

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 2.2-211, 2.2-3010, 2.2-3014, 2.2-3705.3, 2.2-3705.6, 2.2-3706, 2.2-3802, 2.2-4344, 30-138, 32.1-127.1:03, 32.1-283, and 58.1-202.2 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 6, consisting of sections numbered 2.2-307 through 2.2-322; and to repeal Chapter 16 (§§ 2.2-1600, 2.2-1601, and 2.2-1602) of Title 2.2, Article 3 (§§ 37.2-423, 37.2-424, and 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 Office of the State Inspector General; consolidation of certain inspectors general.

[S 1477]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-211, 2.2-3010, 2.2-3014, 2.2-3705.3, 2.2-3705.6, 2.2-3706, 2.2-3802, 2.2-4344, 30-138, 32.1-127.1:03, 32.1-283, and 58.1-202.2 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 6, consisting of sections numbered 2.2-307 through 2.2-322, as follows:

§ 2.2-211. Position established; agencies for which responsible; additional powers.

A. The position of Secretary of Finance (the "Secretary") is created. The Secretary shall be responsible for the following agencies: Department of Accounts, Department of Planning and Budget, Department of Taxation, and Department of the Treasury and Department of the State Internal Auditor. The Governor, by executive order, may assign any other state executive agency to the Secretary of Finance, or reassign any agency listed.

B. To the greatest extent practicable, the agencies assigned to the Secretary shall pay all amounts due and owing by the Commonwealth through electronic transfers of funds from the general fund or appropriate special fund to the bank account of the payee or a party identified by law to receive funds on behalf of the payee. All wire transfer costs associated with the electronic transfer shall be paid by the payee subject to exemptions authorized by the State Treasurer affecting the investment, debt, and intergovernmental transactions of the Commonwealth and its agencies, institutions, boards, and authorities.

CHAPTER 3.2.
OFFICE OF THE STATE 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 by, no more often than biweekly, in whole or in part, a state agency.

"Nonstate agency" means any public or private foundation, authority, institute, museum, corporation, or similar organization that is (i) not a unit of state government or a political subdivision of the Commonwealth as established by general law or special act and (ii) wholly or principally supported by state funds. "Nonstate agency" shall not include any such entity that receives state funds (a) as a subgrantee of a state agency, (b) through a state grant-in-aid program authorized by law, (c) as a result of an award of a competitive grant or a public contract for the procurement of goods, services, or construction, or (d) pursuant to a lease of real property as described in subdivision 5 of § 2.2-1149.

"Office" means the Office of the State 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 State 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 four-year term. The State Inspector General shall have at least five years of demonstrated experience or expertise in accounting, public administration, or audit investigations as a certified public accountant or a certified internal auditor. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after

57 the next session of the ensuing General Assembly and, if confirmed, thereafter for the remainder of such
 58 term. The Governor may remove the State Inspector General from office for malfeasance, misfeasance,
 59 incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, or failure to carry out the
 60 policies of the Commonwealth as established in the Constitution or by the General Assembly. The
 61 Governor shall set forth in a written public statement his reasons for removing the State Inspector
 62 General at the time the removal occurs.

63 B. The State Inspector General shall exercise the powers and perform the duties conferred or
 64 imposed upon him by law. The State Inspector General shall be responsible for the overall supervision
 65 of the Office.

66 C. Nothing in this chapter shall be construed to limit or prevent the General Assembly from
 67 reviewing the operations of any state agency or directing such review or audit by the Joint Legislative
 68 Audit and Review Commission or the Auditor of Public Accounts or to otherwise limit the statutory
 69 responsibilities of either the Joint Legislative Audit and Review Commission or the Auditor of Public
 70 Accounts.

71 § 2.2-309. Powers and duties of State Inspector General.

72 A. The State Inspector General shall have power and duty to:

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

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

79 3. Receive complaints from whatever source that allege fraud, waste, including task or program
 80 duplication, abuse, or corruption by a state agency or nonstate agency or by any officer or employee of
 81 the foregoing and determine whether the complaints give reasonable cause to investigate;

82 4. Investigate the management and operations of state agencies and nonstate agencies to determine
 83 whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state
 84 officers or employees or any officers or employees of a nonstate agency, including any allegations of
 85 criminal acts affecting the operations of state agencies or nonstate agencies. However, no investigation
 86 of an elected official of the Commonwealth or any political subdivision to determine whether a criminal
 87 violation has occurred, is occurring, or is about to occur under the provisions of § 52-8.1 shall be
 88 initiated, undertaken, or continued except upon the request of the Governor, the Attorney General, or a
 89 grand jury;

90 5. Coordinate and recommend standards for those internal audit programs in existence as of July 1,
 91 2012, and develop and maintain other internal audit programs in state agencies and nonstate agencies
 92 as needed in order to ensure that the Commonwealth's assets are subject to appropriate internal
 93 management controls. The State Inspector General shall assess the condition of the accounting,
 94 financial, and administrative controls of state agencies and nonstate agencies;

95 6. Prepare a detailed report of each investigation stating whether fraud, waste, abuse, or corruption
 96 has been detected. If fraud, waste, abuse, or corruption is detected, the report shall (i) identify the
 97 person committing the wrongful act or omission, (ii) describe the wrongful act or omission, and (iii)
 98 describe any corrective measures taken by the state agency or nonstate agency in which the wrongful
 99 act or omission was committed to prevent recurrences of similar actions;

100 7. Provide timely notification to the appropriate attorney for the Commonwealth and law-enforcement
 101 agencies whenever the State Inspector General has reasonable grounds to believe there has been a
 102 violation of state criminal law;

103 8. Assist citizens in understanding their rights and the processes available to them to express
 104 concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the
 105 foregoing;

106 9. Maintain data on inquiries received, the types of assistance requested, any actions taken, and the
 107 disposition of each such matter;

108 10. Upon request, assist citizens in using the procedures and processes available to express concerns
 109 regarding the activities of a state or nonstate agency or any officer or employee of the foregoing;

110 11. Ensure that citizens have access to the services provided by the State Inspector General and that
 111 citizens receive timely responses to their inquiries from the State Inspector General or his
 112 representatives;

113 12. Conduct performance reviews of state agencies to ascertain that sums appropriated have been or
 114 are being expended for the purposes for which the appropriation was made, and to evaluate the
 115 effectiveness of the programs in accomplishing such purpose. Prepare a report for each performance
 116 review detailing any findings or recommendations for improving the efficiency of state agencies,
 117 including recommending changes in the law to the Governor and the General Assembly that are

118 necessary to address such findings;

119 13. Administer the Fraud and Abuse Whistle Blower Reward Fund created pursuant to § 2.2-3014;
120 and

121 14. Do all acts necessary or convenient to carry out the purposes of this chapter.

122 B. If the State Inspector General receives a complaint from whatever source that alleges fraud,
123 waste, abuse, or corruption by a public institution of higher education or any of its officers or
124 employees, the State Inspector General shall refer the complaint to the internal audit department of the
125 public institution of higher education for investigation, unless the complaint concerns the president of
126 the institution or its internal audit department, in which case the investigation shall be conducted by the
127 State Inspector General.

128 The public institution of higher education shall provide periodic updates on the status of any
129 investigation and make the results of any such investigation available to the State Inspector General.

130 § 2.2-310. Cooperation of state agencies and officers.

131 A. Each state agency and every officer and employee shall (i) promptly report any allegations of
132 criminal acts or acts of fraud, waste, abuse, corruption, or mistreatment and (ii) cooperate with, and
133 provide assistance to, the State Inspector General in the performance of any investigation. Each state
134 agency shall make its premises, equipment, personnel, books, records, and papers readily available to
135 the State Inspector General upon request.

136 B. When a state agency head or officer discovers any unauthorized, illegal, irregular, or unsafe
137 handling or expenditure of state funds, or if it comes to his attention that any unauthorized, illegal, or
138 unsafe handling or expenditure of state funds is contemplated but not consummated, he shall promptly
139 report the same to the State Inspector General.

140 C. The State Inspector General may enter upon the premises of any state agency at any time, without
141 prior announcement, if necessary to the successful completion of an investigation. In the course of an
142 investigation, the State Inspector General may question any officer or employee serving in, and any
143 person transacting business with, the state agency and may inspect and copy any books, records, or
144 papers in the possession of the state agency. The State Inspector General shall preserve the
145 confidentiality of any information obtained from a state agency during the course of an investigation in
146 accordance with applicable state and federal law.

147 § 2.2-311. Enforcement of laws by State Inspector General or investigators; authority of investigation
148 appointed by State Inspector General.

149 A. Except as provided in §§ 2.2-318 and 2.2-320, the State Inspector General or investigators
150 appointed by him shall be sworn to enforce the statutes and regulations pertaining to the Office. The
151 investigators appointed by the State Inspector General shall have the same investigative authority of the
152 State Inspector General as described in § 2.2-309. The State Inspector General or investigators
153 appointed by him also shall have the authority to issue summonses for violations of the statutes that the
154 State Inspector General is required to enforce. In the event a person issued such a summons fails or
155 refuses to discontinue the unlawful acts or refuses to give a written promise to appear at the time and
156 place specified in the summons, the investigator may appear before a magistrate or other issuing
157 authority having jurisdiction to obtain a criminal warrant pursuant to § 19.2-72.

158 B. All investigators appointed by the State Inspector General are vested with the authority to
159 administer oaths or affirmations for the purpose of receiving complaints and conducting investigations
160 of violations of the statutes and regulations that the State Inspector General is required to enforce. Such
161 investigators are vested with the authority to obtain, serve, and execute any warrant, paper, or process
162 issued by any court or magistrate or under the authority of the State Inspector General, and request and
163 receive criminal history information under the provisions of § 19.2-389.

164 § 2.2-312. Subpoenas.

165 A. The State Inspector General or a designated subordinate may issue a subpoena for the
166 appearance of an individual before any hearing conducted by the Office. The subpoena shall be served
167 by the State Inspector General or a designated subordinate and enforced by the court of that
168 jurisdiction.

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

176 § 2.2-313. Reports.

177 A. The State Inspector General shall prepare an annual report to the Governor and the General
178 Assembly summarizing the activities of the Office. Such report shall include, but need not be limited to:

179 (i) a description of any significant problems, abuses, and deficiencies related to the management or
 180 operation of state agencies or nonstate agencies during the reporting period; (ii) a description of the
 181 recommendations for any corrective actions made by the Office during the reporting period with respect
 182 to significant problems, abuses, or deficiencies identified; (iii) a summary of matters referred to the
 183 attorneys for the Commonwealth and law-enforcement agencies and actions taken on them during the
 184 reporting period; (iv) information concerning the numbers of complaints received and types of
 185 investigations completed by the Office during the reporting period; (v) the development and maintenance
 186 of internal audit programs in state agencies and nonstate agencies; and (vi) the results of any state
 187 agency performance reviews, including a summary of any findings or recommendations for improving
 188 the efficiency of state agencies.

189 B. The State Inspector General shall notify the Governor's chief of staff, the Speaker, Majority
 190 Leader, and Minority Leader of the House of Delegates, and the President pro tempore, Majority
 191 Leader, and Minority Leader of the Senate of problems, abuses, or deficiencies relating to the
 192 management or operation of a state agency or nonstate agency.

193 C. The State Inspector General shall keep the appropriate Secretaries advised of the Office's
 194 activities as they relate to each respective Secretary on at least a quarterly basis, and of any significant
 195 problems, abuses, or deficiencies relating to the management or operation of a state agency within each
 196 such Secretary's area of responsibility. However, when the State Inspector General becomes aware of
 197 significant problems, abuses, or deficiencies relating to the management or operation of a Secretary's
 198 office, the State Inspector General shall report the same immediately to the Governor's chief of staff.

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

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

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

207 Article 2.

208 Behavioral Health and Developmental Services.

209 § 2.2-314. Behavioral Health and Developmental Services.

210 The State Inspector General shall inspect, monitor, and review the quality of services provided in
 211 state facilities and by providers as defined in § 37.2-403, including licensed mental health treatment
 212 units in state correctional facilities.

213 § 2.2-315. Definitions.

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

215 § 2.2-316. Additional powers and duties of State Inspector General.

216 In addition to the duties set forth in this chapter, the State Inspector General shall have the
 217 following powers and duties to:

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

227 2. Access any and all information, including confidential consumer information, related to the
 228 delivery of services to consumers in state facilities or served by providers, including licensed mental
 229 health treatment units in state correctional facilities. However, the State Inspector General shall not be
 230 given access to any proceedings, minutes, records, or reports of providers that are privileged under
 231 § 8.01-581.17, except that the State Inspector General shall be given access to any privileged
 232 information in state facilities and licensed mental health treatment units in state correctional facilities.
 233 All consumer information shall be maintained by the State Inspector General as confidential in the same
 234 manner as is required by the agency or provider from which the information was obtained.

235 3. Keep the General Assembly and the Joint Commission on Health Care fully and currently
 236 informed by means of reports required by § 2.2-313 concerning significant problems, abuses, and
 237 deficiencies relating to the administration of the programs and services of state facilities and of
 238 providers, including licensed mental health treatment units in state correctional facilities, to recommend
 239 corrective actions concerning the problems, abuses, and deficiencies, and to report on the progress

240 made in implementing the corrective actions.

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

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

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

250 Article 3.
251 Corrections.

252 § 2.2-317. Definitions.

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

254 § 2.2-318. Additional powers and duties.

255 A. In addition to the duties set forth in this chapter, the State Inspector General, shall have the
256 following powers and duties to:

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

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

262 B. For the purposes of this article, the State Inspector General and such members of the
263 investigations unit of the Office as may be designated by the State Inspector General shall be
264 law-enforcement officers as defined in § 9.1-101. Investigators so designated shall receive the training
265 required by the Department of Criminal Justice Services for law-enforcement personnel before exercising
266 such powers.

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

269 Article 4.
270 Juvenile Justice.

271 § 2.2-319. Definitions.

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

273 § 2.2-320. Additional powers and duties.

274 A. In addition to the duties set forth in this chapter, the State Inspector General shall have the
275 following powers and duties to:

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

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

281 B. For the purposes of this article, the State Inspector General and such members of the
282 investigations unit of the Office as may be designated by the State Inspector General shall be
283 law-enforcement officers as defined in § 9.1-101. Investigators so designated shall receive the training
284 required by the Department of Criminal Justice Services for law-enforcement personnel before exercising
285 such powers.

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

288 Article 5.
289 Transportation.

290 § 2.2-321. Additional powers and duties.

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

299 Article 6.
300 Tobacco Indemnification and Community Revitalization.

301 § 2.2-322. *Additional powers and duties.*

302 *The State Inspector General shall (i) review the condition of the Tobacco Indemnification and*
 303 *Community Revitalization Commission's accounting, financial, and administrative controls to ensure that*
 304 *the purposes set forth in Chapter 31 (§ 3.2-3100 et seq.) of Title 3.2 are lawfully achieved; (ii)*
 305 *investigate to resolve allegations of fraudulent, illegal, or inappropriate activities concerning (a)*
 306 *disbursements from the Tobacco Indemnification and Community Revitalization Endowment created*
 307 *pursuant to § 3.2-3104 and (b) distributions from the Tobacco Indemnification and Community*
 308 *Revitalization Fund created pursuant to § 3.2-3106; and (iii) detect fraud, waste, and abuse and take*
 309 *actions to prevent the same.*

310 § 2.2-3010. *Definitions.*

311 As used in this chapter:

312 "Abuse" means an employer's or employee's conduct or omissions that result in substantial misuse,
 313 destruction, waste, or loss of funds or resources belonging to or derived from federal, state, or local
 314 government sources.

315 "Appropriate authority" means a federal or state agency or organization having jurisdiction over
 316 criminal law enforcement, regulatory violations, professional conduct or ethics, or abuse; or a member,
 317 officer, agent, representative, or supervisory employee of the agency or organization. The term also
 318 includes the Office of the Attorney General, the ~~Division of State Internal Audit of the Department of~~
 319 ~~Accounts~~ *Office of the State Inspector General*, and the General Assembly and its committees having
 320 the power and duty to investigate criminal law enforcement, regulatory violations, professional conduct
 321 or ethics, or abuse.

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

325 "Employer" means a person supervising one or more employees, including the employee filing a
 326 good faith report, a superior of that supervisor, or an agent of the state agency.

327 "Good faith report" means a report of conduct defined in this chapter as wrongdoing or abuse which
 328 is made without malice and which the person making the report has reasonable cause to believe is true.

329 "Misconduct" means conduct or behavior by an employee that is inconsistent with state or agency
 330 standards for which specific corrective or disciplinary action is warranted.

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

333 "Whistle blower" means an employee who witnesses or has evidence of wrongdoing or abuse and
 334 who makes or demonstrates by clear and convincing evidence that he is about to make a good faith
 335 report of, or testifies or is about to testify to, the wrongdoing or abuse to one of the employee's
 336 superiors, an agent of the employer, or an appropriate authority.

337 "Wrongdoing" means a violation, which is not of a merely technical or minimal nature, of a federal
 338 or state law or regulation or a formally adopted code of conduct or ethics of a professional organization
 339 designed to protect the interests of the public or employee.

340 § 2.2-3014. *Fraud and Abuse Whistle Blower Reward Fund.*

341 A. From such funds as may be appropriated by the General Assembly, there is hereby created in the
 342 state treasury a special nonreverting fund to be known as the Fraud and Abuse Whistle Blower Reward
 343 Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the
 344 Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any
 345 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert
 346 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to provide
 347 monetary rewards to persons who have disclosed information of wrongdoing or abuse under the Fraud
 348 and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.) and the disclosure results in a savings of
 349 at least \$10,000. The amount of the reward shall be equal to one percent (1%) of the total amount of
 350 savings realized by the Commonwealth as a result of the disclosure of the wrongdoing or abuse, not to
 351 exceed \$5,000. Expenditures and disbursements from the Fund shall be made by the State Treasurer on
 352 warrants issued by the Comptroller upon written request signed by the ~~Division of State Internal Audit~~
 353 ~~of the Department of Accounts~~ *State Inspector General*.

354 B. The ~~Division of State Internal Audit of the Department of Accounts~~ *Office of the State Inspector*
 355 *General* shall promulgate regulations for the proper administration of the Fund including eligibility
 356 requirements and procedures for filing a claim.

357 § 2.2-3705.3. *Exclusions to application of chapter; records relating to administrative investigations.*

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

360 1. Confidential records of all investigations of applications for licenses and permits, and of all
 361 licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the State

362 Lottery Department, the Virginia Racing Commission, the Department of Agriculture and Consumer
 363 Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of
 364 Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice
 365 Services.

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

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

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

377 5. Investigative notes and other correspondence and information furnished in confidence with respect
 378 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under
 379 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance
 380 with the authority specified in § 2.2-2638, or adopted pursuant to § 15.2-965, or adopted prior to July 1,
 381 1987, in accordance with applicable law, relating to local human rights or human relations commissions.
 382 However, nothing in this section shall prohibit the distribution of information taken from inactive reports
 383 in a form that does not reveal the identity of the parties involved or other persons supplying
 384 information.

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

392 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise
 393 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the (†) Auditor of
 394 Public Accounts; (ii) *the* Joint Legislative Audit and Review Commission; (iii) an appropriate authority
 395 as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and
 396 Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) ~~Department of the State Internal Auditor~~
 397 *the Office of the State Inspector General* with respect to an investigation initiated through the State
 398 Employee Fraud, Waste and Abuse Hotline *or an investigation initiated pursuant to Chapter 3.2*
 399 *(§ 2.2-307 et seq.)*; (v) *the* committee or the auditor with respect to an investigation or audit conducted
 400 pursuant to § 15.2-825; or (vi) *the* auditors, appointed by the local governing body of any county, city
 401 or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an
 402 investigation of any officer, department or program of such body. Records of completed investigations
 403 shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying
 404 information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall
 405 include, but not be limited to, the agency involved, the identity of the person who is the subject of the
 406 complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation
 407 does not lead to corrective action, the identity of the person who is the subject of the complaint may be
 408 released only with the consent of the subject person. Local governing bodies shall adopt guidelines to
 409 govern the disclosure required by this subdivision.

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

419 9. Information furnished in confidence to the Department of Employment Dispute Resolution with
 420 respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title,
 421 and memoranda, correspondence and other records resulting from any such investigation, consultation or
 422 mediation. However, nothing in this section shall prohibit the distribution of information taken from

423 inactive reports in a form that does not reveal the identity of the parties involved or other persons
424 supplying information.

425 10. The names, addresses and telephone numbers of complainants furnished in confidence with
426 respect to an investigation of individual zoning enforcement complaints or complaints relating to the
427 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
428 seq.) made to a local governing body.

429 11. Records of active investigations being conducted by the Department of Criminal Justice Services
430 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.),
431 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

432 12. Records furnished to or prepared by the Board of Education pursuant to subsection D of
433 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
434 unauthorized alteration, or improper administration of tests by local school board employees responsible
435 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
436 of records to (i) a local school board or division superintendent for the purpose of permitting such board
437 or superintendent to consider or to take personnel action with regard to an employee or (ii) any
438 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
439 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
440 does not compromise the security of any test mandated by the Board.

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

454 14. Records, notes and information provided in confidence and related to an investigation by the
455 Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of
456 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,
457 or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that
458 has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is
459 not otherwise prohibited by law and does not reveal the identity of charging parties, complainants,
460 persons supplying information, witnesses or other individuals involved in the investigation.

461 § 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

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

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

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

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

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

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

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

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

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

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

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

503 11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its
 504 staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed
 505 under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education
 506 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public
 507 prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17
 508 notwithstanding, the financial interest or bargaining position of the public entity would be adversely
 509 affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the
 510 responsible public entity; and

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

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

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

525 3. Stating the reasons why protection is necessary.

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

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

543 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"
 544 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation

545 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined
546 in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and
547 Infrastructure Act of 2002.

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

554 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential
555 proprietary records that are not generally available to the public through regulatory disclosure or
556 otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under Chapter 21
557 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of
558 confidentiality from the franchising authority, to the extent the records relate to the bidder's, applicant's,
559 or franchisee's financial capacity or provision of new services, adoption of new technologies or
560 implementation of improvements, where such new services, technologies or improvements have not been
561 implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such
562 records were made public, the competitive advantage or financial interests of the franchisee would be
563 adversely affected.

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

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

572 14. Documents and other information of a proprietary nature furnished by a supplier of charitable
573 gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of
574 § 18.2-340.34.

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

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

580 17. Records submitted as a grant or loan application, or accompanying a grant or loan application, to
581 the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of
582 Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22
583 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related
584 information produced or collected by the applicant in the conduct of or as a result of study or research
585 on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information
586 has not been publicly released, published, copyrighted, or patented, if the disclosure of such information
587 would be harmful to the competitive position of the applicant.

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

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

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

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

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

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

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

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

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

627 3. Stating the reasons why protection is necessary.

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

632 23. Records submitted as a grant application, or accompanying a grant application, to the Virginia
633 Tobacco Indemnification and Community Revitalization Commission to the extent such records contain
634 (i) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records
635 of a grant applicant that is not a public body, including balance sheets and financial statements, that are
636 not generally available to the public through regulatory disclosure or otherwise, or (iii) research-related
637 information produced or collected by the applicant in the conduct of or as a result of study or research
638 on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information
639 has not been publicly released, published, copyrighted, or patented, if the disclosure of such information
640 would be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or
641 other records prepared by the Commission or its staff exclusively for the evaluation of grant
642 applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the
643 powers of and in furtherance of the performance of the duties of the Commission pursuant to
644 § 3.2-3103.

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

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

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

650 3. Stating the reasons why protection is necessary.

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

655 § 2.2-3706. Disclosure of criminal records; limitations.

656 A. As used in this section:

657 "Criminal incident information" means a general description of the criminal activity reported, the date
658 and general location the alleged crime was committed, the identity of the investigating officer, and a
659 general description of any injuries suffered or property damaged or stolen.

660 "Criminal investigative file" means any documents and information including complaints, court
661 orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and
662 evidence relating to a criminal investigation or prosecution, other than criminal incident information.

663 B. Law-enforcement agencies shall make available upon request criminal incident information relating
664 to felony offenses. However, where the release of criminal incident information is likely to jeopardize an
665 ongoing investigation or prosecution, or the safety of an individual; cause a suspect to flee or evade
666 detection; or result in the destruction of evidence, such information may be withheld until the

667 above-referenced damage is no longer likely to occur from release of the information. Nothing in this
 668 subsection shall be construed to prohibit the release of those portions of such information that are not
 669 likely to cause the above-referenced damage.

670 C. Information in the custody of law-enforcement agencies relative to the identity of any individual,
 671 other than a juvenile, who is arrested and charged, and the status of the charge or arrest shall be
 672 released.

673 D. The identity of any victim, witness or undercover officer, or investigative techniques or
 674 procedures need not but may be disclosed unless disclosure is prohibited or restricted under § 19.2-11.2.

675 E. The identity of any individual providing information about a crime or criminal activity under a
 676 promise of anonymity shall not be disclosed.

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

679 1. Criminal investigative files as defined in subsection A;

680 2. Adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases
 681 until such time as the release of the photograph will no longer jeopardize the investigation;

682 3. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators
 683 authorized pursuant to ~~§ 53.1-16~~ or ~~§ 66-3.1~~ Chapter 3.2 (§ 2.2-307 *et seq.*), and (iii) campus police
 684 departments of public institutions of higher education established pursuant to Chapter 17 (§ 23-232 *et*
 685 *seq.*) of Title 23;

686 4. Portions of records of local government crime commissions that would identify individuals
 687 providing information about crimes or criminal activities under a promise of anonymity;

688 5. Records of local law-enforcement agencies relating to neighborhood watch programs that include
 689 the names, addresses, and operating schedules of individual participants in the program that are provided
 690 to such agencies under a promise of anonymity;

691 6. All records of persons imprisoned in penal institutions in the Commonwealth provided such
 692 records relate to the imprisonment;

693 7. Records of law-enforcement agencies, to the extent that such records contain specific tactical
 694 plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or
 695 the general public;

696 8. All records of adult persons under (i) investigation or supervision by a local pretrial services
 697 agency in accordance with Article 5 (§ 19.2-152.2 *et seq.*) of Chapter 9 of Title 19.2; (ii) investigation,
 698 probation supervision or monitoring by a local community-based probation services agency in
 699 accordance with Article 9 (§ 9.1-173 *et seq.*) of Chapter 1 of Title 9.1; or (iii) investigation or
 700 supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 *et seq.*) of
 701 Chapter 4 of Title 53.1;

702 9. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for
 703 cellular telephones, pagers, or comparable portable communication devices provided to its personnel for
 704 use in the performance of their official duties;

705 10. Those portions of any records containing information related to undercover operations or
 706 protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations
 707 or protective details. Nothing in this subdivision shall operate to allow the withholding of information
 708 concerning the overall costs or expenses associated with undercover operations or protective details; and

709 11. Records of (i) background investigations of applicants for law-enforcement agency employment,
 710 (ii) administrative investigations relating to allegations of wrongdoing by employees of a
 711 law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement
 712 agencies that are made confidential by law.

713 G. Records kept by law-enforcement agencies as required by § 15.2-1722 shall be subject to the
 714 provisions of this chapter except that those portions of noncriminal incident or other investigative reports
 715 or materials that contain identifying information of a personal, medical or financial nature may be
 716 withheld where the release of such information would jeopardize the safety or privacy of any person.

717 H. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department
 718 of State Police pursuant to Chapter 9 (§ 9.1-900 *et seq.*) of Title 9.1 are excluded from the provisions of
 719 this chapter, including information obtained from state, local and regional officials, except to the extent
 720 that information is required to be posted on the Internet pursuant to § 9.1-913.

721 I. In the event of conflict between this section as it relates to requests made under this section and
 722 other provisions of law, this section shall control.

723 § 2.2-3802. Systems to which chapter inapplicable.

724 The provisions of this chapter shall not apply to personal information systems:

725 1. Maintained by any court of the Commonwealth;

726 2. Which may exist in publications of general circulation;

727 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or

728 in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police
729 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to
730 be posted on the Internet pursuant to § 9.1-913;

731 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
732 16.1-225;

733 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth
734 to engage in the practice of any profession, in which case the names and addresses of persons applying
735 for or possessing the license may be disseminated upon written request to a person engaged in the
736 profession or business of offering professional educational materials or courses for the sole purpose of
737 providing the licensees or applicants for licenses with informational materials relating solely to available
738 professional educational materials or courses, provided the disseminating agency is reasonably assured
739 that the use of the information will be so limited;

740 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review
741 Commission, the Virginia Racing Commission, and the Department of Alcoholic Beverage Control;

742 7. Maintained by the Department of State Police; the police department of the Chesapeake Bay
743 Bridge and Tunnel Commission; police departments of cities, counties, and towns; and the campus
744 police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et
745 seq.) of Title 23, and that deal with investigations and intelligence gathering relating to criminal activity;
746 and maintained by local departments of social services regarding alleged cases of child abuse or neglect
747 while such cases are also subject to an ongoing criminal prosecution;

748 8. Maintained by the Virginia Port Authority as provided in § 62.1-134.1 or 62.1-132.4;

749 9. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion
750 of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting
751 information on those subjects may be disseminated upon written request to a person engaged in the
752 business of providing travel services or distributing travel information, provided the Virginia Tourism
753 Authority is reasonably assured that the use of the information will be so limited;

754 10. Maintained by the Division of Consolidated Laboratory Services of the Department of General
755 Services and the Department of Forensic Science, which deal with scientific investigations relating to
756 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

757 11. Maintained by the Department of Corrections *or the Office of the State Inspector General* that
758 deal with investigations and intelligence gathering by persons acting under the provisions of ~~§ 53.1-16~~
759 *Chapter 3.2 (§ 2.2-307 et seq.)*;

760 12. Maintained by the ~~Department of the State Internal Auditor~~ *Office of the State Inspector General*
761 or internal audit departments of state agencies or institutions that deal with communications and
762 investigations relating to the State Employee Fraud, Waste and Abuse Hotline; and

763 13. Maintained by the Department of Social Services or any local department of social services
764 relating to public assistance fraud investigations.

765 § 2.2-4344. Exemptions from competition for certain transactions.

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

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

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

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

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

775 B. An industrial development authority or regional industrial facility authority may enter into
776 contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as
777 defined in § 15.2-4902 or "facility" as defined in § 15.2-6400.

778 C. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter
779 51 of Title 15.2, with members selected pursuant to such article, may enter into contracts without
780 competition with respect to the exercise of any of its powers permitted by § 15.2-5158. However, this
781 exception shall not apply in cases where any public funds other than special assessments and
782 incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such contract.

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

787 § 30-138. State agencies, courts, and local constitutional officers to report certain fraudulent
788 transactions; penalty.

789 A. Upon the discovery of circumstances suggesting a reasonable possibility that a fraudulent
 790 transaction has occurred involving funds or property under the control of any state department, court,
 791 officer, board, commission, institution or other agency of the Commonwealth, including local
 792 constitutional officers and appointed officials exercising the powers of elected constitutional officers, as
 793 to which one or more officers or employees of state or local government may be party thereto, the state
 794 agency head, court clerk or local official in charge of such entity shall promptly report such information
 795 to the Auditor of Public Accounts ("Auditor"), *the State Inspector General*, and the Superintendent of
 796 State Police ("Superintendent").

797 B. The Auditor, *the State Inspector General*, or the Superintendent shall review the information
 798 reported pursuant to subsection A and individually determine the most appropriate method to investigate
 799 the information. In the event that the Auditor or the Superintendent determines to conduct an
 800 investigation, he shall notify the other of the commencement of the investigation as soon as practicable,
 801 unless the information involves the Auditor or the Superintendent.

802 C. No state department, court, officer, board, commission, institution or other agency of the
 803 Commonwealth, including local constitutional officers and appointed officials exercising the powers of
 804 elected constitutional officers, shall employ or contract with any person, firm, corporation, or other legal
 805 entity to conduct an investigation or audit of information reported pursuant to subsection A without
 806 obtaining the prior written approval from the Auditor and the Superintendent. Pending acknowledgement
 807 of the report and receipt of the written approval from the Auditor and the Superintendent, the state
 808 department, court, officer, board, commission, institution, or other agency of the Commonwealth,
 809 including local constitutional officers and appointed officials exercising the powers of elected
 810 constitutional officers, may use their employees to audit the circumstances reported in subsection A to
 811 prevent the loss of assets.

812 D. All state departments, courts, officers, boards, commissions, institutions or other agencies of the
 813 Commonwealth, including local constitutional officers and appointed officials exercising the powers of
 814 elected constitutional officers and their employees, shall cooperate to the fullest extent in any
 815 investigation or audit which may occur at the direction of the Auditor or the Superintendent or both as a
 816 result of information reported pursuant to subsection A.

817 E. The willful failure to make the report as required by this section shall constitute a Class 3
 818 misdemeanor.

819 F. Nothing herein shall affect the requirements of § 52-8.2.
 820 § 32.1-127.1:03. Health records privacy.

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

825 Pursuant to this subsection:

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

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

833 3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health
 834 records of an individual, beyond the purpose for which such disclosure was made, without first
 835 obtaining the individual's specific authorization to such redisclosure. This redisclosure prohibition shall
 836 not, however, prevent (i) any health care entity that receives health records from another health care
 837 entity from making subsequent disclosures as permitted under this section and the federal Department of
 838 Health and Human Services regulations relating to privacy of the electronic transmission of data and
 839 protected health information promulgated by the United States Department of Health and Human
 840 Services as required by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C.
 841 § 1320d et seq.) or (ii) any health care entity from furnishing health records and aggregate or other data,
 842 from which individually identifying prescription information has been removed, encoded or encrypted, to
 843 qualified researchers, including, but not limited to, pharmaceutical manufacturers and their agents or
 844 contractors, for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health
 845 services research.

846 B. As used in this section:

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

849 "Certification" means a written representation that is delivered by hand, by first-class mail, by

850 overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated
851 confirmation reflecting that all facsimile pages were successfully transmitted.

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

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

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

862 "Health care provider" means those entities listed in the definition of "health care provider" in
863 § 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the
864 purposes of this section. Health care provider shall also include all persons who are licensed, certified,
865 registered or permitted or who hold a multistate licensure privilege issued by any of the health
866 regulatory boards within the Department of Health Professions, except persons regulated by the Board of
867 Funeral Directors and Embalmers or the Board of Veterinary Medicine.

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

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

870 "Health record" means any written, printed or electronically recorded material maintained by a health
871 care entity in the course of providing health services to an individual concerning the individual and the
872 services provided. "Health record" also includes the substance of any communication made by an
873 individual to a health care entity in confidence during or in connection with the provision of health
874 services or information otherwise acquired by the health care entity about an individual in confidence
875 and in connection with the provision of health services to the individual.

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

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

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

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

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

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

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

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

895 3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to
896 § 16.1-248.3.

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

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

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

911 providing information about such individual to a law-enforcement officer in connection with such
912 subpoena, search warrant, or court order;

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

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

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

920 6. As required or authorized by law relating to public health activities, health oversight activities,
921 serious threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease,
922 public safety, and suspected child or adult abuse reporting requirements, including, but not limited to,
923 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,
924 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,
925 54.1-2966, 54.1-2966.1, 54.1-2967, 54.1-2968, 54.1-3408.2, 63.2-1509, and 63.2-1606;

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

927 8. In connection with the health care entity's own health care operations or the health care operations
928 of another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of business in
929 accordance with accepted standards of practice within the health services setting; however, the
930 maintenance, storage, and disclosure of the mass of prescription dispensing records maintained in a
931 pharmacy registered or permitted in Virginia shall only be accomplished in compliance with
932 §§ 54.1-3410, 54.1-3411, and 54.1-3412;

933 9. When the individual has waived his right to the privacy of the health records;

934 10. When examination and evaluation of an individual are undertaken pursuant to judicial or
935 administrative law order, but only to the extent as required by such order;

936 11. To the guardian ad litem and any attorney representing the respondent in the course of a
937 guardianship proceeding of an adult patient who is the respondent in a proceeding under Chapter 10
938 (§ 37.2-1000 et seq.) of Title 37.2;

939 12. To the guardian ad litem and any attorney appointed by the court to represent an individual who
940 is or has been a patient who is the subject of a commitment proceeding under § 19.2-169.6, Article 5
941 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title
942 16.1, or a judicial authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of
943 Title 37.2;

944 13. To a magistrate, the court, the evaluator or examiner required under Article 16 (§ 16.1-335 et
945 seq.) of Chapter 11 of Title 16.1 or § 37.2-815, a community services board or behavioral health
946 authority or a designee of a community services board or behavioral health authority, or a
947 law-enforcement officer participating in any proceeding under Article 16 (§ 16.1-335 et seq.) of Chapter
948 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
949 the proceeding, and to any health care provider evaluating or providing services to the person who is the
950 subject of the proceeding or monitoring the person's adherence to a treatment plan ordered under those
951 provisions. Health records disclosed to a law-enforcement officer shall be limited to information
952 necessary to protect the officer, the person, or the public from physical injury or to address the health
953 care needs of the person. Information disclosed to a law-enforcement officer shall not be used for any
954 other purpose, disclosed to others, or retained;

955 14. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial or
956 administrative proceeding, if the court or administrative hearing officer has entered an order granting the
957 attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the
958 health care entity of such order;

959 15. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health records
960 in accord with § 9.1-156;

961 16. To an agent appointed under an individual's power of attorney or to an agent or decision maker
962 designated in an individual's advance directive for health care or for decisions on anatomical gifts and
963 organ, tissue or eye donation or to any other person consistent with the provisions of the Health Care
964 Decisions Act (§ 54.1-2981 et seq.);

965 17. To third-party payors and their agents for purposes of reimbursement;

966 18. As is necessary to support an application for receipt of health care benefits from a governmental
967 agency or as required by an authorized governmental agency reviewing such application or reviewing
968 benefits already provided or as necessary to the coordination of prevention and control of disease,
969 injury, or disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;

970 19. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership
971 or closing of a pharmacy pursuant to regulations of the Board of Pharmacy;

- 972 20. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and
- 973 immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;
- 974 21. Where necessary in connection with the implementation of a hospital's routine contact process for
- 975 organ donation pursuant to subdivision B 4 of § 32.1-127;
- 976 22. In the case of substance abuse records, when permitted by and in conformity with requirements
- 977 of federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;
- 978 23. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the
- 979 adequacy or quality of professional services or the competency and qualifications for professional staff
- 980 privileges;
- 981 24. If the health records are those of a deceased or mentally incapacitated individual to the personal
- 982 representative or executor of the deceased individual or the legal guardian or committee of the
- 983 incompetent or incapacitated individual or if there is no personal representative, executor, legal guardian
- 984 or committee appointed, to the following persons in the following order of priority: a spouse, an adult
- 985 son or daughter, either parent, an adult brother or sister, or any other relative of the deceased individual
- 986 in order of blood relationship;
- 987 25. For the purpose of conducting record reviews of inpatient hospital deaths to promote
- 988 identification of all potential organ, eye, and tissue donors in conformance with the requirements of
- 989 applicable federal law and regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's
- 990 designated organ procurement organization certified by the United States Health Care Financing
- 991 Administration and (ii) to any eye bank or tissue bank in Virginia certified by the Eye Bank Association
- 992 of America or the American Association of Tissue Banks;
- 993 26. To the Office of the *State Inspector General for Behavioral Health and Developmental Services*
- 994 *pursuant to Article 3 (§ 37.2-423 et seq.) of Chapter 4 of Title 37.2 pursuant to Chapter 3.2 (§ 2.2-307*
- 995 *et seq.) of Title 2.2;*
- 996 27. To an entity participating in the activities of a local health partnership authority established
- 997 pursuant to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4, pursuant to subdivision 1;
- 998 28. To law-enforcement officials by each licensed emergency medical services agency, (i) when the
- 999 individual is the victim of a crime or (ii) when the individual has been arrested and has received
- 1000 emergency medical services or has refused emergency medical services and the health records consist of
- 1001 the prehospital patient care report required by § 32.1-116.1;
- 1002 29. To law-enforcement officials, in response to their request, for the purpose of identifying or
- 1003 locating a suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and
- 1004 Crimes Against Minors Registry Act, material witness, or missing person, provided that only the
- 1005 following information may be disclosed: (i) name and address of the person, (ii) date and place of birth
- 1006 of the person, (iii) social security number of the person, (iv) blood type of the person, (v) date and time
- 1007 of treatment received by the person, (vi) date and time of death of the person, where applicable, (vii)
- 1008 description of distinguishing physical characteristics of the person, and (viii) type of injury sustained by
- 1009 the person;
- 1010 30. To law-enforcement officials regarding the death of an individual for the purpose of alerting law
- 1011 enforcement of the death if the health care entity has a suspicion that such death may have resulted
- 1012 from criminal conduct;
- 1013 31. To law-enforcement officials if the health care entity believes in good faith that the information
- 1014 disclosed constitutes evidence of a crime that occurred on its premises;
- 1015 32. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a
- 1016 person or persons who are subject to an order of quarantine or an order of isolation pursuant to Article
- 1017 3.02 (§ 32.1-48.05 et seq.) of Chapter 2;
- 1018 33. To the Commissioner of the Department of Labor and Industry or his designee by each licensed
- 1019 emergency medical services agency when the records consist of the prehospital patient care report
- 1020 required by § 32.1-116.1 and the patient has suffered an injury or death on a work site while performing
- 1021 duties or tasks that are within the scope of his employment;
- 1022 34. To notify a family member or personal representative of an individual who is the subject of a
- 1023 proceeding pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8
- 1024 (§ 37.2-800 et seq.) of Title 37.2 of information that is directly relevant to such person's involvement
- 1025 with the individual's health care, which may include the individual's location and general condition,
- 1026 when the individual has the capacity to make health care decisions and (i) the individual has agreed to
- 1027 the notification, (ii) the individual has been provided an opportunity to object to the notification and
- 1028 does not express an objection, or (iii) the health care provider can, on the basis of his professional
- 1029 judgment, reasonably infer from the circumstances that the individual does not object to the notification.
- 1030 If the opportunity to agree or object to the notification cannot practicably be provided because of the
- 1031 individual's incapacity or an emergency circumstance, the health care provider may notify a family
- 1032 member or personal representative of the individual of information that is directly relevant to such

1033 person's involvement with the individual's health care, which may include the individual's location and
 1034 general condition if the health care provider, in the exercise of his professional judgment, determines
 1035 that the notification is in the best interests of the individual. Such notification shall not be made if the
 1036 provider has actual knowledge the family member or personal representative is currently prohibited by
 1037 court order from contacting the individual; and

1038 35. To a threat assessment team established by a public institution of higher education pursuant to
 1039 § 23-9.2:10 when such records concern a student at the public institution of higher education, including
 1040 a student who is a minor.

1041 Notwithstanding the provisions of subdivisions 1 through 35, a health care entity shall obtain an
 1042 individual's written authorization for any disclosure of psychotherapy notes, except when disclosure by
 1043 the health care entity is (i) for its own training programs in which students, trainees, or practitioners in
 1044 mental health are being taught under supervision to practice or to improve their skills in group, joint,
 1045 family, or individual counseling; (ii) to defend itself or its employees or staff against any accusation of
 1046 wrongful conduct; (iii) in the discharge of the duty, in accordance with subsection B of § 54.1-2400.1,
 1047 to take precautions to protect third parties from violent behavior or other serious harm; (iv) required in
 1048 the course of an investigation, audit, review, or proceeding regarding a health care entity's conduct by a
 1049 duly authorized law-enforcement, licensure, accreditation, or professional review entity; or (v) otherwise
 1050 required by law.

1051 E. Requests for copies of health records shall (i) be in writing, dated and signed by the requester; (ii)
 1052 identify the nature of the information requested; and (iii) include evidence of the authority of the
 1053 requester to receive such copies and identification of the person to whom the information is to be
 1054 disclosed. The health care entity shall accept a photocopy, facsimile, or other copy of the original signed
 1055 by the requestor as if it were an original. Within 15 days of receipt of a request for copies of health
 1056 records, the health care entity shall do one of the following: (i) furnish such copies to any requester
 1057 authorized to receive them; (ii) inform the requester if the information does not exist or cannot be
 1058 found; (iii) if the health care entity does not maintain a record of the information, so inform the
 1059 requester and provide the name and address, if known, of the health care entity who maintains the
 1060 record; or (iv) deny the request (a) under subsection F, (b) on the grounds that the requester has not
 1061 established his authority to receive such health records or proof of his identity, or (c) as otherwise
 1062 provided by law. Procedures set forth in this section shall apply only to requests for health records not
 1063 specifically governed by other provisions of state law.

1064 F. Except as provided in subsection B of § 8.01-413, copies of an individual's health records shall
 1065 not be furnished to such individual or anyone authorized to act on the individual's behalf when the
 1066 individual's treating physician or the individual's treating clinical psychologist has made a part of the
 1067 individual's record a written statement that, in the exercise of his professional judgment, the furnishing
 1068 to or review by the individual of such health records would be reasonably likely to endanger the life or
 1069 physical safety of the individual or another person, or that such health record makes reference to a
 1070 person other than a health care provider and the access requested would be reasonably likely to cause
 1071 substantial harm to such referenced person. If any health care entity denies a request for copies of health
 1072 records based on such statement, the health care entity shall inform the individual of the individual's
 1073 right to designate, in writing, at his own expense, another reviewing physician or clinical psychologist,
 1074 whose licensure, training and experience relative to the individual's condition are at least equivalent to
 1075 that of the physician or clinical psychologist upon whose opinion the denial is based. The designated
 1076 reviewing physician or clinical psychologist shall make a judgment as to whether to make the health
 1077 record available to the individual.

1078 The health care entity denying the request shall also inform the individual of the individual's right to
 1079 request in writing that such health care entity designate, at its own expense, a physician or clinical
 1080 psychologist, whose licensure, training, and experience relative to the individual's condition are at least
 1081 equivalent to that of the physician or clinical psychologist upon whose professional judgment the denial
 1082 is based and who did not participate in the original decision to deny the health records, who shall make
 1083 a judgment as to whether to make the health record available to the individual. The health care entity
 1084 shall comply with the judgment of the reviewing physician or clinical psychologist. The health care
 1085 entity shall permit copying and examination of the health record by such other physician or clinical
 1086 psychologist designated by either the individual at his own expense or by the health care entity at its
 1087 expense.

1088 Any health record copied for review by any such designated physician or clinical psychologist shall
 1089 be accompanied by a statement from the custodian of the health record that the individual's treating
 1090 physician or clinical psychologist determined that the individual's review of his health record would be
 1091 reasonably likely to endanger the life or physical safety of the individual or would be reasonably likely
 1092 to cause substantial harm to a person referenced in the health record who is not a health care provider.

1093 Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive

1094 copies of, or otherwise obtain access to, psychotherapy notes to any individual or any person authorized
1095 to act on his behalf.

1096 G. A written authorization to allow release of an individual's health records shall substantially include
1097 the following information:

1098 AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS

1099 Individual's Name

1100 Health Care Entity's Name

1101 Person, Agency, or Health Care Entity to whom disclosure is to
1102 be made

1103 Information or Health Records to be disclosed

1104 Purpose of Disclosure or at the Request of the Individual

1105 As the person signing this authorization, I understand that I am giving
1106 my permission to the above-named health care entity for disclosure of
1107 confidential health records. I understand that the health care entity
1108 may not condition treatment or payment on my willingness to sign this
1109 authorization unless the specific circumstances under which such
1110 conditioning is permitted by law are applicable and are set forth in
1111 this authorization. I also understand that I have the right to revoke
1112 this authorization at any time, but that my revocation is not effective
1113 until delivered in writing to the person who is in possession of my
1114 health records and is not effective as to health records already
1115 disclosed under this authorization. A copy of this authorization and a
1116 notation concerning the persons or agencies to whom disclosure was made
1117 shall be included with my original health records. I understand that
1118 health information disclosed under this authorization might be
1119 redisclosed by a recipient and may, as a result of such disclosure, no
1120 longer be protected to the same extent as such health information was
1121 protected by law while solely in the possession of the health care
1122 entity.

1123 This authorization expires on (date) or (event)

1124 Signature of Individual or Individual's Legal Representative if

1125 Individual is Unable to Sign

1126 Relationship or Authority of Legal Representative

1127 Date of Signature

1128 H. Pursuant to this subsection:

1129 1. Unless excepted from these provisions in subdivision 9, no party to a civil, criminal or
1130 administrative action or proceeding shall request the issuance of a subpoena duces tecum for another
1131 party's health records or cause a subpoena duces tecum to be issued by an attorney unless a copy of the
1132 request for the subpoena or a copy of the attorney-issued subpoena is provided to the other party's
1133 counsel or to the other party if pro se, simultaneously with filing the request or issuance of the
1134 subpoena. No party to an action or proceeding shall request or cause the issuance of a subpoena duces
1135 tecum for the health records of a nonparty witness unless a copy of the request for the subpoena or a
1136 copy of the attorney-issued subpoena is provided to the nonparty witness simultaneously with filing the
1137 request or issuance of the attorney-issued subpoena.

1138 No subpoena duces tecum for health records shall set a return date earlier than 15 days from the date
1139 of the subpoena except by order of a court or administrative agency for good cause shown. When a
1140 court or administrative agency directs that health records be disclosed pursuant to a subpoena duces
1141 tecum earlier than 15 days from the date of the subpoena, a copy of the order shall accompany the
1142 subpoena.

1143 Any party requesting a subpoena duces tecum for health records or on whose behalf the subpoena
1144 duces tecum is being issued shall have the duty to determine whether the individual whose health
1145 records are being sought is pro se or a nonparty.

1146 In instances where health records being subpoenaed are those of a pro se party or nonparty witness,
1147 the party requesting or issuing the subpoena shall deliver to the pro se party or nonparty witness
1148 together with the copy of the request for subpoena, or a copy of the subpoena in the case of an
1149 attorney-issued subpoena, a statement informing them of their rights and remedies. The statement shall
1150 include the following language and the heading shall be in boldface capital letters:

1151 NOTICE TO INDIVIDUAL

1152 The attached document means that (insert name of party requesting or causing issuance of the

1153 subpoena) has either asked the court or administrative agency to issue a subpoena or a subpoena has
1154 been issued by the other party's attorney to your doctor, other health care providers (names of health
1155 care providers inserted here) or other health care entity (name of health care entity to be inserted here)
1156 requiring them to produce your health records. Your doctor, other health care provider or other health
1157 care entity is required to respond by providing a copy of your health records. If you believe your health
1158 records should not be disclosed and object to their disclosure, you have the right to file a motion with
1159 the clerk of the court or the administrative agency to quash the subpoena. If you elect to file a motion
1160 to quash, such motion must be filed within 15 days of the date of the request or of the attorney-issued
1161 subpoena. You may contact the clerk's office or the administrative agency to determine the requirements
1162 that must be satisfied when filing a motion to quash and you may elect to contact an attorney to
1163 represent your interest. If you elect to file a motion to quash, you must notify your doctor, other health
1164 care provider(s), or other health care entity, that you are filing the motion so that the health care
1165 provider or health care entity knows to send the health records to the clerk of court or administrative
1166 agency in a sealed envelope or package for safekeeping while your motion is decided.

1167 2. Any party filing a request for a subpoena duces tecum or causing such a subpoena to be issued
1168 for an individual's health records shall include a Notice in the same part of the request in which the
1169 recipient of the subpoena duces tecum is directed where and when to return the health records. Such
1170 notice shall be in boldface capital letters and shall include the following language:

1171 NOTICE TO HEALTH CARE ENTITIES

1172 A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE INDIVIDUAL
1173 WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU OR THAT
1174 INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE ATTACHED
1175 SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE THE MOTION
1176 WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.

1177 YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED WRITTEN
1178 CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS ISSUED
1179 THAT THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:

1180 NO MOTION TO QUASH WAS FILED; OR

1181 ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE
1182 ADMINISTRATIVE AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH
1183 SUCH RESOLUTION.

1184 IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE
1185 BEING REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A
1186 MOTION TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO
1187 THE CLERK OF THE COURT OR ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA
1188 OR IN WHICH THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE
1189 FOLLOWING PROCEDURE:

1190 PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED
1191 ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE AGENCY
1192 WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND ARE TO BE
1193 HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE SUBPOENA.
1194 THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER
1195 ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT OR ADMINISTRATIVE
1196 AGENCY.

1197 3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have the
1198 duty to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8.

1199 4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in a
1200 sealed envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such
1201 health records until they have received a certification as set forth in subdivision 5 or 8 from the party on
1202 whose behalf the subpoena duces tecum was issued.

1203 If the health care entity has actual receipt of notice that a motion to quash the subpoena has been
1204 filed or if the health care entity files a motion to quash the subpoena for health records, then the health
1205 care entity shall produce the health records, in a securely sealed envelope, to the clerk of the court or
1206 administrative agency issuing the subpoena or in whose court or administrative agency the action is
1207 pending. The court or administrative agency shall place the health records under seal until a
1208 determination is made regarding the motion to quash. The securely sealed envelope shall only be opened
1209 on order of the judge or administrative agency. In the event the court or administrative agency grants
1210 the motion to quash, the health records shall be returned to the health care entity in the same sealed
1211 envelope in which they were delivered to the court or administrative agency. In the event that a judge or
1212 administrative agency orders the sealed envelope to be opened to review the health records in camera, a
1213 copy of the order shall accompany any health records returned to the health care entity. The health

1214 records returned to the health care entity shall be in a securely sealed envelope.

1215 5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued
 1216 subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the
 1217 subpoenaed health care entity that the time for filing a motion to quash has elapsed and that no motion
 1218 to quash was filed. Any health care entity receiving such certification shall have the duty to comply
 1219 with the subpoena duces tecum by returning the specified health records by either the return date on the
 1220 subpoena or five days after receipt of the certification, whichever is later.

1221 6. In the event that the individual whose health records are being sought files a motion to quash the
 1222 subpoena, the court or administrative agency shall decide whether good cause has been shown by the
 1223 discovering party to compel disclosure of the individual's health records over the individual's objections.
 1224 In determining whether good cause has been shown, the court or administrative agency shall consider (i)
 1225 the particular purpose for which the information was collected; (ii) the degree to which the disclosure of
 1226 the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the
 1227 disclosure on the individual's future health care; (iv) the importance of the information to the lawsuit or
 1228 proceeding; and (v) any other relevant factor.

1229 7. Concurrent with the court or administrative agency's resolution of a motion to quash, if
 1230 subpoenaed health records have been submitted by a health care entity to the court or administrative
 1231 agency in a sealed envelope, the court or administrative agency shall: (i) upon determining that no
 1232 submitted health records should be disclosed, return all submitted health records to the health care entity
 1233 in a sealed envelope; (ii) upon determining that all submitted health records should be disclosed, provide
 1234 all the submitted health records to the party on whose behalf the subpoena was issued; or (iii) upon
 1235 determining that only a portion of the submitted health records should be disclosed, provide such portion
 1236 to the party on whose behalf the subpoena was issued and return the remaining health records to the
 1237 health care entity in a sealed envelope.

1238 8. Following the court or administrative agency's resolution of a motion to quash, the party on whose
 1239 behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the subpoenaed
 1240 health care entity a statement of one of the following:

1241 a. All filed motions to quash have been resolved by the court or administrative agency and the
 1242 disclosures sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the
 1243 health records previously delivered in a sealed envelope to the clerk of the court or administrative
 1244 agency will not be returned to the health care entity;

1245 b. All filed motions to quash have been resolved by the court or administrative agency and the
 1246 disclosures sought in the subpoena duces tecum are consistent with such resolution and that, since no
 1247 health records have previously been delivered to the court or administrative agency by the health care
 1248 entity, the health care entity shall comply with the subpoena duces tecum by returning the health records
 1249 designated in the subpoena by the return date on the subpoena or five days after receipt of certification,
 1250 whichever is later;

1251 c. All filed motions to quash have been resolved by the court or administrative agency and the
 1252 disclosures sought in the subpoena duces tecum are not consistent with such resolution; therefore, no
 1253 health records shall be disclosed and all health records previously delivered in a sealed envelope to the
 1254 clerk of the court or administrative agency will be returned to the health care entity;

1255 d. All filed motions to quash have been resolved by the court or administrative agency and the
 1256 disclosures sought in the subpoena duces tecum are not consistent with such resolution and that only
 1257 limited disclosure has been authorized. The certification shall state that only the portion of the health
 1258 records as set forth in the certification, consistent with the court or administrative agency's ruling, shall
 1259 be disclosed. The certification shall also state that health records that were previously delivered to the
 1260 court or administrative agency for which disclosure has been authorized will not be returned to the
 1261 health care entity; however, all health records for which disclosure has not been authorized will be
 1262 returned to the health care entity; or

1263 e. All filed motions to quash have been resolved by the court or administrative agency and the
 1264 disclosures sought in the subpoena duces tecum are not consistent with such resolution and, since no
 1265 health records have previously been delivered to the court or administrative agency by the health care
 1266 entity, the health care entity shall return only those health records specified in the certification,
 1267 consistent with the court or administrative agency's ruling, by the return date on the subpoena or five
 1268 days after receipt of the certification, whichever is later.

1269 A copy of the court or administrative agency's ruling shall accompany any certification made
 1270 pursuant to this subdivision.

1271 9. The provisions of this subsection have no application to subpoenas for health records requested
 1272 under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation,
 1273 audit, review or proceedings regarding a health care entity's conduct.

1274 The provisions of this subsection shall apply to subpoenas for the health records of both minors and

1275 adults.

1276 Nothing in this subsection shall have any effect on the existing authority of a court or administrative
1277 agency to issue a protective order regarding health records, including, but not limited to, ordering the
1278 return of health records to a health care entity, after the period for filing a motion to quash has passed.

1279 A subpoena for substance abuse records must conform to the requirements of federal law found in 42
1280 C.F.R. Part 2, Subpart E.

1281 I. Health care entities may testify about the health records of an individual in compliance with
1282 §§ 8.01-399 and 8.01-400.2.

1283 J. If an individual requests a copy of his health record from a health care entity, the health care
1284 entity may impose a reasonable cost-based fee, which shall include only the cost of supplies for and
1285 labor of copying the requested information, postage when the individual requests that such information
1286 be mailed, and preparation of an explanation or summary of such information as agreed to by the
1287 individual. For the purposes of this section, "individual" shall subsume a person with authority to act on
1288 behalf of the individual who is the subject of the health record in making decisions related to his health
1289 care.

1290 § 32.1-283. Investigation of deaths; obtaining consent to removal of organs, etc.; fees.

1291 A. Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide or
1292 homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail,
1293 prison, other correctional institution or in police custody, or who is a patient or resident of a state
1294 mental health or mental retardation facility, or suddenly as an apparent result of fire, or in any
1295 suspicious, unusual or unnatural manner, or the sudden death of any infant less than eighteen months of
1296 age whose death is suspected to be attributable to Sudden Infant Death Syndrome (SIDS), the medical
1297 examiner of the county or city in which death occurs shall be notified by the physician in attendance,
1298 hospital, law-enforcement officer, funeral director or any other person having knowledge of such death.
1299 Good faith efforts shall be made by such person or institution having custody of the dead body to
1300 identify and to notify the next of kin of the decedent. Notification shall include informing the person
1301 presumed to be the next of kin that he has a right to have identification of the decedent confirmed
1302 without due delay and without being held financially responsible for any procedures performed for the
1303 purpose of the identification. Identity of the next of kin, if determined, shall be provided to the Chief
1304 Medical Examiner upon transfer of the dead body.

1305 B. Upon being notified of a death as provided in subsection A, the medical examiner shall take
1306 charge of the dead body, make an investigation into the cause and manner of death, reduce his findings
1307 to writing, and promptly make a full report to the Chief Medical Examiner. In order to facilitate his
1308 investigation, the medical examiner is authorized to inspect and copy the pertinent medical records of
1309 the decedent whose death he is investigating. Full directions as to the nature, character and extent of the
1310 investigation to be made in such cases shall be furnished each medical examiner by the Chief Medical
1311 Examiner, together with appropriate forms for the required reports and instructions for their use. The
1312 facilities and personnel under the Chief Medical Examiner shall be made available to medical examiners
1313 in such investigations. Reports and findings of the Medical Examiner shall be confidential and shall not
1314 under any circumstance be disclosed or made available for discovery pursuant to a court subpoena or
1315 otherwise, except as provided in this chapter. Nothing in this subsection shall prohibit the Chief Medical
1316 Examiner from releasing the cause or manner of death, or prohibit disclosure of reports or findings to
1317 the parties in a criminal case.

1318 C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for
1319 the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of
1320 any such report regarding the death of a victim of a traffic accident shall be furnished upon request to
1321 the State Police and the Highway Safety Commission. In addition, a copy of any autopsy report
1322 concerning a patient or resident of a state mental health or mental retardation facility shall be delivered
1323 to the Commissioner of Behavioral Health and Developmental Services and to the *State* Inspector
1324 General for Behavioral Health and Developmental Services. A copy of any autopsy report concerning a
1325 prisoner committed to the custody of the Director of the Department of Corrections shall, upon request
1326 of the Director of the Department of Corrections, be delivered to the Director of the Department of
1327 Corrections. A copy of any autopsy report concerning a prisoner committed to any local correctional
1328 facility shall be delivered to the local sheriff or superintendent. Upon request, the Chief Medical
1329 Examiner shall release such autopsy report to the decedent's attending physician and to the personal
1330 representative or executor of the decedent or, if no personal representative or executor is appointed, then
1331 at the discretion of the Chief Medical Examiner, to the following persons in the following order of
1332 priority: (i) the spouse of the decedent, (ii) an adult son or daughter of the decedent, (iii) either parent
1333 of the decedent, (iv) an adult sibling of the decedent, (v) any other adult relative of the decedent in
1334 order of blood relationship, or (vi) any appropriate health facility quality assurance program.

1335 D. For each investigation under this article, including the making of the required reports, the medical

1336 examiner shall receive a fee established by the Board within the limitations of appropriations for the
 1337 purpose. Such fee shall be paid by the Commonwealth, if the deceased is not a legal resident of the
 1338 county or city in which his death occurred. In the event the deceased is a legal resident of the county or
 1339 city in which his death occurred, such county or city shall be responsible for the fee up to \$20. If the
 1340 deceased is a patient or resident of a state mental health or mental retardation facility, the fee shall be
 1341 paid by the Department of Behavioral Health and Developmental Services.

1342 E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine
 1343 obtaining of consent for removal of organs as conducted by surgical teams or others.

1344 § 58.1-202.2. Public-private partnerships; Public Private Partnership Oversight Committee.

1345 A. The Tax Commissioner is hereby authorized through the Department of General Services in
 1346 accordance with the Virginia Public Procurement Act to enter into public-private partnership contracts to
 1347 finance agency technology needs. The Tax Commissioner may issue a request for information to seek
 1348 out potential private partners interested in providing programs pursuant to an agreement under this
 1349 section. The compensation for such services shall be computed with reference to and paid from the
 1350 increased revenue attributable to the successful implementation of the technology program for the period
 1351 specified in the contract.

1352 B. The Public Private Partnership Oversight Committee, hereinafter referred to as the "Committee" is
 1353 established as an advisory committee in the executive branch of state government to review and approve
 1354 the terms of contracts under this section relating to the measurement of the revenue attributable to the
 1355 technology program. The Committee shall consist of five members as follows: one legislative employee
 1356 appointed by the Senate Committee on Rules after the consideration of the recommendation of the
 1357 President pro tempore of the Senate, if any; one legislative employee appointed by the Speaker of the
 1358 House of Delegates; and the State Comptroller, the Director of the Department of Planning and Budget,
 1359 and the State ~~Internal Auditor~~ *Inspector General*, as ex officio voting members. All members shall be
 1360 citizens of the Commonwealth.

1361 Ex officio members shall serve terms coincident with their terms of office. Legislative employee
 1362 members shall be appointed for a term of two years and may be reappointed for successive terms.
 1363 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms.
 1364 Vacancies shall be filled in the same manner as the original appointments.

1365 The Tax Commissioner shall preside over the meetings of the Committee. The Committee may select
 1366 an alternative to preside in the absence of the Tax Commissioner. A majority of the members shall
 1367 constitute a quorum. The meetings of the Committee shall be held at the call of the Tax Commissioner
 1368 or whenever the majority of the members so request.

1369 The Tax Commissioner shall submit an annual executive summary and report no later than
 1370 November 30 to the Governor and General Assembly on all agreements under this section, describing
 1371 each technology program, its progress, revenue impact, and such other information as may be relevant.
 1372 The executive summary and report shall be submitted as provided in the procedures of the Division of
 1373 Legislative Automated Systems for the processing of legislative documents and reports and shall be
 1374 posted on the General Assembly's website.

1375 C. The Tax Commissioner shall determine annually the total amount of increased revenue attributable
 1376 to the successful implementation of a technology program under this section and such amount shall be
 1377 deposited in a special fund known as the Technology Partnership Fund (the Fund). The Tax
 1378 Commissioner is authorized to use moneys deposited in the Fund to pay private partners pursuant to the
 1379 terms of contracts under this section. All moneys in excess of that required to be paid to private
 1380 partners, as determined by the Department, shall be reported to the Comptroller and transferred to the
 1381 appropriate general or nongeneral fund.

1382 **2. That Chapter 16 (§§ 2.2-1600, 2.2-1601, and 2.2-1602) of Title 2.2, Article 3 (§§ 37.2-423,**
 1383 **37.2-424, and 37.2-425) of Chapter 4 of Title 37.2, and §§ 53.1-16 and 66-3.1 of the Code of**
 1384 **Virginia are repealed.**

1385 **3. That, effective July 1, 2012, the Office of the State Inspector General created by this act shall**
 1386 **be deemed the successor in interest to the (i) Office of the Inspector General for Behavioral Health**
 1387 **and Developmental Services, (ii) Inspector General for the Department of Corrections, (iii)**
 1388 **Inspector General of the Department of Juvenile Justice, (iv) Inspector General of the Department**
 1389 **of Transportation, and (v) Department of the State Internal Auditor, to the extent that this act**
 1390 **transfers powers and duties. All rights, title, and interest in and to any real or tangible personal**
 1391 **property vested in the Inspector General for Behavioral Health and Developmental Services, the**
 1392 **Inspector General for the Department of Corrections, the Inspector General of the Department of**
 1393 **Juvenile Justice, the Inspector General of the Department of Transportation, and the Department**
 1394 **of the State Internal Auditor to the extent that this act transfers powers and duties as of July 1,**
 1395 **2012, shall be transferred to and taken as standing in the name of the Office of the State Inspector**
 1396 **General created by this act.**

- 1397 4. That the Governor may transfer an appropriation or any portion thereof within a state agency
1398 established, abolished, or otherwise affected by the provisions of this act, or from one such agency
1399 to another, to support the changes in organization or responsibility resulting from or required by
1400 the provisions of this act.
- 1401 5. That the Governor, on or before December 31, 2011, shall, in consultation with impacted
1402 stakeholders, complete a plan for the coordination and oversight of the internal audit programs to
1403 the Office of the State Inspector General. This plan shall consider where transfer of the internal
1404 audit program to the Office is necessary or when a dual reporting structure is most practicable.
- 1405 6. That any regulations adopted by the State Internal Auditor that are in effect as of the effective
1406 date of this act and that pertain to the subject of this act shall remain in full force and effect until
1407 altered, amended, or rescinded by the State Inspector General.
- 1408 7. That the provisions of this act shall become effective on July 1, 2012, except that the provisions
1409 of the fifth enactment of this act shall become effective on July 1, 2011.