

SENATE BILL NO. _____ HOUSE BILL NO. _____

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

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

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

5 **§ 2.2-3701. Definitions.**

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

7 "All-virtual public meeting" means a public meeting (i) conducted by a public body, other than
8 those excepted pursuant to subsection C of § 2.2-3708.3, using electronic communication means, (ii)
9 during which all members of the public body who participate do so remotely rather than being assembled
10 in one physical location, and (iii) to which public access is provided through electronic communication
11 means.

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

13 "Electronic communication" means the use of technology having electrical, digital, magnetic,
14 wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

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

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

20 "Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or
21 through electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3, as a body or entity, or
22 as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the
23 constituent membership, wherever held, with or without minutes being taken, whether or not votes are
24 cast, of any public body. Neither the gathering of employees of a public body nor the gathering or
25 attendance of two or more members of a public body (a) at any place or function where no part of the

26 purpose of such gathering or attendance is the discussion or transaction of any public business, ~~and~~ such
27 gathering or attendance was not called or prearranged with any purpose of discussing or transacting any
28 business of the public body, and no discussion or transaction of public business takes place among the
29 members of the public body, or (b) at a public forum, informational gathering, meeting of a local political
30 party or a another public body, a candidate appearance, or debate, the purpose of which is to inform the
31 electorate or to gather information from the public and not to transact public business or to hold
32 discussions relating to the transaction of public business, where no discussion or transaction of public
33 business takes place among the members of the public body, and even though the performance of the
34 members individually or collectively in the conduct of public business may be a topic of discussion or
35 debate raised by others at such public meeting, shall be deemed a "meeting" subject to the provisions of
36 this chapter.

37 "Official public government website" means any Internet site controlled by a public body and used,
38 among any other purposes, to post required notices and other content pursuant to this chapter on behalf of
39 the public body.

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

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

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

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

61 "Regional public body" means a unit of government organized as provided by law within defined
62 boundaries, as determined by the General Assembly, which unit includes two or more localities.

63 "Remote participation" means participation by an individual member of a public body by
64 electronic communication means in a public meeting where a quorum of the public body is otherwise
65 physically assembled.

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

69 "Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-
70 336 et seq.).

71 **2. That this enactment is declarative of existing law.**

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