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SENATE BILL NO. 354

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact §§ 2.2-3703, 2.2-3705, and 2.2-3711 of the Code of Virginia, relating to the Freedom of Information Act; applicability; sexually violent predator commitment review committee.

 Patron—Houck

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3703, 2.2-3705, and 2.2-3711 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records.

A. The provisions of this chapter shall not apply to:

1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board providing the number of inmates considered by such Board for discretionary parole, the number of inmates granted or denied parole, and the number of parolees returned to the custody of the Department of Corrections solely as a result of a determination by such Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704 and (ii) all records concerning the finances of the Virginia Parole Board shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information;

2. Petit juries and grand juries;

3. Family assessment and planning teams established pursuant to § 2.2-5207; and

4. The Virginia State Crime Commission; and

5. ~~The Commitment Review Committee and any documents, evaluations, assessments and proceedings involving the commitment of sexually violent predators under Article 1-1 (§ 37.1-70.1 et seq.) of Chapter 2 of Title 37-1.~~

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

§ 2.2-3705. Exclusions to application of chapter.

A. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Confidential records of all investigations of applications for licenses and permits, and all licenses and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Department of Charitable Gaming.

2. State income, business, and estate tax returns, personal property tax returns, scholastic and confidential records held pursuant to § 58.1-3.

3. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a state-supported institution of higher education, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

4. Personnel records containing information concerning identifiable individuals, except that access

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59 shall not be denied to the person who is the subject thereof. Any person who is the subject of any
60 personnel record and who is 18 years of age or older may waive, in writing, the protections afforded by
61 this subdivision. If the protections are so waived, the public body shall open such records for inspection
62 and copying.

63 5. Medical and mental records, except that such records may be personally reviewed by the subject
64 person or a physician of the subject person's choice. However, the subject person's mental records may
65 not be personally reviewed by such person when the subject person's treating physician has made a part
66 of such person's records a written statement that in his opinion a review of such records by the subject
67 person would be injurious to the subject person's physical or mental health or well-being.

68 Where the person who is the subject of medical records is confined in a state or local correctional
69 facility, the administrator or chief medical officer of such facility may assert such confined person's right
70 of access to the medical records if the administrator or chief medical officer has reasonable cause to
71 believe that such confined person has an infectious disease or other medical condition from which other
72 persons so confined need to be protected. Medical records shall only be reviewed and shall not be
73 copied by such administrator or chief medical officer. The information in the medical records of a
74 person so confined shall continue to be confidential and shall not be disclosed by the administrator or
75 chief medical officer of the facility to any person except the subject or except as provided by law.

76 Where the person who is the subject of medical and mental records is under the age of 18, his right
77 of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless
78 such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or
79 denied such access. In instances where the person who is the subject thereof is an emancipated minor or
80 a student in a public institution of higher education, the right of access may be asserted by the subject
81 person.

82 For the purposes of this chapter, statistical summaries of incidents and statistical data concerning
83 patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental
84 Retardation and Substance Abuse Services shall be open to inspection and copying as provided in
85 § 2.2-3704. No such summaries or data shall include any patient-identifying information.

86 6. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the
87 Attorney General; the members of the General Assembly or the Division of Legislative Services; the
88 mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or
89 other chief executive officer of any public institution of higher education in Virginia. However, no
90 record, which is otherwise open to inspection under this chapter, shall be deemed exempt by virtue of
91 the fact that it has been attached to or incorporated within any working paper or correspondence.

92 As used in this subdivision:

93 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet
94 Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor
95 has delegated his authority pursuant to § 2.2-104.

96 "Working papers" means those records prepared by or for an above-named public official for his
97 personal or deliberative use.

98 7. Written advice of legal counsel to state, regional or local public bodies or the officers or
99 employees of such public bodies, and any other records protected by the attorney-client privilege.

100 8. Legal memoranda and other work product compiled specifically for use in litigation or for use in
101 an active administrative investigation concerning a matter that is properly the subject of a closed
102 meeting under § 2.2-3711.

103 9. Confidential letters and statements of recommendation placed in the records of educational
104 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an
105 application for employment, or (iii) receipt of an honor or honorary recognition.

106 10. Library records that can be used to identify both (i) any library patron who has borrowed
107 material from a library and (ii) the material such patron borrowed.

108 11. Any test or examination used, administered or prepared by any public body for purposes of
109 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's
110 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license
111 or certificate issued by a public body.

112 As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test
113 or examination and (b) any other document that would jeopardize the security of the test or examination.
114 Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by
115 law, or limit access to individual records as provided by law. However, the subject of such employment
116 tests shall be entitled to review and inspect all records relative to his performance on such employment
117 tests.

118 When, in the reasonable opinion of such public body, any such test or examination no longer has any
119 potential for future use, and the security of future tests or examinations will not be jeopardized, the test
120 or examination shall be made available to the public. However, minimum competency tests administered

to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

12. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

13. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

14. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

15. Reports, documentary evidence and other information as specified in §§ 2.2-706 and 63.2-104.

16. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or § 62.1-134.1.

17. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

18. Vendor proprietary information software that may be in the official records of a public body. For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

19. Financial statements not publicly available filed with applications for industrial development financings.

20. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

21. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

22. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership, the Virginia Tourism Authority, or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, the Authority, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

23. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

24. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

25. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

26. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management or to such personnel of any local public body, including local school boards as are responsible for conducting such investigations in confidence. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

27. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

28. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

29. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of

182 formulating advisory opinions to members on standards of conduct, or both.

183 30. Customer account information of a public utility affiliated with a political subdivision of the
184 Commonwealth, including the customer's name and service address, but excluding the amount of utility
185 service provided and the amount of money paid for such utility service.

186 31. Investigative notes and other correspondence and information furnished in confidence with
187 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice
188 under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in
189 accordance with the authority specified in § 2.2-2638, or adopted pursuant to § 15.2-965, or adopted
190 prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human
191 relations commissions. However, nothing in this section shall prohibit the distribution of information
192 taken from inactive reports in a form that does not reveal the identity of the parties involved or other
193 persons supplying information.

194 32. Investigative notes; proprietary information not published, copyrighted or patented; information
195 obtained from employee personnel records; personally identifiable information regarding residents,
196 clients or other recipients of services; and other correspondence and information furnished in confidence
197 to the Department of Social Services in connection with an active investigation of an applicant or
198 licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2.
199 However, nothing in this section shall prohibit disclosure of information from the records of completed
200 investigations in a form that does not reveal the identity of complainants, persons supplying information,
201 or other individuals involved in the investigation.

202 33. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development
203 Authority concerning individuals who have applied for or received loans or other housing assistance or
204 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
205 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the
206 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and
207 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the
208 waiting list for housing assistance programs funded by local governments or by any such authority; or
209 (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other
210 local government agency concerning persons who have applied for occupancy or who have occupied
211 affordable dwelling units established pursuant to § 15.2-2304 or § 15.2-2305. However, access to one's
212 own information shall not be denied.

213 34. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if
214 disclosure of them would have a detrimental effect upon the negotiating position of a governing body or
215 on the establishment of the terms, conditions and provisions of the siting agreement.

216 35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior
217 to the completion of such purchase, sale or lease.

218 36. Records containing information on the site specific location of rare, threatened, endangered or
219 otherwise imperiled plant and animal species, natural communities, caves, and significant historic and
220 archaeological sites if, in the opinion of the public body that has the responsibility for such information,
221 disclosure of the information would jeopardize the continued existence or the integrity of the resource.
222 This exemption shall not apply to requests from the owner of the land upon which the resource is
223 located.

224 37. Records, memoranda, working papers, graphics, video or audio tapes, production models, data
225 and information of a proprietary nature produced by or for or collected by or for the State Lottery
226 Department relating to matters of a specific lottery game design, development, production, operation,
227 ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to
228 holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning,
229 advertising, or marketing, where such official records have not been publicly released, published,
230 copyrighted or patented. Whether released, published or copyrighted, all game-related information shall
231 be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game
232 to which it pertains.

233 38. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii)
234 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
235 regulations that cause abuses in the administration and operation of the lottery and any evasions of such
236 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where
237 such official records have not been publicly released, published or copyrighted. All studies and
238 investigations referred to under clauses (iii), (iv) and (v) shall be open to inspection and copying upon
239 completion of the study or investigation.

240 39. Those portions of engineering and construction drawings and plans submitted for the sole purpose
241 of complying with the Building Code in obtaining a building permit that would identify specific trade
242 secrets or other information the disclosure of which would be harmful to the competitive position of the
243 owner or lessee. However, such information shall be exempt only until the building is completed.

Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

Those portions of engineering and construction drawings and plans that reveal critical structural components, security equipment and systems, ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, and other utility equipment and systems submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.), the disclosure of which would jeopardize the safety or security of any public or private commercial office, multi-family residential or retail building or its occupants in the event of terrorism or other threat to public safety, to the extent that the owner or lessee of such property, equipment or system in writing (i) invokes the protections of this paragraph; (ii) identifies the drawings, plans, or other materials to be protected; and (iii) states the reasons why protection is necessary.

Nothing in this subdivision shall prevent the disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster or other catastrophic event.

40. Records concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of this title, or by any county, city, or town; and investigative notes, correspondence and information furnished in confidence with respect to an investigation of a claim or a potential claim against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision shall prohibit the disclosure of information taken from inactive reports upon expiration of the period of limitations for the filing of a civil suit.

41. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

42. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

43. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the (i) Auditor of Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline; or (iv) committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825. Records of completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall include, but not be limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

44. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

45. Documentation or other information that describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

46. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

47. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, relating to the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or provided to the retirement system under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) disclosure of such confidential analyses would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system or the Rector and Visitors of the University of Virginia. Nothing in this subdivision shall be construed to prevent the disclosure of records relating to the identity

of any investment held, the amount invested, or the present value of such investment.

48. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

49. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

50. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

51. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

52. Information required to be provided pursuant to § 54.1-2506.1.

53. Confidential information designated as provided in subsection D of § 2.2-4342 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

54. All information and records acquired during a review of any child death by the State Child Fatality Review team established pursuant to § 32.1-283.1, during a review of any child death by a local or regional child fatality review team established pursuant to § 32.1-283.2, and all information and records acquired during a review of any death by a family violence fatality review team established pursuant to § 32.1-283.3.

55. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

56. Confidential proprietary records that are voluntarily provided by a private entity pursuant to a proposal filed with a public entity or an affected local jurisdiction under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), pursuant to a promise of confidentiality from the responsible public entity or affected local jurisdiction, used by the responsible public entity or affected local jurisdiction for purposes related to the development of a qualifying transportation facility or qualifying project; and memoranda, working papers or other records related to proposals filed under the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002, where, if such records were made public, the financial interest of the public or private entity involved with such proposal or the process of competition or bargaining would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this subdivision, the terms "affected local jurisdiction", "public entity" and "private entity" shall be defined as they are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and Infrastructure Act of 2002. However, nothing in this subdivision shall be construed to prohibit the release of procurement records as required by § 56-573.1 or § 56-575.16. Procurement records shall not be interpreted to include proprietary, commercial or financial information, balance sheets, financial statements, or trade secrets that may be provided by the private entity as evidence of its qualifications.

57. Plans and information to prevent or respond to terrorist activity, the disclosure of which would jeopardize the safety of any person, including (i) critical infrastructure sector or structural components; (ii) vulnerability assessments, operational, procedural, transportation, and tactical planning or training manuals, and staff meeting minutes or other records; and (iii) engineering or architectural records, or records containing information derived from such records, to the extent such records reveal the location or operation of security equipment and systems, elevators, ventilation, fire protection, emergency, electrical, telecommunications or utility equipment and systems of any public building, structure or information storage facility. The same categories of records of any governmental or nongovernmental person or entity submitted to a public body for the purpose of antiterrorism response planning may be

withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism planning or protection. Such statement shall be a public record and shall be disclosed upon request. Nothing in this subdivision shall be construed to prohibit the disclosure of records relating to the structural or environmental soundness of any building, nor shall it prevent the disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster or other catastrophic event.

58. All records of the University of Virginia or the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

59. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

60. Records of the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly released, published, copyrighted or patented.

61. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

62. Confidential proprietary records that are provided by a franchisee under § 15.2-2108 to its franchising authority pursuant to a promise of confidentiality from the franchising authority that relates to the franchisee's potential provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

63. Records of the Intervention Program Committee within the Department of Health Professions, to the extent such records may identify any practitioner who may be, or who is actually, impaired to the extent disclosure is prohibited by § 54.1-2517.

64. Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Chapter 3.1 (§ 51.5-12.1 et seq.) of Title 51.5, to the extent such records contain (i) medical or mental records, or other data identifying individual patients or (ii) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published,

428 copyrighted or patented, if the disclosure of such information would be harmful to the competitive
429 position of the applicant.

430 65. Information that would disclose the security aspects of a system safety program plan adopted
431 pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety
432 Oversight agency; and information in the possession of such agency, the release of which would
433 jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway
434 safety.

435 66. Documents and other information of a proprietary nature furnished by a supplier of charitable
436 gaming supplies to the Department of Charitable Gaming pursuant to subsection E of § 18.2-340.34.

437 67. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College
438 Savings Plan or its employees by or on behalf of individuals who have requested information about,
439 applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to
440 Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit
441 disclosure or publication of information in a statistical or other form that does not identify individuals or
442 provide personal information. Individuals shall be provided access to their own personal information.

443 68. Any record copied, recorded or received by the Commissioner of Health in the course of an
444 examination, investigation or review of a managed care health insurance plan licensee pursuant to
445 §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or
446 all computer or other recordings.

447 69. Engineering and architectural drawings, operational, procedural, tactical planning or training
448 manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance
449 techniques, personnel deployments, alarm or security systems or technologies, or operational and
450 transportation plans or protocols, to the extent such disclosure would jeopardize the security of any
451 governmental facility, building or structure or the safety of persons using such facility, building or
452 structure.

453 70. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple
454 Board pursuant to §§ 3.1-622 and 3.1-624.

455 71. Records of the Department of Environmental Quality, the State Water Control Board, State Air
456 Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal
457 environmental enforcement actions that are considered confidential under federal law and (ii)
458 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records
459 shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the
460 director of the agency. This subdivision shall not be construed to prohibit the disclosure of records
461 related to inspection reports, notices of violation, and documents detailing the nature of any
462 environmental contamination that may have occurred or similar documents.

463 72. As it pertains to any person, records related to the operation of toll facilities that identify an
464 individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle
465 enforcement system information; video or photographic images; Social Security or other identification
466 numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone
467 numbers; or records of the date or time of toll facility use.

468 73. Records of the Virginia Office for Protection and Advocacy consisting of documentary evidence
469 received or maintained by the Office or its agents in connection with specific complaints or
470 investigations, and records of communications between employees and agents of the Office and its
471 clients or prospective clients concerning specific complaints, investigations or cases. Upon the
472 conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Office may
473 not at any time release the identity of any complainant or person with mental illness, mental retardation,
474 developmental disabilities or other disability, unless (i) such complainant or person or his legal
475 representative consents in writing to such identification or (ii) such identification is required by court
476 order.

477 74. Information furnished in confidence to the Department of Employment Dispute Resolution with
478 respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title,
479 and memoranda, correspondence and other records resulting from any such investigation, consultation or
480 mediation. However, nothing in this section shall prohibit the distribution of information taken from
481 inactive reports in a form that does not reveal the identity of the parties involved or other persons
482 supplying information.

483 75. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1,
484 submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery
485 Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

486 76. Records of the State Lottery Department pertaining to (i) the social security number, tax
487 identification number, state sales tax number, home address and telephone number, personal and lottery
488 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
489 operations of specific retail locations, and (ii) individual lottery winners, except that a winner's name,

hometown, and amount won shall be disclosed.

77. Records, information and statistical registries required to be kept confidential pursuant to §§ 63.2-102 and 63.2-104.

78. Personal information, as defined in § 2.2-3801, including electronic mail addresses, furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. However, access shall not be denied to the person who is the subject of the record.

79. (For effective date, see note) All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

80. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act.

81. The names, addresses and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints made to a local governing body.

82. Records relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such records would adversely affect the bargaining position or negotiating strategy of the public body. Such records shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of records relating to such transactions shall be governed by the Virginia Public Procurement Act.

83. Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published, copyrighted or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

84. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

85. Security plans and specific vulnerability assessment components of school safety audits, as provided in § 22.1-279.8.

Nothing in this subdivision shall be construed to prohibit the disclosure of records relating to the effectiveness of security plans after (i) any school building or property has been subjected to fire, explosion, natural disaster or other catastrophic event, or (ii) any person on school property has suffered or been threatened with any personal injury.

86. Records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents, employees or persons employed to perform an audit or examination of holder records.

87. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

88. *Records of the Commitment Review Committee concerning the mental health assessment of an individual subject to commitment as a sexually violent predator under Article 1.1 (§ 37.1-70.1 et seq.) of Chapter 2 of Title 37.1; except that in no case shall records identifying the victims of a sexually violent predator be disclosed.*

B. Neither any provision of this chapter nor any provision of Chapter 38 (§ 2.2-3800 et seq.) of this title shall be construed as denying public access to (i) contracts between a public body and its officers or employees, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision A 4; (ii) records of the position, job classification, official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subsection, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility, whether or not such facility is (i) located in the Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.). However, this subsection shall not be construed to prevent an

551 incarcerated person from exercising his constitutionally protected rights, including, but not limited to, his
552 rights to call for evidence in his favor in a criminal prosecution.

553 D. Nothing in this chapter shall be construed as denying public access to the nonexempt portions of
554 a report of a consultant hired by or at the request of a local public body or the mayor or chief executive
555 or administrative officer of such public body if (i) the contents of such report have been distributed or
556 disclosed to members of the local public body or (ii) the local public body has scheduled any action on
557 a matter that is the subject of the consultant's report.

558 § 2.2-3711. Closed meetings authorized for certain limited purposes.

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

560 1. Discussion, consideration or interviews of prospective candidates for employment; assignment,
561 appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public
562 officers, appointees or employees of any public body; and evaluation of performance of departments or
563 schools of public institutions of higher education where such evaluation will necessarily involve
564 discussion of the performance of specific individuals. Any teacher shall be permitted to be present
565 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that
566 involves the teacher and some student and the student involved in the matter is present, provided the
567 teacher makes a written request to be present to the presiding officer of the appropriate board.

568 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
569 involve the disclosure of information contained in a scholastic record concerning any student of any
570 Virginia public institution of higher education or any state school system. However, any such student,
571 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to
572 be present during the taking of testimony or presentation of evidence at a closed meeting, if such
573 student, parents or guardians so request in writing and such request is submitted to the presiding officer
574 of the appropriate board.

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

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

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

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

585 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
586 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
587 negotiating or litigating posture of the public body; and consultation with legal counsel employed or
588 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
589 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been
590 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe
591 will be commenced by or against a known party. Nothing in this subdivision shall be construed to
592 permit the closure of a meeting merely because an attorney representing the public body is in attendance
593 or is consulted on a matter.

594 8. In the case of boards of visitors of public institutions of higher education, discussion or
595 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts
596 for services or work to be performed by such institution. However, the terms and conditions of any such
597 gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign
598 person and accepted by a public institution of higher education in Virginia shall be subject to public
599 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
600 (i) "foreign government" means any government other than the United States government or the
601 government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity
602 created under the laws of the United States or of any state thereof if a majority of the ownership of the
603 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
604 membership of any such entity is composed of foreign persons or foreign legal entities, or any legal
605 entity created under the laws of a foreign government; and (iii) "foreign person" means any individual
606 who is not a citizen or national of the United States or a trust territory or protectorate thereof.

607 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum
608 of Natural History, and The Science Museum of Virginia, discussion or consideration of matters relating
609 to specific gifts, bequests, and grants.

610 10. Discussion or consideration of honorary degrees or special awards.

611 11. Discussion or consideration of tests, examinations or other records excluded from this chapter
612 pursuant to subdivision A 11 of § 2.2-3705.

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

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

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

15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to subdivision A 5 of § 2.2-3705.

16. Deliberations of the State Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivisions A 37 and A 38 of § 2.2-3705.

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Discussion, consideration, review and deliberations by local community corrections resources boards regarding the placement in community diversion programs of individuals previously sentenced to state correctional facilities.

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

20. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety.

21. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or provided to the retirement system under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system or the Rector and Visitors of the University of Virginia. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

22. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3.

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

674 24. In the case of the Virginia Commonwealth University Health System Authority, discussion or
675 consideration of any of the following: the acquisition or disposition of real or personal property where
676 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;
677 operational plans that could affect the value of such property, real or personal, owned or desirable for
678 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
679 contracts for services or work to be performed by the Authority; marketing or operational strategies
680 where disclosure of such strategies would adversely affect the competitive position of the Authority;
681 members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications
682 or evaluations of other employees.

683 25. Those portions of the meetings of the Intervention Program Committee within the Department of
684 Health Professions to the extent such discussions identify any practitioner who may be, or who actually
685 is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

686 26. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
687 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
688 by or on behalf of individuals who have requested information about, applied for, or entered into
689 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.)
690 of Title 23 is discussed.

691 27. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created
692 pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et
693 seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12, related to the provision of
694 wireless E-911 service.

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

701 29. Discussion or consideration by a responsible public entity or an affected local jurisdiction, as
702 those terms are defined in § 56-557, of confidential proprietary records excluded from this chapter
703 pursuant to subdivision A 56 of § 2.2-3705.

704 30. Discussion of the award of a public contract involving the expenditure of public funds, including
705 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
706 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
707 the public body.

708 31. Discussion or consideration by the Commonwealth Health Research Board of grant application
709 records excluded from this chapter pursuant to subdivision A 83 of § 2.2-3705.

710 32. *Discussion or consideration by the Commitment Review Committee of records excluded from this*
711 *chapter pursuant to subdivision A 88 of § 2.2-3705 relating to individuals subject to commitment as*
712 *sexually violent predators under Article 1.1 (§ 37.1-70.1 et seq.) of Chapter 2 of Title 37.1.*

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

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

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

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