization of public notice requirements for certain meetings, hearings, or intended actions. *See summary under Title 15.2, supra (2024 Acts of Assembly, cc. 225 and 242).*

Title 46.2. Motor Vehicles

HB 425 Department of Motor Vehicles; release of privileged information. Permits the Department of Motor Vehicles to release to a party that is subject to an administrative proceeding conducted by the Department nonmedical privileged information necessary to participate in such administrative proceeding. The bill limits such information to matters of fact and law asserted or questioned by the Department and prohibits the dissemination of such information to any third party that is not a party to the administrative proceeding (2024 Acts of Assembly, c. 189).

HB 1409 and SB 732 Crash reports; contracted service providers. Authorize law-enforcement agencies to utilize a contracted service provider to forward crash reports electronically to the Department of Motor Vehicles and manage or disseminate copies of certain crash reports as authorized by law. The bills authorize the release of nonpersonally identifiable vehicle information from crash reports to a contracted service provider (2024 Acts of Assembly, cc. 79 and 80).

Title 53.1 Prisons and Other Methods of Correction

HB 555 and SB 456 Office of the Department of Corrections Ombudsman; created. Create, within the Office of the State Inspector General, the Office of the Department of Corrections Ombudsman (the Office) headed by an Ombudsman who is selected by the State Inspector General. The bills create the Corrections Oversight Committee (the Committee) made up of four members of the General Assembly, nine nonlegislative citizen members appointed by the Governor, subject to criteria described in the bills, and two nonvoting members, appointed as described in the bills, who monitor the activities of the Ombudsman and the Department of Corrections (the Department). The bills provide the Office with authority to conduct inspections at least once every three years and more often when warranted of Department facilities and require the Office to establish a statewide toll-free telephone number, website, mailing address, and paper and electronic forms for inmates, family members, friends, and advocates to submit complaints and inquiries. In addition, the bills require the Committee to hold at least two public hearings per year and require the Office to submit an annual report to be made available online and to be delivered to the Governor, the Attorney General, the Senate Committee on Rehabilitation and Social Services, the House Committee on Public Safety, the Committee, and the Director of the Department. The bills direct the Office to develop a short-term and long-term strategic plan and to provide a report on its initial activities and strategic plan to the Governor and the General Assembly on or before November 15, 2025 (2024 Acts of Assembly, cc. 392 and 393).

Title 54.1. Professions and Occupations

HB 188 and SB 154 Advance Health Care Planning Registry; amendment of regulations. Amend the list of documents that may be submitted to the Advance Health Care Directive Registry to include any other document that supports advance health care planning. The bills also change the name of the Advance Health Care Directive Registry to the Advance Health Care Planning Registry. The bills direct the Department of Health to amend certain Advance Health Care Planning Registry regulations (2024 Acts of Assembly, cc. 274 and 231).

SB 74 Prescription Monitoring Program; release of records to drug court administrators and behavioral health docket administrators. Requires the Director of the Department of Health Professions to release otherwise confidential information from the Prescription Monitoring Program when such information is relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice to drug court administrators and behavioral health docket administrators who have completed the Virginia State Police Drug Diversion School designated by the Director of the Department of Corrections or his designee. The bill requires release of the information upon receiving a request for information in accordance with the Department of Health Profession's regulations and in compliance with applicable federal law and regulations (2024 Acts of Assembly, c. 33).

Title 58.1 Taxation

HB 1488 and SB 413 Local government; standardization of public notice requirements for certain meetings, hearings, or intended actions. *See summary under Title 15.2, supra (2024 Acts of Assembly, cc. 225 and 242).*

SB 397 Gaming; posting of illegal gaming tip line information. *See summary under Title 18.2, supra (2024 Acts of Assembly, c. 593).*

Title 59.1. Trade and Commerce

HB 707 and SB 361 Consumer Data Protection Act; protections for children. Prohibit, subject to a parental consent requirement, a data controller from processing personal data of a known child (i) for the purposes of targeted advertising, the sale of such personal data, or profiling in furtherance of decisions that produce legal or similarly significant effects concerning a consumer; (ii) unless such processing is reasonably necessary to provide the online service, product, or feature; (iii) for any processing purpose other than the processing purpose that the controller disclosed at the time such controller collected such personal data or that is reasonably necessary for and compatible with such disclosed purpose; or (iv) for longer than is reasonably necessary to provide the online service, product, or feature. The bills prohibit, subject to a parental consent requirement, a data controller from collecting precise geolocation data from a known child unless (a) such precise geolocation data is reasonably necessary for the controller to provide an online service, product, or feature and, if such data is necessary to provide such online service, product, or feature, such controller shall only collect such data for the time necessary to provide such online service, product, or feature and (b) the controller provides to the known child a signal indicating that such controller is collecting such precise geolocation data, which signal shall be available to such known child for the entire duration of such collection. The bills prohibit a data controller from engaging in the activities described in the bills unless the controller obtains consent from the child's parent or legal guardian in accordance with the federal Children's Online Privacy Protection

Act. The bills have a delayed effective date of January 1, 2025 (2024 Acts of Assembly, cc. 840 and 844).

HB 1069 and SB 550 Liquid nicotine and nicotine vapor products; certification and directory; penalties. Require every manufacturer of liquid nicotine or nicotine vapor products that are sold for retail sale in the Commonwealth to certify to the Attorney General that (i) the manufacturer has received a marketing authorization or similar order for the liquid nicotine or nicotine vapor product from the U.S. Food and Drug Administration (FDA) or (ii) (a) the liquid nicotine or nicotine vapor product was marketed in the United States as of August 8, 2016, or (b) the manufacturer submitted a premarket tobacco product application for the liquid nicotine or nicotine vapor product to the FDA on or before September 9, 2020, and such application either remains under review by the FDA or a final decision on the application has not otherwise taken effect. The bills require a manufacturer to submit such a form for each liquid nicotine or nicotine vapor product that such manufacturer sells for retail sale in the Commonwealth. Under the bills, any manufacturer that falsely represents any of the information required by the certification requirement is guilty of a Class 3 misdemeanor for each false representation.

The bills require the Attorney General to establish and maintain a directory that lists all liquid nicotine or nicotine vapor product manufacturers and liquid nicotine and nicotine vapor products for which current and accurate certification forms have been submitted. The bills require the Attorney General to remove or exclude from such directory any such product that is not in compliance and to notify the manufacturer of such noncompliance. The bills allow a 10-business-day period for a manufacturer to establish compliance. The bills require that any such products that are removed from the list be sold or removed from retail sale within 30 days or become subject to seizure and require a manufacturer, wholesaler, or retail dealer to notify each purchaser of a removed product that it has been removed from the directory at the time of delivery of such product. The bills entitle such a purchaser to a refund of the purchase price and create a cause of action to recover such refund.

The bills prohibit the sale, distribution, importation, or offer for sale of any liquid nicotine or nicotine vapor product that is not listed in the directory. The bills provide for a civil penalty of \$1,000 per day for each product offered for sale in violation of the bills' provisions until the offending product is removed from the market or until the offending product is properly listed on the directory.

The bills require any person that receives, stores, sells, handles, or transports liquid nicotine or nicotine vapor products to preserve all records relating to the purchase, sale, exchange, receipt, or transportation of all liquid nicotine or nicotine vapor products for a period of three years. The bills provide that all such records are subject to audit or inspection at any time by any duly authorized representative of the Attorney General. Any person who violates the recordkeeping provisions of the bills is guilty of a Class 2 misdemeanor.

Additionally, the bills provide that the Department of Taxation, the Attorney General, any other law-enforcement agency of the Commonwealth, or any federal law-enforcement agency conducting a criminal investigation involving the trafficking of liquid nicotine or nicotine vapor products may access at any time such records. The bills require the Department of Taxation to

impose a penalty of \$1,000 for each day that a person fails or refuses to allow or cooperate with an audit, inspection, or investigation of such records.

The bills authorize the Attorney General and, with the concurrence of the Attorney General, any attorney for the Commonwealth, or the attorney for any city, county, or town to cause an action to enjoin any violation of the provisions of the bills. The circuit courts are authorized by the bills to (a) issue temporary or permanent injunctions to restrain and prevent violations of the provisions of the bills and (b) order forfeiture of any property seized for such a violation. The bills authorize the Attorney General to issue a civil investigative demand.

Under the bills, any retailer and wholesaler that sells or distributes any liquid nicotine or nicotine vapor product in the Commonwealth is subject to scheduled or unscheduled compliance checks carried out by the Attorney General, or an agent thereof, for enforcement purposes.

The bills require the Attorney General to provide an annual report to the General Assembly regarding the status of the directory, manufacturers and products included in the directory, and revenues and expenditures related to and enforcement activities undertaken pursuant to the requirements of the bills.

Finally, the bills make a violation of their provisions a prohibited practice under the Virginia Consumer Protection Act (2024 Acts of Assembly, cc. 828 and 793). *Note: The bills have a delayed effective date of July 1, 2025.*

Title 60.2 Unemployment Compensation

HB 1103 Virginia Employment Commission; provision of certain confidential information to the Virginia Port Authority. Requires the Virginia Employment Commission to provide certain employment information to the Virginia Port Authority as may be necessary to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. The bill provides that any information provided to the Authority is confidential, requires that the information only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties, and prohibits redisclosure of any such confidential information to nonlegislative citizen members of the Authority or to the public (2024 Acts of Assembly, c. 215).

Title 62.1 Waters of the State, Ports and Harbors

HB 1488 and SB 413 Local government; standardization of public notice requirements for certain meetings, hearings, or intended actions. *See summary under Title 15.2, supra (2024 Acts of Assembly, cc. 225 and 242).*