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## HOUSE BILL NO. 1172

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions  
on January 25, 2018)

(Patron Prior to Substitute—Delegate Pillion)

A BILL to amend and reenact §§ 2.2-3705.5 and 2.2-3711 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 32.1-283.7 and 32.1-283.8, relating to overdose fatality review teams.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.5 and 2.2-3711 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 32.1-283.7 and 32.1-283.8 as follows:

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

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

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-141 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the

records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

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

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6; or (iv) during a review of any overdose death conducted by the State Overdose Fatality Review Team to the extent made confidential by § 32.1-283.7 or by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.8.

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

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

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

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

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. (For contingent effective date, see Editor's note.) Records of and information held by the Emergency Department Care Coordination Program required to be kept confidential pursuant to § 32.1-372.

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

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would

involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

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

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

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

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

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

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

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

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

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

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to

subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, ~~and those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by the State Overdose Fatality Review Team established pursuant to § 32.1-283.7, and those portions of meetings in which individual death cases are discussed by local or regional overdose fatality review teams established pursuant to § 32.1-283.8.~~

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

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating

strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

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

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

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

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

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

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

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision A 2 a of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,

306 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
307 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment  
308 Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in  
309 subdivision 24 of § 2.2-3705.7.

310 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of  
311 § 2.2-3705.6 related to economic development.

312 40. Discussion or consideration by the Board of Education of information relating to the denial,  
313 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

314 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created  
315 by executive order for the purpose of studying and making recommendations regarding preventing  
316 closure or realignment of federal military and national security installations and facilities located in  
317 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization  
318 appointed by a local governing body, during which there is discussion of information subject to the  
319 exclusion in subdivision 8 of § 2.2-3705.2.

320 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
321 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
322 information of donors.

323 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
324 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information  
325 contained in grant applications.

326 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority  
327 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or  
328 charges for the use of projects of, the sale of products of, or services rendered by the Authority and  
329 certain proprietary information of a private entity provided to the Authority.

330 45. Discussion or consideration of personal and proprietary information related to the resource  
331 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)  
332 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records  
333 that contain information that has been certified for release by the person who is the subject of the  
334 information or transformed into a statistical or aggregate form that does not allow identification of the  
335 person who supplied, or is the subject of, the information.

336 46. (Effective January 15, 2018) Discussion or consideration by the Board of Directors of the  
337 Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1  
338 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and  
339 permittees.

340 47. Discussion or consideration of grant or loan application records subject to the exclusion in  
341 subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the  
342 Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title  
343 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of  
344 § 23.1-3133 or by the Virginia Research Investment Committee.

345 48. Discussion or development of grant proposals by a regional council established pursuant to  
346 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth  
347 and Opportunity Board.

348 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team  
349 established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses  
350 involving a child by a child abuse team established pursuant to § 15.2-1627.5.

351 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
352 Authority, or any subcommittee thereof, of the portions of the strategic plan, marketing plan, or  
353 operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

354 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic  
355 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and  
356 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of  
357 § 60.2-114.

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

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

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

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

**§ 32.1-283.7. State Overdose Fatality Review Team established; members; access to information.**

A. There is hereby created the State Overdose Fatality Review Team (the Team), which shall develop and implement processes to ensure that overdose deaths occurring in the Commonwealth are reviewed in a systematic way. The Team shall review the death of any person of any age whose death involved an overdose and came under the jurisdiction of or was investigated by the Office of the Chief Medical Examiner pursuant to § 32.1-283. The Team shall not initiate an overdose fatality review until the conclusion of any law-enforcement investigation or criminal prosecution. The Team shall (i) develop and revise operating procedures for the review of overdose deaths, including identification of cases to be reviewed and procedures for coordination among the agencies and professionals involved; (ii) improve the recordkeeping of the causes of overdose; (iii) recommend components for prevention and education programs; (iv) recommend training to improve the investigation of overdose deaths; and (v) provide technical assistance, upon request, to any local or regional overdose fatality review teams that may be established. The operating procedures for the review of overdose deaths shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.

B. The Team shall be chaired by the Chief Medical Examiner and shall be composed of the following persons or their designees: the Commissioner of Behavioral Health and Developmental Services; the Commissioner of Social Services; the Director of the Department of Criminal Justice Services; the Directors of the Department of Health's Office of Family Health Services' Divisions of Prevention and Health Promotion; a representative of the Virginia Hospital and Healthcare Association; the Director of Injury and Violence Prevention Advocates; and the State Registrar of Vital Records. In addition, the chair may appoint the following additional members to participate in investigations: representatives of local human services agencies; experts in forensic medicine and pathology; representatives of local public education agencies, local fire departments, local emergency medical services agencies, community services boards, local funeral services providers, the local bar, local law-enforcement agencies, local departments of social services, and the Medical Society of Virginia; and attorneys for the Commonwealth.

C. Upon the request of the Chief Medical Examiner in his capacity as chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, information and records regarding an overdose death being reviewed by the Team may be inspected and copied by the Chief Medical Examiner or his designee, including any report of the circumstances of the event maintained by any state or local law-enforcement agency or medical examiner and information or records maintained on such person by any school, social services agency, or court. Information, records, or reports maintained by any attorney for the Commonwealth shall be made available for inspection and copying by the Chief Medical Examiner pursuant to procedures that shall be developed by the Chief Medical Examiner and the Commonwealth's Attorneys' Services Council established by § 2.2-2617. In addition, a health care provider shall provide the Team, upon request, with access to the health and mental health records of (i) the person whose overdose death is subject to review, without authorization; (ii) any relative of the deceased, with authorization of such person; and (iii) any minor child of the deceased, with the authorization of the minor's parent or guardian.

D. The Office of the Chief Medical Examiner may inspect and copy from any Virginia health care provider, on behalf of the Team, without obtaining consent, the health and mental health records of the deceased and those medical records of the deceased. All information obtained or generated by the Team regarding a review shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 7 of § 2.2-3705.5. Upon the conclusion of the overdose fatality review, all information and records shall not be subject to subpoena or discovery or be admissible in any criminal or civil proceeding. If available from other sources, however, such information and records shall not be immune from subpoena, discovery, or introduction into evidence when obtained through such other sources solely because the information and records were presented to the Team during an overdose fatality review. The findings of the Team may be disclosed or published in a statistical or other form that shall not identify individuals. The portions of meetings in which individual overdose death cases are discussed by the Team shall be closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all team members, persons attending closed team meetings, and persons presenting information and records on specific overdose deaths to the Team

during closed meetings shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during any closed meeting to review a specific overdose death. Violations of this subsection are punishable as a Class 3 misdemeanor.

E. Upon notification of an overdose death, any state or local government agency that maintains records and that provided services to the deceased or maintained records on the deceased shall retain such records for the longer of 12 months or until such time as the Team has completed its review of the case.

F. The Team shall compile annual data that shall be made available to the Governor and the General Assembly when published. These statistical data compilations shall not contain any personally identifying information and shall be public records.

**§ 32.1-283.8. Local and regional overdose fatality review teams established; members; access to information.**

A. Upon the initiative of any local or regional law-enforcement agency, fire department, or emergency medical services agency, any attorney for the Commonwealth's office, or any community services board, local or regional overdose fatality review teams may be established for the purpose of conducting contemporaneous reviews of local overdose deaths in order to develop interventions and strategies for prevention specific to the locality or region. Each team shall establish rules and procedures to govern the review process. Agencies may share information but shall be bound by confidentiality and execute a sworn statement to honor the confidentiality of the information they share. The State Overdose Fatality Review Team shall provide technical assistance and direction as provided for in subsection A of § 32.1-283.7.

B. Local and regional overdose fatality review teams may be composed of the following persons from the localities represented on a particular board or their designees: a medical examiner appointed pursuant to § 32.1-282, a local social services official, a local judge, a director of injury and violence prevention advocates, a director of the relevant local or district health department, the attorney for the Commonwealth, a local emergency medical services agency chief, an executive director of the local community services board or other local mental health agency, a chief law-enforcement officer, and such additional persons as may be appointed to serve by the chair of the local or regional team. The chairperson shall be elected from among the designated membership. The chair may appoint additional members, including representatives of local human services agencies, experts in forensic medicine and pathology, local public education agencies, local funeral services providers, and the local bar.

C. Each local or regional overdose fatality review team shall establish operating procedures to govern the review process prior to conducting the first overdose fatality review. The review of an overdose death shall be delayed until any criminal investigations connected with the death are complete.

D. All information and records obtained or created regarding a review of a death shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 7 of § 2.2-3705.5. All such information and records shall be used by the team only in the exercise of its proper purpose and function and shall not be disclosed. Such information and records shall not be subject to subpoena, subpoena duces tecum, discovery, or introduction into evidence when obtained through such other sources solely because the information and records were presented to the team during the fatality review. No member of the team shall be required to make any statement as to what transpired during the review or what information was collected during the review. Upon the conclusion of the review, all information and records concerning the victim and family shall be destroyed. However, the findings of the team may be disclosed or published in a statistical or other form that does not identify any individuals. All team members and persons attending closed team meetings shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during any closed meeting to review a specific death.

E. Members of local or regional overdose fatality review teams, as well as their agents and employees and any organization, institution, or person furnishing information, data, testimony, reports, or records to local or regional overdose fatality review teams, shall be immune from civil liability for any act or omission made in connection with participation in the review of an overdose death by a local or regional overdose fatality review team.