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## SENATE BILL NO. 1477

Offered January 21, 2011

A BILL to amend and reenact §§ 2.2-3705.3, 2.2-3705.6, 2.2-4344, 32.1-127.1:03, and 32.1-283 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 3.2, containing articles numbered 1 through 5, consisting of sections numbered 2.2-307 through 2.2-323; and to repeal Article 3 (§§ 37.2-423 through 37.2-425) of Chapter 4 of Title 37.2 and §§ 53.1-16, and 66-3.1 of the Code of Virginia, relating to the creation of the State Office of the Inspector General; consolidation of certain inspectors general.

Patron—Stosch

Referred to Committee on General Laws and Technology

## Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.3, 2.2-3705.6, 2.2-4344, 32.1-127.1:03, and 32.1-283 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 3.2, containing articles numbered 1 through 5, consisting of sections numbered 2.2-307 through 2.2-323 as follows:

## CHAPTER 3.2.

## OFFICE OF THE INSPECTOR GENERAL.

## Article 1.

## General Provisions.

## § 2.2-307. Definitions.

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

"Employee" means any person who is regularly employed full time on either a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by a state agency.

"Office" means the Office of the Inspector General.

"Officer" means any person who is elected or appointed to a public office in a state agency.

"State agency" means any agency, institution, board, bureau, commission, council, or instrumentality of state government in the executive branch listed in the appropriation act.

## § 2.2-308. Office created; appointment of State Inspector General.

A. There is hereby created the Office of the Inspector General, which shall be headed by a State Inspector General appointed by the Governor, subject to confirmation by the General Assembly. The State Inspector General shall be appointed for a six-year term and shall report directly to the Governor's chief of staff. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of such term.

B. The State Inspector General shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor. The State Inspector General shall be responsible for the overall supervision of the Office's divisions, programs and personnel. The head of each division shall, under the direction and control of the State Inspector General, exercise the powers and perform the duties conferred by this chapter as they pertain to his division and perform such other duties as required by the State Inspector General.

C. Whenever in this title and in the Code of Virginia, reference is made to a division, department or agency transferred to the Office of the Inspector General, it shall mean the Office of the Inspector General through the division to which the powers and duties of that division, department or agency are assigned. Notwithstanding anything in this section to the contrary, the State Inspector General shall have the authority to create new divisions within the Office and to assign or reassign the duties of the Office's divisions to whatever divisions as may best perform them.

## § 2.2-309. Powers and duties of Inspector General.

The State Inspector General shall have power and duty to:

1. Operate and manage the Office of the Inspector General and employ such personnel as may be required to carry out the provisions of this chapter.

2. Make and enter contracts and agreements as may be necessary and incidental to carry out the provisions of this chapter, and apply for and accept grants from the United States government and agencies and instrumentalities thereof, and any other source, in furtherance of the provisions of this chapter.

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59 3. Receive complaints alleging fraud, waste, abuse, corruption, or mistreatment of a citizen by a  
60 state agency, officer or employee and determine whether the complaints give reasonable cause to  
61 investigate.

62 4. Investigate the management and operations of state agencies to determine whether acts of fraud,  
63 waste, abuse, corruption, or mistreatment have been committed or are being committed by state officers  
64 or employees.

65 5. Prepare a detailed report of each investigation stating whether fraud, waste, abuse, corruption, or  
66 mistreatment has been detected. If fraud, waste, abuse, corruption, or mistreatment is detected, the  
67 report shall (i) identify the person committing the wrongful act or omission, (ii) describe the wrongful  
68 act or omission, and (iii) describe corrective measures taken by the state agency in which the wrongful  
69 act or omission was committed to prevent recurrences of similar actions.

70 6. Provide timely notification to the appropriate attorney for the Commonwealth whenever the State  
71 Inspector General has reasonable grounds to believe there has been a violation of state criminal law.

72 7. Assist citizens in understanding their rights and the processes available to them to express  
73 grievances regarding the activities of a state agency, officer, or employee.

74 8. Answer inquiries from citizens.

75 9. Provide to citizens information concerning state agencies.

76 10. Maintain data on inquiries received, the types of assistance requested, any actions taken and the  
77 disposition of each such matter.

78 11. Upon request, assist citizens in using the procedures and processes available to express  
79 grievances regarding the activities of a state agency, officer or employee.

80 12. Ensure that citizens have access to the services provided by the State Inspector General and that  
81 the citizens receive timely responses from the State Inspector General or his representatives to the  
82 inquiries.

83 § 2.2-310. Subpoenas.

84 A. The State Inspector General or a designated subordinate may issue a subpoena for the  
85 appearance of an individual before any hearing conducted by the Office. The subpoena shall be served  
86 by the appropriate sheriff's officer and enforced by the court of that jurisdiction.

87 B. The State Inspector General may make an ex parte application to the circuit court for the city or  
88 county wherein evidence sought is kept, for the issuance of a subpoena duces tecum in furtherance of an  
89 investigation or to request production of any relevant records, documents, and physical or other  
90 evidence of any person, partnership, association or corporation located in the Commonwealth. The court  
91 may issue and compel compliance with such a subpoena upon a showing of reasonable cause. Upon  
92 determining that reasonable cause exists to believe that evidence may be destroyed or altered, the court  
93 may issue a subpoena duces tecum requiring the immediate production of evidence.

94 § 2.2-311. Cooperation of state agencies and officers.

95 A. Each state agency and every officer and employee shall cooperate with, and provide assistance to,  
96 the State Inspector General in the performance of any investigation. Each state agency shall make its  
97 premises, equipment, personnel, books, records, and papers readily available to the State Inspector  
98 General upon request.

99 B. The State Inspector General may enter upon the premises of any state agency at any time, without  
100 prior announcement, if necessary to the successful completion of an investigation. In the course of an  
101 investigation, the State Inspector General may question any officer or employee serving in, and any  
102 person transacting business with, the state agency and may inspect and copy any books, records, or  
103 papers in the possession of the state agency. The State Inspector General shall preserve the  
104 confidentiality of any information obtained from a state agency during the course of an investigation as  
105 required by applicable state and federal law.

106 § 2.2-312. Reports.

107 A. The State Inspector General shall prepare an annual report summarizing the activities of the  
108 Office. Such report shall include, but need not be limited to: (i) a description of any significant  
109 problems, abuses, and deficiencies related to the management or operation of state agencies during the  
110 reporting period; (ii) a description of the recommendations for corrective actions made by the Office  
111 during the reporting period with respect to significant problems, abuses, or deficiencies identified; (iii) a  
112 summary of matters referred to the attorneys for the Commonwealth and law-enforcement agencies and  
113 actions taken on them during the reporting period; and (iv) information concerning the numbers of  
114 complaints received and types of investigations completed by the Office during the reporting period.

115 B. The State Inspector General shall report immediately to the Governor's chief of staff whenever the  
116 Office becomes aware of particularly serious problems, abuses, or deficiencies relating to the  
117 management or operation of a state agency.

118 C. The State Inspector General shall keep the Secretaries of Health and Human Resources, Public  
119 Safety, and Transportation advised of the Office's activities as it relates to each respective Secretary on  
120 at least a quarterly basis. The Secretaries of Health and Human Resources, Public Safety, and

Transportation shall report to the Governor's chief of staff any serious problems, abuses, or deficiencies relating to the management or operation of a state agency within each such Secretary's area of responsibility.

D. The State Inspector General may conduct such additional investigations and make such reports relating to the management and operation of state agencies as are, in the judgment of the State Inspector General, necessary or desirable.

E. Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted directly to the Governor's chief of staff and the General Assembly by the State Inspector General.

F. Records that are confidential under federal or state law shall be maintained as confidential by the State Inspector General and shall not be further disclosed, except as permitted by law.

#### Article 2.

##### Division of Behavioral Health and Developmental Services.

##### § 2.2-313. Division of Behavioral Health and Developmental Services.

Within the Office shall be created the Division of Behavioral Health and Developmental Services (the Division), which shall inspect, monitor, and review the quality of services provided in state facilities and by providers as defined in § 37.2-403, including licensed mental health treatment units in state correctional facilities.

##### § 2.2-314. Definitions.

The definitions found in § 37.2-100 shall apply mutatis mutandis to the terms used in this article.

##### § 2.2-315. Additional powers and duties of Inspector General.

In addition to the duties as may be assigned to it by the State Inspector General, the Division shall have the following powers and duties to:

1. Provide inspections of and make policy and operational recommendations for state facilities and for providers, including licensed mental health treatment units in state correctional facilities, in order to prevent problems, abuses, and deficiencies in and improve the effectiveness of their programs and services. The Division shall provide oversight and conduct announced and unannounced inspections of state facilities and of providers, including licensed mental health treatment units in state correctional facilities, on an ongoing basis in response to specific complaints of abuse, neglect, or inadequate care and as a result of monitoring serious incident reports and reports of abuse, neglect, or inadequate care or other information received. The Division shall conduct unannounced inspections at each state facility at least once annually.

2. Access any and all information, including confidential consumer information, related to the delivery of services to consumers in state facilities or served by providers, including licensed mental health treatment units in state correctional facilities. However, the Division shall not be given access to any proceedings, minutes, records, or reports of providers that are privileged under § 8.01-581.17, except that the Division shall be given access to any privileged information in state facilities and licensed mental health treatment units in state correctional facilities. All consumer information shall be maintained by the Division as confidential in the same manner as is required by the agency or provider from which the information was obtained.

3. Keep the General Assembly and the Joint Commission on Health Care fully and currently informed by means of reports required by § 2.2-312 concerning significant problems, abuses, and deficiencies relating to the administration of the programs and services of state facilities and of providers, including licensed mental health treatment units in state correctional facilities, to recommend corrective actions concerning the problems, abuses, and deficiencies, and to report on the progress made in implementing the corrective actions.

4. Review, comment on, and make recommendations about, as appropriate, any reports prepared by the Department and the critical incident data collected by the Department in accordance with regulations adopted under § 37.2-400 to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.

5. Monitor and participate in the adoption of regulations by the Board.

6. Receive reports, information, and complaints from the Virginia Office for Protection and Advocacy concerning issues related to quality of care provided in state facilities and by providers, including licensed mental health treatment units in state correctional facilities, and to conduct independent reviews and investigations.

#### Article 3.

##### Division of Corrections.

##### § 2.2-316. Division of Corrections.

Within the Office shall be created the Division of Corrections (the Division), which shall exercise the powers and duties assigned to it by the State Inspector General as they relate to matters described in this article.

§ 2.2-317. Definitions.

The definitions found in § 53.1-1 shall apply mutatis mutandis to the terms used in this article.

§ 2.2-318. Additional powers and duties.

A. In addition to the duties as may be assigned to it by the State Inspector General, the Division shall have the following powers and duties to:

1. Review, comment on, and make recommendations about, as appropriate, any reports prepared by the Department and any critical incident data collected by the Department in accordance with regulations adopted to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.

2. Monitor and participate in the adoption of regulations by the Board.

B. The Division and no more than 30 members of the internal investigations unit of the Office shall have the same powers as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Investigators so designated shall receive the training required by the Department of Criminal Justice Services for law-enforcement personnel before exercising such powers.

Nothing in this section shall be construed to grant the Office any authority over the operation and security of local jails which is not specified in other provisions of law.

Article 4.

Division of Juvenile Justice.

§ 2.2-319. Division of Juvenile Justice.

Within the Office shall be created the Division of Juvenile Justice (the Division), which shall exercise the powers and duties assigned to it by the State Inspector General as they relate to matters described in this article.

§ 2.2-320. Definitions.

The definitions found in § 66-12 shall apply mutatis mutandis to the terms used in this article.

§ 2.2-321. Additional powers and duties.

A. In addition to the duties as may be assigned to it by the State Inspector General, the Division shall have the following powers and duties to:

1. Review, comment on, and make recommendations about, as appropriate, any reports prepared by the Department and any critical incident data collected by the Department in accordance with regulations adopted to identify issues related to quality of care, seclusion and restraint, medication usage, abuse and neglect, staff recruitment and training, and other systemic issues.

2. Monitor and participate in the adoption of regulations by the Board.

B. The Division and no more than 10 members of the internal investigations unit of the Office shall have the same powers as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Investigators so designated shall receive the training required by the Department of Criminal Justice Services for law-enforcement personnel before exercising such powers.

Nothing in this section shall be construed to grant the Office any authority over the operation and security of detention homes which is not specified in other provisions of law.

Article 5.

Division of Transportation.

§ 2.2-322. Division of Transportation.

Within the Office shall be created the Division of Transportation (the Division), which shall exercise the powers and duties assigned to it by the State Inspector General as they relate to matters described in this article.

§ 2.2-323. Additional powers and duties.

A. The Division shall (i) assess the condition of agency accounting, financial and administrative controls; (ii) conduct investigations to resolve allegations of fraudulent, illegal, or inappropriate activities; (iii) prevent and detect fraud, waste, and abuse; and (iv) coordinate with federal and state law enforcement and prosecutorial agencies. The Division shall also promote integrity, accountability, and process improvements in the Department of Transportation. The Division shall manage special projects and provide advisory services and technical assistance to management; as well as conduct business performance reviews, and coordinate and monitor Department of Transportation action plans in response to external audits and reviews.

B. The Division and no more than 30 members of the internal investigations unit of the Office shall have the same powers as a sheriff or a law-enforcement officer in the investigation of allegations of fraud, waste or abuse affecting the operations of the Department of Transportation. Investigators so designated shall receive the training required by the Department of Criminal Justice Services for law-enforcement personnel before exercising such powers.

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

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 of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

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

3. 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.

4. 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.

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

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

7. 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 (i) the ~~(i)~~ Auditor of Public Accounts; (ii) *the* Joint Legislative Audit and Review Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) *the* Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline; (v) *the Office of the Inspector General*; (vi) *the* committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825; or ~~(vi)~~ (vii) *the* auditors, appointed by the local governing body of any county, city or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an investigation of any officer, department or program of such body. 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. Local governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

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

9. Information furnished in confidence to the Department of Employment Dispute Resolution with respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title,

and memoranda, correspondence and other records resulting from any such investigation, consultation or mediation. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

10. The names, addresses and telephone 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 (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

11. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

12. Records furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

13. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation conducted by or for the Board of Education related to the denial, suspension, or revocation of teacher licenses. However, this subdivision shall not prohibit the disclosure of records to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Records of completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The records disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information in the records regarding a current or former student shall be released except as permitted by state or federal law.

14. Records, notes and information provided in confidence and related to an investigation by the Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is not otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons supplying information, witnesses or other individuals involved in the investigation.

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

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

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected.

4. 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.

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

6. 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.

7. 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.

8. 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.

9. 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.

10. Confidential information designated as provided in subsection F 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.

11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed 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.), where (i) if such records were made public prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the records specified in clauses (i), (ii) and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"

428 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation  
429 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined  
430 in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and  
431 Infrastructure Act of 2002.

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

438 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential  
439 proprietary records that are not generally available to the public through regulatory disclosure or  
440 otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under Chapter 21  
441 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of  
442 confidentiality from the franchising authority, to the extent the records relate to the bidder's, applicant's,  
443 or franchisee's financial capacity or provision of new services, adoption of new technologies or  
444 implementation of improvements, where such new services, technologies or improvements have not been  
445 implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such  
446 records were made public, the competitive advantage or financial interests of the franchisee would be  
447 adversely affected.

448 In order for trade secrets or confidential proprietary information to be excluded from the provisions  
449 of this chapter, the bidder, applicant, or franchisee shall (i) invoke such exclusion upon submission of  
450 the data or other materials for which protection from disclosure is sought, (ii) identify the data or other  
451 materials for which protection is sought, and (iii) state the reason why protection is necessary.

452 No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the  
453 bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the  
454 applicable franchising authority serves on the management board or as an officer of the bidder,  
455 applicant, or franchisee.

456 14. Documents and other information of a proprietary nature furnished by a supplier of charitable  
457 gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of  
458 § 18.2-340.34.

459 15. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple  
460 Board pursuant to § 3.2-1215.

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

464 17. Records submitted as a grant or loan application, or accompanying a grant or loan application, to  
465 the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of  
466 Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22  
467 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related  
468 information produced or collected by the applicant in the conduct of or as a result of study or research  
469 on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information  
470 has not been publicly released, published, copyrighted, or patented, if the disclosure of such information  
471 would be harmful to the competitive position of the applicant.

472 18. Confidential proprietary records and trade secrets developed and held by a local public body (i)  
473 providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television  
474 services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that  
475 disclosure of such records would be harmful to the competitive position of the locality. In order for  
476 confidential proprietary information or trade secrets to be excluded from the provisions of this chapter,  
477 the locality in writing shall (i) invoke the protections of this subdivision, (ii) identify with specificity the  
478 records or portions thereof for which protection is sought, and (iii) state the reasons why protection is  
479 necessary.

480 19. Confidential proprietary records and trade secrets developed by or for a local authority created in  
481 accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide  
482 qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of  
483 Title 56, where disclosure of such information would be harmful to the competitive position of the  
484 authority, except that records required to be maintained in accordance with § 15.2-2160 shall be  
485 released.

486 20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial  
487 records of a business, including balance sheets and financial statements, that are not generally available  
488 to the public through regulatory disclosure or otherwise, provided to the Department of Minority  
489 Business Enterprise as part of an application for (i) certification as a small, women-owned, or



minority-owned business in accordance with Chapter 14 (§ 2.2-1400 et seq.) of this title or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why protection is necessary.

21. Documents and other information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to § 32.1-276.5:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the *Office of the Inspector General of the Virginia Department of Transportation* for the purpose of an audit, special investigation, or any study requested by the *State Inspector General's Office* in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the *Department State Inspector General*:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The *State Inspector General of the Virginia Department of Transportation* shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The *Virginia Department of Transportation State Inspector General* shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Records submitted as a grant application, or accompanying a grant application, to the Virginia Tobacco Indemnification and Community Revitalization Commission to the extent such records contain (i) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (iii) 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, technological, 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; and memoranda, staff evaluations, or other records prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data, records or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial records or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

§ 2.2-4344. Exemptions from competition for certain transactions.

A. Any public body may enter into contracts without competition for:

1. The purchase of goods or services that are produced or performed by:

a. Persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Vision Impaired; or

b. Nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped.

2. The purchase of legal services, provided that the pertinent provisions of Chapter 5 (§ 2.2-500 et seq.) of this title remain applicable, or expert witnesses or other services associated with litigation or regulatory proceedings.

B. An industrial development authority or regional industrial facility authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as

defined in § 15.2-4902 or "facility" as defined in § 15.2-6400.

C. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, with members selected pursuant to such article, may enter into contracts without competition with respect to the exercise of any of its powers permitted by § 15.2-5158. However, this exception shall not apply in cases where any public funds other than special assessments and incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such contract.

D. The ~~Inspector General for Division of Behavioral Health and Developmental Services of the Office of the Inspector General~~ may enter into contracts without competition to obtain the services of licensed health care professionals or other experts to assist in carrying out the duties of the Office of the ~~Inspector General for Behavioral Health and Developmental Services~~.

§ 32.1-127.1:03. Health records privacy.

A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.

Pursuant to this subsection:

1. Health care entities shall disclose health records to the individual who is the subject of the health record, except as provided in subsections E and F of this section and subsection B of § 8.01-413.

2. Health records shall not be removed from the premises where they are maintained without the approval of the health care entity that maintains such health records, except in accordance with a court order or subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with the regulations relating to change of ownership of health records promulgated by a health regulatory board established in Title 54.1.

3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health records of an individual, beyond the purpose for which such disclosure was made, without first obtaining the individual's specific authorization to such redisclosure. This redisclosure prohibition shall not, however, prevent (i) any health care entity that receives health records from another health care entity from making subsequent disclosures as permitted under this section and the federal Department of Health and Human Services regulations relating to privacy of the electronic transmission of data and protected health information promulgated by the United States Department of Health and Human Services as required by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d et seq.) or (ii) any health care entity from furnishing health records and aggregate or other data, from which individually identifying prescription information has been removed, encoded or encrypted, to qualified researchers, including, but not limited to, pharmaceutical manufacturers and their agents or contractors, for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health services research.

B. As used in this section:

"Agent" means a person who has been appointed as an individual's agent under a power of attorney for health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.).

"Certification" means a written representation that is delivered by hand, by first-class mail, by overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated confirmation reflecting that all facsimile pages were successfully transmitted.

"Guardian" means a court-appointed guardian of the person.

"Health care clearinghouse" means, consistent with the definition set out in 45 C.F.R. § 160.103, a public or private entity, such as a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that performs either of the following functions: (i) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or (ii) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

"Health care entity" means any health care provider, health plan or health care clearinghouse.

"Health care provider" means those entities listed in the definition of "health care provider" in § 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the purposes of this section. Health care provider shall also include all persons who are licensed, certified, registered or permitted or who hold a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, except persons regulated by the Board of Funeral Directors and Embalmers or the Board of Veterinary Medicine.

"Health plan" means an individual or group plan that provides, or pays the cost of, medical care.

"Health plan" shall include any entity included in such definition as set out in 45 C.F.R. § 160.103.

"Health record" means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the

services provided. "Health record" also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

"Health services" means, but shall not be limited to, examination, diagnosis, evaluation, treatment, pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind, as well as payment or reimbursement for any such services.

"Individual" means a patient who is receiving or has received health services from a health care entity.

"Individually identifying prescription information" means all prescriptions, drug orders or any other prescription information that specifically identifies an individual.

"Parent" means a biological, adoptive or foster parent.

"Psychotherapy notes" means comments, recorded in any medium by a health care provider who is a mental health professional, documenting or analyzing the contents of conversation during a private counseling session with an individual or a group, joint, or family counseling session that are separated from the rest of the individual's health record. "Psychotherapy notes" shall not include annotations relating to medication and prescription monitoring, counseling session start and stop times, treatment modalities and frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis, functional status, treatment plan, or the individual's progress to date.

C. The provisions of this section shall not apply to any of the following:

1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia Workers' Compensation Act;

2. Except where specifically provided herein, the health records of minors; or

3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to § 16.1-248.3.

D. Health care entities may, and, when required by other provisions of state law, shall, disclose health records:

1. As set forth in subsection E, pursuant to the written authorization of (i) the individual or (ii) in the case of a minor, (a) his custodial parent, guardian or other person authorized to consent to treatment of minors pursuant to § 54.1-2969 or (b) the minor himself, if he has consented to his own treatment pursuant to § 54.1-2969, or (iii) in emergency cases or situations where it is impractical to obtain an individual's written authorization, pursuant to the individual's oral authorization for a health care provider or health plan to discuss the individual's health records with a third party specified by the individual;

2. In compliance with a subpoena issued in accord with subsection H, pursuant to a search warrant or a grand jury subpoena, pursuant to court order upon good cause shown or in compliance with a subpoena issued pursuant to subsection C of § 8.01-413. Regardless of the manner by which health records relating to an individual are compelled to be disclosed pursuant to this subdivision, nothing in this subdivision shall be construed to prohibit any staff or employee of a health care entity from providing information about such individual to a law-enforcement officer in connection with such subpoena, search warrant, or court order;

3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where disclosure is reasonably necessary to establish or collect a fee or to defend a health care entity or the health care entity's employees or staff against any accusation of wrongful conduct; also as required in the course of an investigation, audit, review or proceedings regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity;

4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

5. In compliance with the provisions of § 8.01-413;

6. As required or authorized by law relating to public health activities, health oversight activities, serious threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease, public safety, and suspected child or adult abuse reporting requirements, including, but not limited to, those contained in §§ 32.1-36, 32.1-36.1, 32.1-40, 32.1-41, 32.1-127.1:04, 32.1-276.5, 32.1-283, 32.1-283.1, 37.2-710, 37.2-839, 53.1-40.10, 54.1-2400.6, 54.1-2400.7, 54.1-2403.3, 54.1-2506, 54.1-2966, 54.1-2966.1, 54.1-2967, 54.1-2968, 54.1-3408.2, 63.2-1509, and 63.2-1606;

7. Where necessary in connection with the care of the individual;

8. In connection with the health care entity's own health care operations or the health care operations of another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of business in accordance with accepted standards of practice within the health services setting; however, the maintenance, storage, and disclosure of the mass of prescription dispensing records maintained in a pharmacy registered or permitted in Virginia shall only be accomplished in compliance with §§ 54.1-3410, 54.1-3411, and 54.1-3412;

674 9. When the individual has waived his right to the privacy of the health records;  
675 10. When examination and evaluation of an individual are undertaken pursuant to judicial or  
676 administrative law order, but only to the extent as required by such order;  
677 11. To the guardian ad litem and any attorney representing the respondent in the course of a  
678 guardianship proceeding of an adult patient who is the respondent in a proceeding under Chapter 10  
679 (§ 37.2-1000 et seq.) of Title 37.2;  
680 12. To the guardian ad litem and any attorney appointed by the court to represent an individual who  
681 is or has been a patient who is the subject of a commitment proceeding under § 19.2-169.6, Article 5  
682 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title  
683 16.1, or a judicial authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of  
684 Title 37.2;  
685 13. To a magistrate, the court, the evaluator or examiner required under Article 16 (§ 16.1-335 et  
686 seq.) of Chapter 11 of Title 16.1 or § 37.2-815, a community services board or behavioral health  
687 authority or a designee of a community services board or behavioral health authority, or a  
688 law-enforcement officer participating in any proceeding under Article 16 (§ 16.1-335 et seq.) of Chapter  
689 11 of Title 16.1, § 19.2-169.6, or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 regarding the subject of  
690 the proceeding, and to any health care provider evaluating or providing services to the person who is the  
691 subject of the proceeding or monitoring the person's adherence to a treatment plan ordered under those  
692 provisions. Health records disclosed to a law-enforcement officer shall be limited to information  
693 necessary to protect the officer, the person, or the public from physical injury or to address the health  
694 care needs of the person. Information disclosed to a law-enforcement officer shall not be used for any  
695 other purpose, disclosed to others, or retained;  
696 14. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial or  
697 administrative proceeding, if the court or administrative hearing officer has entered an order granting the  
698 attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the  
699 health care entity of such order;  
700 15. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health records  
701 in accord with § 9.1-156;  
702 16. To an agent appointed under an individual's power of attorney or to an agent or decision maker  
703 designated in an individual's advance directive for health care or for decisions on anatomical gifts and  
704 organ, tissue or eye donation or to any other person consistent with the provisions of the Health Care  
705 Decisions Act (§ 54.1-2981 et seq.);  
706 17. To third-party payors and their agents for purposes of reimbursement;  
707 18. As is necessary to support an application for receipt of health care benefits from a governmental  
708 agency or as required by an authorized governmental agency reviewing such application or reviewing  
709 benefits already provided or as necessary to the coordination of prevention and control of disease,  
710 injury, or disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;  
711 19. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership  
712 or closing of a pharmacy pursuant to regulations of the Board of Pharmacy;  
713 20. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and  
714 immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;  
715 21. Where necessary in connection with the implementation of a hospital's routine contact process for  
716 organ donation pursuant to subdivision B 4 of § 32.1-127;  
717 22. In the case of substance abuse records, when permitted by and in conformity with requirements  
718 of federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;  
719 23. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the  
720 adequacy or quality of professional services or the competency and qualifications for professional staff  
721 privileges;  
722 24. If the health records are those of a deceased or mentally incapacitated individual to the personal  
723 representative or executor of the deceased individual or the legal guardian or committee of the  
724 incompetent or incapacitated individual or if there is no personal representative, executor, legal guardian  
725 or committee appointed, to the following persons in the following order of priority: a spouse, an adult  
726 son or daughter, either parent, an adult brother or sister, or any other relative of the deceased individual  
727 in order of blood relationship;  
728 25. For the purpose of conducting record reviews of inpatient hospital deaths to promote  
729 identification of all potential organ, eye, and tissue donors in conformance with the requirements of  
730 applicable federal law and regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's  
731 designated organ procurement organization certified by the United States Health Care Financing  
732 Administration and (ii) to any eye bank or tissue bank in Virginia certified by the Eye Bank Association  
733 of America or the American Association of Tissue Banks;  
734 26. To the Office of the Inspector General for, *Division of Behavioral Health and Developmental*  
735 *Services* pursuant to Article 3 (~~§ 37.2-423 et seq.~~) of Chapter 4 of Title 37.2 2 (§ 2.2-306.7 et seq.) of

Chapter 3.2 of Title 2.2;

27. To an entity participating in the activities of a local health partnership authority established pursuant to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4, pursuant to subdivision 1;

28. To law-enforcement officials by each licensed emergency medical services agency, (i) when the individual is the victim of a crime or (ii) when the individual has been arrested and has received emergency medical services or has refused emergency medical services and the health records consist of the prehospital patient care report required by § 32.1-116.1;

29. To law-enforcement officials, in response to their request, for the purpose of identifying or locating a suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and Crimes Against Minors Registry Act, material witness, or missing person, provided that only the following information may be disclosed: (i) name and address of the person, (ii) date and place of birth of the person, (iii) social security number of the person, (iv) blood type of the person, (v) date and time of treatment received by the person, (vi) date and time of death of the person, where applicable, (vii) description of distinguishing physical characteristics of the person, and (viii) type of injury sustained by the person;

30. To law-enforcement officials regarding the death of an individual for the purpose of alerting law enforcement of the death if the health care entity has a suspicion that such death may have resulted from criminal conduct;

31. To law-enforcement officials if the health care entity believes in good faith that the information disclosed constitutes evidence of a crime that occurred on its premises;

32. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a person or persons who are subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2;

33. To the Commissioner of the Department of Labor and Industry or his designee by each licensed emergency medical services agency when the records consist of the prehospital patient care report required by § 32.1-116.1 and the patient has suffered an injury or death on a work site while performing duties or tasks that are within the scope of his employment;

34. To notify a family member or personal representative of an individual who is the subject of a proceeding pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition, when the individual has the capacity to make health care decisions and (i) the individual has agreed to the notification, (ii) the individual has been provided an opportunity to object to the notification and does not express an objection, or (iii) the health care provider can, on the basis of his professional judgment, reasonably infer from the circumstances that the individual does not object to the notification. If the opportunity to agree or object to the notification cannot practicably be provided because of the individual's incapacity or an emergency circumstance, the health care provider may notify a family member or personal representative of the individual of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition if the health care provider, in the exercise of his professional judgment, determines that the notification is in the best interests of the individual. Such notification shall not be made if the provider has actual knowledge the family member or personal representative is currently prohibited by court order from contacting the individual; and

35. To a threat assessment team established by a public institution of higher education pursuant to § 23-9.2:10 when such records concern a student at the public institution of higher education, including a student who is a minor.

Notwithstanding the provisions of subdivisions 1 through 35, a health care entity shall obtain an individual's written authorization for any disclosure of psychotherapy notes, except when disclosure by the health care entity is (i) for its own training programs in which students, trainees, or practitioners in mental health are being taught under supervision to practice or to improve their skills in group, joint, family, or individual counseling; (ii) to defend itself or its employees or staff against any accusation of wrongful conduct; (iii) in the discharge of the duty, in accordance with subsection B of § 54.1-2400.1, to take precautions to protect third parties from violent behavior or other serious harm; (iv) required in the course of an investigation, audit, review, or proceeding regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity; or (v) otherwise required by law.

E. Requests for copies of health records shall (i) be in writing, dated and signed by the requester; (ii) identify the nature of the information requested; and (iii) include evidence of the authority of the requester to receive such copies and identification of the person to whom the information is to be disclosed. The health care entity shall accept a photocopy, facsimile, or other copy of the original signed by the requestor as if it were an original. Within 15 days of receipt of a request for copies of health

797 records, the health care entity shall do one of the following: (i) furnish such copies to any requester  
798 authorized to receive them; (ii) inform the requester if the information does not exist or cannot be  
799 found; (iii) if the health care entity does not maintain a record of the information, so inform the  
800 requester and provide the name and address, if known, of the health care entity who maintains the  
801 record; or (iv) deny the request (a) under subsection F, (b) on the grounds that the requester has not  
802 established his authority to receive such health records or proof of his identity, or (c) as otherwise  
803 provided by law. Procedures set forth in this section shall apply only to requests for health records not  
804 specifically governed by other provisions of state law.

805 F. Except as provided in subsection B of § 8.01-413, copies of an individual's health records shall  
806 not be furnished to such individual or anyone authorized to act on the individual's behalf when the  
807 individual's treating physician or the individual's treating clinical psychologist has made a part of the  
808 individual's record a written statement that, in the exercise of his professional judgment, the furnishing  
809 to or review by the individual of such health records would be reasonably likely to endanger the life or  
810 physical safety of the individual or another person, or that such health record makes reference to a  
811 person other than a health care provider and the access requested would be reasonably likely to cause  
812 substantial harm to such referenced person. If any health care entity denies a request for copies of health  
813 records based on such statement, the health care entity shall inform the individual of the individual's  
814 right to designate, in writing, at his own expense, another reviewing physician or clinical psychologist,  
815 whose licensure, training and experience relative to the individual's condition are at least equivalent to  
816 that of the physician or clinical psychologist upon whose opinion the denial is based. The designated  
817 reviewing physician or clinical psychologist shall make a judgment as to whether to make the health  
818 record available to the individual.

819 The health care entity denying the request shall also inform the individual of the individual's right to  
820 request in writing that such health care entity designate, at its own expense, a physician or clinical  
821 psychologist, whose licensure, training, and experience relative to the individual's condition are at least  
822 equivalent to that of the physician or clinical psychologist upon whose professional judgment the denial  
823 is based and who did not participate in the original decision to deny the health records, who shall make  
824 a judgment as to whether to make the health record available to the individual. The health care entity  
825 shall comply with the judgment of the reviewing physician or clinical psychologist. The health care  
826 entity shall permit copying and examination of the health record by such other physician or clinical  
827 psychologist designated by either the individual at his own expense or by the health care entity at its  
828 expense.

829 Any health record copied for review by any such designated physician or clinical psychologist shall  
830 be accompanied by a statement from the custodian of the health record that the individual's treating  
831 physician or clinical psychologist determined that the individual's review of his health record would be  
832 reasonably likely to endanger the life or physical safety of the individual or would be reasonably likely  
833 to cause substantial harm to a person referenced in the health record who is not a health care provider.

834 Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive  
835 copies of, or otherwise obtain access to, psychotherapy notes to any individual or any person authorized  
836 to act on his behalf.

837 G. A written authorization to allow release of an individual's health records shall substantially include  
838 the following information:

839 AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS

840 Individual's Name .....

841 Health Care Entity's Name .....

842 Person, Agency, or Health Care Entity to whom disclosure is to  
843 be made .....

844 Information or Health Records to be disclosed .....

845 Purpose of Disclosure or at the Request of the Individual .....

846 As the person signing this authorization, I understand that I am giving  
847 my permission to the above-named health care entity for disclosure of  
848 confidential health records. I understand that the health care entity  
849 may not condition treatment or payment on my willingness to sign this  
850 authorization unless the specific circumstances under which such  
851 conditioning is permitted by law are applicable and are set forth in  
852 this authorization. I also understand that I have the right to revoke  
853 This authorization at any time, but that my revocation is not effective  
854 until delivered in writing to the person who is in possession of my  
855 health records and is not effective as to health records already  
856 disclosed under this authorization. A copy of this authorization and a

notation concerning the persons or agencies to whom disclosure was made shall be included with my original health records. I understand that health information disclosed under this authorization might be redisclosed by a recipient and may, as a result of such disclosure, no longer be protected to the same extent as such health information was protected by law while solely in the possession of the health care entity.

This authorization expires on (date) or (event) .....

Signature of Individual or Individual's Legal Representative if

Individual is Unable to Sign .....

Relationship or Authority of Legal Representative .....

Date of Signature .....

H. Pursuant to this subsection:

1. Unless excepted from these provisions in subdivision 9, no party to a civil, criminal or administrative action or proceeding shall request the issuance of a subpoena duces tecum for another party's health records or cause a subpoena duces tecum to be issued by an attorney unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the other party's counsel or to the other party if pro se, simultaneously with filing the request or issuance of the subpoena. No party to an action or proceeding shall request or cause the issuance of a subpoena duces tecum for the health records of a nonparty witness unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the nonparty witness simultaneously with filing the request or issuance of the attorney-issued subpoena.

No subpoena duces tecum for health records shall set a return date earlier than 15 days from the date of the subpoena except by order of a court or administrative agency for good cause shown. When a court or administrative agency directs that health records be disclosed pursuant to a subpoena duces tecum earlier than 15 days from the date of the subpoena, a copy of the order shall accompany the subpoena.

Any party requesting a subpoena duces tecum for health records or on whose behalf the subpoena duces tecum is being issued shall have the duty to determine whether the individual whose health records are being sought is pro se or a nonparty.

In instances where health records being subpoenaed are those of a pro se party or nonparty witness, the party requesting or issuing the subpoena shall deliver to the pro se party or nonparty witness together with the copy of the request for subpoena, or a copy of the subpoena in the case of an attorney-issued subpoena, a statement informing them of their rights and remedies. The statement shall include the following language and the heading shall be in boldface capital letters:

#### NOTICE TO INDIVIDUAL

The attached document means that (insert name of party requesting or causing issuance of the subpoena) has either asked the court or administrative agency to issue a subpoena or a subpoena has been issued by the other party's attorney to your doctor, other health care providers (names of health care providers inserted here) or other health care entity (name of health care entity to be inserted here) requiring them to produce your health records. Your doctor, other health care provider or other health care entity is required to respond by providing a copy of your health records. If you believe your health records should not be disclosed and object to their disclosure, you have the right to file a motion with the clerk of the court or the administrative agency to quash the subpoena. If you elect to file a motion to quash, such motion must be filed within 15 days of the date of the request or of the attorney-issued subpoena. You may contact the clerk's office or the administrative agency to determine the requirements that must be satisfied when filing a motion to quash and you may elect to contact an attorney to represent your interest. If you elect to file a motion to quash, you must notify your doctor, other health care provider(s), or other health care entity, that you are filing the motion so that the health care provider or health care entity knows to send the health records to the clerk of court or administrative agency in a sealed envelope or package for safekeeping while your motion is decided.

2. Any party filing a request for a subpoena duces tecum or causing such a subpoena to be issued for an individual's health records shall include a Notice in the same part of the request in which the recipient of the subpoena duces tecum is directed where and when to return the health records. Such notice shall be in boldface capital letters and shall include the following language:

#### NOTICE TO HEALTH CARE ENTITIES

A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU OR THAT INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE ATTACHED SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE THE MOTION

917 WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.

918 YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED WRITTEN  
919 CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS ISSUED  
920 THAT THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:

921 NO MOTION TO QUASH WAS FILED; OR

922 ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE  
923 ADMINISTRATIVE AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH  
924 SUCH RESOLUTION.

925 IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE  
926 BEING REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A  
927 MOTION TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO  
928 THE CLERK OF THE COURT OR ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA  
929 OR IN WHICH THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE  
930 FOLLOWING PROCEDURE:

931 PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED  
932 ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE AGENCY  
933 WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND ARE TO BE  
934 HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE SUBPOENA.  
935 THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER  
936 ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT OR ADMINISTRATIVE  
937 AGENCY.

938 3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have the  
939 duty to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8.

940 4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in a  
941 sealed envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such  
942 health records until they have received a certification as set forth in subdivision 5 or 8 from the party on  
943 whose behalf the subpoena duces tecum was issued.

944 If the health care entity has actual receipt of notice that a motion to quash the subpoena has been  
945 filed or if the health care entity files a motion to quash the subpoena for health records, then the health  
946 care entity shall produce the health records, in a securely sealed envelope, to the clerk of the court or  
947 administrative agency issuing the subpoena or in whose court or administrative agency the action is  
948 pending. The court or administrative agency shall place the health records under seal until a  
949 determination is made regarding the motion to quash. The securely sealed envelope shall only be opened  
950 on order of the judge or administrative agency. In the event the court or administrative agency grants  
951 the motion to quash, the health records shall be returned to the health care entity in the same sealed  
952 envelope in which they were delivered to the court or administrative agency. In the event that a judge or  
953 administrative agency orders the sealed envelope to be opened to review the health records in camera, a  
954 copy of the order shall accompany any health records returned to the health care entity. The health  
955 records returned to the health care entity shall be in a securely sealed envelope.

956 5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued  
957 subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the  
958 subpoenaed health care entity that the time for filing a motion to quash has elapsed and that no motion  
959 to quash was filed. Any health care entity receiving such certification shall have the duty to comply  
960 with the subpoena duces tecum by returning the specified health records by either the return date on the  
961 subpoena or five days after receipt of the certification, whichever is later.

962 6. In the event that the individual whose health records are being sought files a motion to quash the  
963 subpoena, the court or administrative agency shall decide whether good cause has been shown by the  
964 discovering party to compel disclosure of the individual's health records over the individual's objections.  
965 In determining whether good cause has been shown, the court or administrative agency shall consider (i)  
966 the particular purpose for which the information was collected; (ii) the degree to which the disclosure of  
967 the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the  
968 disclosure on the individual's future health care; (iv) the importance of the information to the lawsuit or  
969 proceeding; and (v) any other relevant factor.

970 7. Concurrent with the court or administrative agency's resolution of a motion to quash, if  
971 subpoenaed health records have been submitted by a health care entity to the court or administrative  
972 agency in a sealed envelope, the court or administrative agency shall: (i) upon determining that no  
973 submitted health records should be disclosed, return all submitted health records to the health care entity  
974 in a sealed envelope; (ii) upon determining that all submitted health records should be disclosed, provide  
975 all the submitted health records to the party on whose behalf the subpoena was issued; or (iii) upon  
976 determining that only a portion of the submitted health records should be disclosed, provide such portion  
977 to the party on whose behalf the subpoena was issued and return the remaining health records to the  
978 health care entity in a sealed envelope.



8. Following the court or administrative agency's resolution of a motion to quash, the party on whose behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the subpoenaed health care entity a statement of one of the following:

a. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will not be returned to the health care entity;

b. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution and that, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall comply with the subpoena duces tecum by returning the health records designated in the subpoena by the return date on the subpoena or five days after receipt of certification, whichever is later;

c. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution; therefore, no health records shall be disclosed and all health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will be returned to the health care entity;

d. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and that only limited disclosure has been authorized. The certification shall state that only the portion of the health records as set forth in the certification, consistent with the court or administrative agency's ruling, shall be disclosed. The certification shall also state that health records that were previously delivered to the court or administrative agency for which disclosure has been authorized will not be returned to the health care entity; however, all health records for which disclosure has not been authorized will be returned to the health care entity; or

e. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall return only those health records specified in the certification, consistent with the court or administrative agency's ruling, by the return date on the subpoena or five days after receipt of the certification, whichever is later.

A copy of the court or administrative agency's ruling shall accompany any certification made pursuant to this subdivision.

9. The provisions of this subsection have no application to subpoenas for health records requested under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit, review or proceedings regarding a health care entity's conduct.

The provisions of this subsection shall apply to subpoenas for the health records of both minors and adults.

Nothing in this subsection shall have any effect on the existing authority of a court or administrative agency to issue a protective order regarding health records, including, but not limited to, ordering the return of health records to a health care entity, after the period for filing a motion to quash has passed.

A subpoena for substance abuse records must conform to the requirements of federal law found in 42 C.F.R. Part 2, Subpart E.

I. Health care entities may testify about the health records of an individual in compliance with §§ 8.01-399 and 8.01-400.2.

J. If an individual requests a copy of his health record from a health care entity, the health care entity may impose a reasonable cost-based fee, which shall include only the cost of supplies for and labor of copying the requested information, postage when the individual requests that such information be mailed, and preparation of an explanation or summary of such information as agreed to by the individual. For the purposes of this section, "individual" shall subsume a person with authority to act on behalf of the individual who is the subject of the health record in making decisions related to his health care.

§ 32.1-283. Investigation of deaths; obtaining consent to removal of organs, etc.; fees.

A. Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide or homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail, prison, other correctional institution or in police custody, or who is a patient or resident of a state mental health or mental retardation facility, or suddenly as an apparent result of fire, or in any suspicious, unusual or unnatural manner, or the sudden death of any infant less than eighteen months of age whose death is suspected to be attributable to Sudden Infant Death Syndrome (SIDS), the medical examiner of the county or city in which death occurs shall be notified by the physician in attendance, hospital, law-enforcement officer, funeral director or any other person having knowledge of such death.

1040 Good faith efforts shall be made by such person or institution having custody of the dead body to  
1041 identify and to notify the next of kin of the decedent. Notification shall include informing the person  
1042 presumed to be the next of kin that he has a right to have identification of the decedent confirmed  
1043 without due delay and without being held financially responsible for any procedures performed for the  
1044 purpose of the identification. Identity of the next of kin, if determined, shall be provided to the Chief  
1045 Medical Examiner upon transfer of the dead body.

1046 B. Upon being notified of a death as provided in subsection A, the medical examiner shall take  
1047 charge of the dead body, make an investigation into the cause and manner of death, reduce his findings  
1048 to writing, and promptly make a full report to the Chief Medical Examiner. In order to facilitate his  
1049 investigation, the medical examiner is authorized to inspect and copy the pertinent medical records of  
1050 the decedent whose death he is investigating. Full directions as to the nature, character and extent of the  
1051 investigation to be made in such cases shall be furnished each medical examiner by the Chief Medical  
1052 Examiner, together with appropriate forms for the required reports and instructions for their use. The  
1053 facilities and personnel under the Chief Medical Examiner shall be made available to medical examiners  
1054 in such investigations. Reports and findings of the Medical Examiner shall be confidential and shall not  
1055 under any circumstance be disclosed or made available for discovery pursuant to a court subpoena or  
1056 otherwise, except as provided in this chapter. Nothing in this subsection shall prohibit the Chief Medical  
1057 Examiner from releasing the cause or manner of death, or prohibit disclosure of reports or findings to  
1058 the parties in a criminal case.

1059 C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for  
1060 the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of  
1061 any such report regarding the death of a victim of a traffic accident shall be furnished upon request to  
1062 the State Police and the Highway Safety Commission. In addition, a copy of any autopsy report  
1063 concerning a patient or resident of a state mental health or mental retardation facility shall be delivered  
1064 to the Commissioner of Behavioral Health and Developmental Services and to the *Office of the* Inspector  
1065 General ~~for~~, *Division of* Behavioral Health and Developmental Services. A copy of any autopsy report  
1066 concerning a prisoner committed to the custody of the Director of the Department of Corrections shall,  
1067 upon request of the Director of the Department of Corrections, be delivered to the Director of the  
1068 Department of Corrections. A copy of any autopsy report concerning a prisoner committed to any local  
1069 correctional facility shall be delivered to the local sheriff or superintendent. Upon request, the Chief  
1070 Medical Examiner shall release such autopsy report to the decedent's attending physician and to the  
1071 personal representative or executor of the decedent or, if no personal representative or executor is  
1072 appointed, then at the discretion of the Chief Medical Examiner, to the following persons in the  
1073 following order of priority: (i) the spouse of the decedent, (ii) an adult son or daughter of the decedent,  
1074 (iii) either parent of the decedent, (iv) an adult sibling of the decedent, (v) any other adult relative of the  
1075 decedent in order of blood relationship, or (vi) any appropriate health facility quality assurance program.

1076 D. For each investigation under this article, including the making of the required reports, the medical  
1077 examiner shall receive a fee established by the Board within the limitations of appropriations for the  
1078 purpose. Such fee shall be paid by the Commonwealth, if the deceased is not a legal resident of the  
1079 county or city in which his death occurred. In the event the deceased is a legal resident of the county or  
1080 city in which his death occurred, such county or city shall be responsible for the fee up to \$20. If the  
1081 deceased is a patient or resident of a state mental health or mental retardation facility, the fee shall be  
1082 paid by the Department of Behavioral Health and Developmental Services.

1083 E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine  
1084 obtaining of consent for removal of organs as conducted by surgical teams or others.

1085 **2. That Article 3 (§§ 37.2-423 through 37.2-425) of Chapter 4 of Title 37.2 and §§ 53.1-16 and**  
1086 **66-3.1 of the Code of Virginia are repealed.**

1087 **3. That, effective July 1, 2011, the Office of the Inspector General created by this act shall be**  
1088 **deemed the successor in interest to the (i) Office of the Inspector General for Behavioral Health**  
1089 **and Developmental Services, (ii) Inspector General for the Department of Corrections, (iii)**  
1090 **Inspector General of the Department of Juvenile Justice, and (iv) the Inspector General of the**  
1091 **Department of Transportation to the extent that this act transfers powers and duties. All rights,**  
1092 **title and interest in and to any real or tangible personal property vested in the Inspector General**  
1093 **for Behavioral Health and Developmental Services, the Inspector General for the Department of**  
1094 **Corrections, Inspector General of the Department of Juvenile Justice, or the Inspector General of**  
1095 **the Department of Transportation to the extent that this act transfers powers and duties as July 1,**  
1096 **2011, shall be transferred to and taken as standing in the name of the Office of the Inspector**  
1097 **General created by this act.**

1098 **4. That the Governor may transfer an appropriation or any portion thereof within a state agency**  
1099 **established, abolished or otherwise affected by the provisions of this act, or from one such agency**  
1100 **to another, to support the changes in organization or responsibility resulting from or required by**  
1101 **the provisions of this act.**

