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SENATE BILL NO. 1176

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 4, 2013)

(Patron Prior to Substitute—Senator Ruff)

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, and 2.2-3802 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.

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, and 2.2-3802 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 provide training to the Commonwealth's internal auditors;

6. 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

60 person committing the wrongful act or omission, (ii) describe the wrongful act or omission, and (iii)
 61 describe any corrective measures taken by the state agency or nonstate agency in which the wrongful act
 62 or omission was committed to prevent recurrences of similar actions;

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

66 8. 13. Assist citizens in understanding their rights and the processes available to them to express
 67 concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the
 68 foregoing;

69 9. 14. Maintain data on inquiries received, the types of assistance requested, any actions taken, and
 70 the disposition of each such matter;

71 10. 15. Upon request, assist citizens in using the procedures and processes available to express
 72 concerns regarding the activities of a state or nonstate agency or any officer or employee of the
 73 foregoing;

74 11. 16. Ensure that citizens have access to the services provided by the State Inspector General and
 75 that citizens receive timely responses to their inquiries from the State Inspector General or his
 76 representatives;

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

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

85 14. 17. Do all acts necessary or convenient to carry out the purposes of this chapter.

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

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

94 **§ 2.2-309.1. Additional powers and duties; behavioral health and developmental services.**

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

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

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

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

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

117 4. Keep the General Assembly and the Joint Commission on Health Care fully and currently
 118 informed by means of reports required by § 2.2-313 concerning significant problems, abuses, and
 119 deficiencies relating to the administration of the programs and services of state facilities and of
 120 providers, including licensed mental health treatment units in state correctional facilities, to recommend
 121 corrective actions concerning the problems, abuses, and deficiencies, and report on the progress made

122 in implementing the corrective actions;

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

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

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

132 § 2.2-309.2. **Additional powers and duties; Tobacco Indemnification and Community Revitalization**
133 **Commission.**

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

142 § 2.2-309.3. **Additional powers and duties; adult corrections.**

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

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

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

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

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

153 § 2.2-309.4. **Additional powers and duties; juvenile justice.**

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

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

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

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

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

164 § 2.2-310. **Cooperation of state agencies and officers.**

165 A. Each state agency and every officer and employee shall (i) promptly report any allegations of
166 criminal acts or acts of fraud, waste, abuse, or corruption, ~~or mistreatment~~ and (ii) cooperate with, and
167 provide assistance to, the State Inspector General in the performance of any investigation. *This reporting*
168 *requirement shall be deemed satisfied for officers or employees of an agency once the agency head*
169 *reports to the State Inspector General any allegations of criminal acts, fraud, waste, abuse, or*
170 *corruption within the agency.* Each state agency shall make its premises, equipment, personnel, books,
171 records, and papers readily available to the State Inspector General upon request.

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

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

183 § 2.2-311. Enforcement of laws by the State Inspector General or investigators; police power of
184 the Office of State Inspector General; training.

185 A. Except as provided in §§ ~~2.2-318~~ and ~~2.2-320~~, the State Inspector General or investigators
186 appointed by him shall be sworn to enforce the statutes and regulations pertaining to the Office. The
187 investigators appointed by the State Inspector General shall have the same investigative authority of the
188 State Inspector General as described in § ~~2.2-309~~ *The State Inspector General may designate himself and*
189 *no more than 30 members of the investigations unit of the Office to have the same powers as a sheriff*
190 *or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the*
191 *operations of a state agency or nonstate agency pursuant to his duties as set forth in this chapter. Such*
192 *employees shall be subject to any minimum training standards established by the Department of*
193 *Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any*
194 *law-enforcement power under this subsection.*

195 *The State Inspector General and the Superintendent of the Virginia State Police shall enter into a*
196 *Memorandum of Understanding setting forth the respective roles and responsibilities of their agencies,*
197 *including but not limited to the categories of investigations that will be overseen by each agency and*
198 *how to avoid redundancy or operation conflicts. The Memorandum of Understanding will be approved*
199 *by the Governor's chief of staff and will be reviewed periodically at the request of either agency, but not*
200 *less than every four years, and revised as agreed to by the agencies and endorsed by the Governor's*
201 *chief of staff.*

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

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

214 § 2.2-313. Reports.

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

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

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

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

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

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

247 **§ 2.2-1202.1. Additional powers and duties of Director; employment dispute resolution.**

248 The Director shall:

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

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

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

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

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

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

267 7. Publish hearing officer decisions and Department rulings;

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

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

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

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

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

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

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

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

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

293 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
294 **investigations.**

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

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

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

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

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

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

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

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

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

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

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

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

366 11. Records of active investigations being conducted by the Department of Criminal Justice Services
367 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.),

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

369 12. Records furnished to or prepared by the Board of Education pursuant to subsection D of
370 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
371 unauthorized alteration, or improper administration of tests by local school board employees responsible
372 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
373 of records to (i) a local school board or division superintendent for the purpose of permitting such board
374 or superintendent to consider or to take personnel action with regard to an employee or (ii) any
375 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
376 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
377 does not compromise the security of any test mandated by the Board.

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

391 14. Records, notes and information provided in confidence and related to an investigation by the
392 Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of
393 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,
394 or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that
395 has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is
396 not otherwise prohibited by law and does not reveal the identity of charging parties, complainants,
397 persons supplying information, witnesses or other individuals involved in the investigation.

398 **§ 2.2-3802. Systems to which chapter inapplicable.**

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

- 400 1. Maintained by any court of the Commonwealth;
- 401 2. Which may exist in publications of general circulation;
- 402 3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or
403 in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police
404 pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to
405 be posted on the Internet pursuant to § 9.1-913;
- 406 4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through
407 16.1-225;
- 408 5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth
409 to engage in the practice of any profession, in which case the names and addresses of persons applying
410 for or possessing the license may be disseminated upon written request to a person engaged in the
411 profession or business of offering professional educational materials or courses for the sole purpose of
412 providing the licensees or applicants for licenses with informational materials relating solely to available
413 professional educational materials or courses, provided the disseminating agency is reasonably assured
414 that the use of the information will be so limited;
- 415 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review
416 Commission, the Virginia Racing Commission, and the Department of Alcoholic Beverage Control;
- 417 7. Maintained by the Department of State Police; the police department of the Chesapeake Bay
418 Bridge and Tunnel Commission; police departments of cities, counties, and towns; and the campus
419 police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et
420 seq.) of Title 23, and that deal with investigations and intelligence gathering relating to criminal activity;
421 and maintained by local departments of social services regarding alleged cases of child abuse or neglect
422 while such cases are also subject to an ongoing criminal prosecution;
- 423 8. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
- 424 9. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion
425 of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting
426 information on those subjects may be disseminated upon written request to a person engaged in the
427 business of providing travel services or distributing travel information, provided the Virginia Tourism
428 Authority is reasonably assured that the use of the information will be so limited;

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

432 11. Maintained by the Department of Corrections or the Office of the State Inspector General that
433 deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2
434 (§ 2.2-307 et seq.);

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

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

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

447 **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**
448 **Virginia are repealed.**