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SENATE BILL NO. 1176

Offered January 9, 2013

Prefiled January 9, 2013

A *BILL to amend and reenact §§ 2.2-309, 2.2-310, 2.2-311, 2.2-313, 2.2-1202.1, 2.2-3705.3, 2.2-3802, and 9.1-101 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 2.2-309.1 through 2.2-309.4, and to repeal Articles 2 through 6 (§§ 2.2-314 through 2.2-322) of Chapter 3.2 of Title 2.2 of the Code of Virginia, relating to the State Inspector General; powers and duties.*

Patron—Ruff

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-309, 2.2-310, 2.2-311, 2.2-313, 2.2-1202.1, 2.2-3705.3, 2.2-3802, and 9.1-101 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-309.1 through 2.2-309.4 as follows:

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

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

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

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

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

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

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

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

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

8. Oversee the Fraud, Waste and Abuse Hotline;

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

10. Coordinate and ~~recommend~~ require standards for those internal audit programs in existence as of July 1, 2012, and ~~develop and maintain~~ for other internal audit programs in state agencies and nonstate agencies as needed in order to ensure that the Commonwealth's assets are subject to appropriate internal management controls. ~~The State Inspector General shall;~~

11. As deemed necessary, assess the condition of the accounting, financial, and administrative controls of state agencies and nonstate agencies and make recommendations to protect the Commonwealth's assets;

12. Assist agency internal auditing programs with technical auditing issues, and coordinate and

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59 *provide training to the Commonwealth's internal auditors;*

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

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

68 8. 13. Assist citizens in understanding their rights and the processes available to them to express
69 concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the
70 foregoing;

71 9. 14. Maintain data on inquiries received, the types of assistance requested, any actions taken, and
72 the disposition of each such matter;

73 10. 15. Upon request, assist citizens in using the procedures and processes available to express
74 concerns regarding the activities of a state or nonstate agency or any officer or employee of the
75 foregoing;

76 11. 16. Ensure that citizens have access to the services provided by the State Inspector General and
77 that citizens receive timely responses to their inquiries from the State Inspector General or his
78 representatives;

79 12. Conduct performance reviews of state agencies to ascertain that sums appropriated have been or
80 are being expended for the purposes for which the appropriation was made, and to evaluate the
81 effectiveness of the programs in accomplishing such purpose. Prepare a report for each performance
82 review detailing any findings or recommendations for improving the efficiency of state agencies,
83 including recommending changes in the law to the Governor and the General Assembly that are
84 necessary to address such findings;

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

87 14. 17. Do all acts necessary or convenient to carry out the purposes of this chapter.

88 B. If the State Inspector General receives a complaint from whatever source that alleges fraud, waste,
89 abuse, or corruption by a public institution of higher education or any of its officers or employees, the
90 State Inspector General shall refer the complaint to the internal audit department of the public institution
91 of higher education for investigation, unless the complaint concerns the president of the institution or its
92 internal audit department, in which case the investigation shall be conducted by the State Inspector
93 General.

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

96 **§ 2.2-309.1. Additional powers and duties; behavioral health and developmental services.**

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

98 B. In addition to the duties set forth in this chapter, the State Inspector General shall have the
99 following powers and duties to:

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

109 2. Inspect, monitor, and review the quality of services provided in state facilities and by providers as
110 defined in § 37.2-403, including licensed mental health treatment units in state correctional facilities;

111 3. Access any and all information, including confidential consumer information, related to the
112 delivery of services to consumers in state facilities or served by providers, including licensed mental
113 health treatment units in state correctional facilities. However, the State Inspector General shall not be
114 given access to any proceedings, minutes, records, or reports of providers that are privileged under
115 § 8.01-581.17, except that the State Inspector General shall be given access to any privileged
116 information in state facilities and licensed mental health treatment units in state correctional facilities.
117 All consumer information shall be maintained by the State Inspector General as confidential in the same
118 manner as is required by the agency or provider from which the information was obtained;

119 4. Keep the General Assembly and the Joint Commission on Health Care fully and currently
120 informed by means of reports required by § 2.2-313 concerning significant problems, abuses, and

deficiencies relating to the administration of the programs and services of state facilities and of providers, including licensed mental health treatment units in state correctional facilities, to recommend corrective actions concerning the problems, abuses, and deficiencies, and report on the progress made in implementing the corrective actions;

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

6. Monitor and participate in the adoption of regulations by the Board; and

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

§ 2.2-309.2. Additional powers and duties; Tobacco Indemnification and Community Revitalization Commission.

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

§ 2.2-309.3. Additional powers and duties; adult corrections.

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

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

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

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

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

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

§ 2.2-309.4. Additional powers and duties; juvenile justice.

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

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

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

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

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

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

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

A. Each state agency and every officer and employee shall (i) promptly report any allegations of criminal acts or acts of fraud, waste, abuse, or corruption, ~~or mistreatment~~ and (ii) cooperate with, and provide assistance to, the State Inspector General in the performance of any investigation. This reporting requirement shall be deemed satisfied for officers or employees of an agency once the agency head reports to the State Inspector General any allegations of criminal acts, fraud, waste, abuse, or

182 *corruption within the agency.* Each state agency shall make its premises, equipment, personnel, books,
183 records, and papers readily available to the State Inspector General upon request.

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

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

195 **§ 2.2-311. Enforcement of laws by the State Inspector General or investigators; authority of**
196 **investigators designated by State Inspector General.**

197 A. Except as provided in §§ ~~2.2-318~~ 2.2-309.3 and ~~2.2-320~~ 2.2-309.4, the State Inspector General or
198 investigators appointed by him shall be sworn to enforce the statutes ~~and regulations~~ pertaining to the
199 Office. The investigators appointed by the State Inspector General shall have the same investigative
200 authority of the State Inspector General as described in § 2.2-309.

201 B. The State Inspector General or investigators ~~appointed as may be designated~~ by him also shall
202 have the authority to issue summonses for violations of the statutes that the State Inspector General is
203 required to enforce. In the event a person issued such a summons fails or refuses to discontinue the
204 unlawful acts or refuses to give a written promise to appear at the time and place specified in the
205 summons, the investigator may appear before a magistrate or other issuing authority having jurisdiction
206 to obtain a criminal warrant pursuant to § 19.2-72.

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

213 **§ 2.2-313. Reports.**

214 A. The State Inspector General shall prepare an annual report to the Governor and the General
215 Assembly summarizing the activities of the Office. Such report shall include, but need not be limited to:
216 (i) a description of any significant problems, abuses, and deficiencies related to the management or
217 operation of state agencies or nonstate agencies during the reporting period; (ii) a description of the
218 recommendations for any corrective actions made by the Office during the reporting period with respect
219 to significant problems, abuses, or deficiencies identified; (iii) a summary of matters referred to the
220 attorneys for the Commonwealth and law-enforcement agencies and actions taken on them during the
221 reporting period; (iv) information concerning the numbers of complaints received and types of
222 investigations completed by the Office during the reporting period; (v) the development and maintenance
223 of internal audit programs in state agencies and nonstate agencies; and (vi) the results of any state
224 agency performance reviews, including a summary of any findings or recommendations for improving
225 the efficiency of state agencies. *The annual report shall cover the period July 1 until June 30 of the*
226 *immediately preceding fiscal year. Notwithstanding any other provision of law, annual reports shall be*
227 *transmitted directly to the Governor and the General Assembly.*

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

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

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

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

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

§ 2.2-1202.1. Additional powers and duties of Director; employment dispute resolution.

The Director shall:

1. Establish a comprehensive program of employee relations management that includes alternative processes for resolving employment disputes;

2. Establish the grievance procedure and a statewide mediation program;

3. Adopt rules and set hearing officer fees for grievance hearings;

4. For employees who are covered by the grievance procedure, (i) provide forms necessary for the proper use of the grievance procedure; (ii) direct full compliance with the grievance procedure process; and (iii) investigate allegations of retaliation as the result of use of or participation in the grievance procedure or of reporting, in good faith, an allegation of fraud, waste, or abuse to the State Employee Fraud, Waste and Abuse Hotline and advise the agency head of the findings;

5. Render final decisions, containing the reasons for such decision, on all matters related to access to the grievance procedure, procedural compliance with the grievance procedure, and qualification for hearing;

6. Establish a process to select, on a rotating basis, hearing officers for grievance hearings from (i) the list maintained by the Executive Secretary of the Supreme Court or (ii) attorneys hired as classified employees by the Department through a competitive selection process; train and assign such hearing officers to conduct grievance hearings; evaluate the quality of their services to determine eligibility for continued selection; and, if deemed ineligible for continued selection, establish policies for removing such hearing officers from consideration for future selection;

7. Publish hearing officer decisions and Department rulings;

8. Establish a training program for human resources personnel on employee relations management and employment rights and responsibilities;

9. Implement a comprehensive training and instructional program for all supervisory personnel that includes the role of the grievance procedure in harmonious employee relations management. The training program shall also include methods for supervisors to instruct nonsupervisory personnel in the use of the grievance procedure. Use of the grievance procedure to resolve disputes shall be encouraged. In-house resources shall be developed to allow the Department and its personnel to conduct onsite training of this nature for units and agencies of state government throughout Virginia. The Department shall assist agencies in establishing performance criteria for such supervisory personnel;

10. Provide information upon the request of any employee concerning personnel policies, regulations, and law applicable to the grievance procedure and counsel employees in the resolution of conflict in the workplace;

11. Establish and maintain a toll-free telephone number to facilitate access by employees to the services of the Department;

12. Collect information and statistical data regarding the use of the grievance procedure and the effectiveness of employee relations management in the various state agencies;

13. Make recommendations to the Governor and the General Assembly to improve the grievance procedure and employee relations management;

14. Conduct such training seminars and educational programs for the members and staff of agencies and public bodies and other interested persons on the use of dispute resolution proceedings as the Director determines appropriate;

15. Exercise such other powers and perform such other duties as may be requested by the Governor; and

16. Perform all acts and employ such personnel as may be required, necessary, or convenient to carry out the provisions of this section.

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

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

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

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

3. Investigator notes, and other correspondence and information, furnished in confidence with respect

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

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

313 5. Investigative notes and other correspondence and information furnished in confidence with respect
314 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under
315 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance
316 with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,
317 1987, in accordance with applicable law, relating to local human rights or human relations commissions.
318 However, nothing in this section shall prohibit the distribution of information taken from inactive reports
319 in a form that does not reveal the identity of the parties involved or other persons supplying
320 information.

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

328 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise
329 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of
330 Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority
331 as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and
332 Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General
333 with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline or
334 an investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) the committee or the auditor
335 with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vi) the auditors,
336 appointed by the local governing body of any county, city or town or a school board, who by charter,
337 ordinance, or statute have responsibility for conducting an investigation of any officer, department or
338 program of such body. Records of completed investigations shall be disclosed in a form that does not
339 reveal the identity of the complainants or persons supplying information to investigators. Unless
340 disclosure is prohibited by this section, the records disclosed shall include, but not be limited to, the
341 agency involved, the identity of the person who is the subject of the complaint, the nature of the
342 complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective
343 action, the identity of the person who is the subject of the complaint may be released only with the
344 consent of the subject person. Local governing bodies shall adopt guidelines to govern the disclosure
345 required by this subdivision.

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

355 9. Information furnished in confidence to the Department of Human Resource Management with
356 respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda,
357 correspondence and other records resulting from any such investigation, consultation or mediation.
358 However, nothing in this section shall prohibit the distribution of information taken from inactive reports
359 in a form that does not reveal the identity of the parties involved or other persons supplying
360 information.

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

365 11. Records of active investigations being conducted by the Department of Criminal Justice Services
366 pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.),

and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

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

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

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

§ 2.2-3802. Systems to which chapter inapplicable.

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

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, and the Department of Alcoholic Beverage Control;
7. Maintained by the Department of State Police; the police department of the Chesapeake Bay Bridge and Tunnel Commission; police departments of cities, counties, and towns; and the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23, and that deal with investigations and intelligence gathering relating to criminal activity; and maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;
8. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
9. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;

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

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

12. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the State Employee Fraud, Waste, and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;

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

14. Maintained by the Department of Social Services related to child welfare, adult services or adult protective services, or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services, which is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515.

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Department of Alcoholic Beverage Control; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the State Lottery Department; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632; ~~or~~ (ix) campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23; *or (x) the State Inspector General and investigators designated by the State Inspector General pursuant to §§ 2.2-309.3 and 2.2-309.4.* Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

2. That Articles 2 through 6 (§§ 2.2-314 through 2.2-322) of Chapter 3.2 of Title 2.2 of the Code of Virginia are repealed.