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SENATE BILL NO. 1184

Offered January 9, 2019

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A BILL to amend and reenact §§ 2.2-3703, 2.2-3705.7, and 2.2-3711 of the Code of Virginia, relating to the Virginia Freedom of Information Act; applicability; sexual assault response teams and multidisciplinary child sexual abuse response teams.

Patron—Stuart

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3703, 2.2-3705.7, and 2.2-3711 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.

A. The provisions of this chapter shall not apply to:

1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board providing the number of inmates considered by the Board for discretionary parole, the number of inmates granted or denied parole, and the number of parolees returned to the custody of the Department of Corrections solely as a result of a determination by the Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704; (ii) all guidance documents, as defined in § 2.2-4101, shall be public records and subject to the provisions of this chapter; and (iii) all records concerning the finances of the Virginia Parole Board shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information. The information required by clause (ii) shall include all documents establishing the policy of the Board or any change in or clarification of such policy with respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process for consideration thereof, and shall be clearly and conspicuously posted on the Board's website. However, such information shall not include any portion of any document reflecting the application of any policy or policy change or clarification of such policy to an individual inmate;

2. Petit juries and grand juries;

3. Family assessment and planning teams established pursuant to § 2.2-5207;

4. *Sexual assault response teams established pursuant to § 15.2-1627.4, except that records relating to (i) protocols and policies of the sexual assault response team and (ii) guidelines for the community's response established by the sexual assault response team shall be public records and subject to the provisions of this chapter;*

5. *Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;*

6. The Virginia State Crime Commission; and

7. The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such records shall be requested in accordance with the provisions of §§ 16.1-69.54:1 and 17.1-208, as appropriate. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

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

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SB1184

59 disclosure is prohibited by law. Redaction of information excluded under this section from a public
60 record shall be conducted in accordance with § 2.2-3704.01.

61 1. State income, business, and estate tax returns, personal property tax returns, and confidential
62 records held pursuant to § 58.1-3.

63 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or
64 the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
65 Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any
66 political subdivision of the Commonwealth; or the president or other chief executive officer of any
67 public institution of higher education in the Commonwealth. However, no information that is otherwise
68 open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been
69 attached to or incorporated within any working paper or correspondence. Further, information publicly
70 available or not otherwise subject to an exclusion under this chapter or other provision of law that has
71 been aggregated, combined, or changed in format without substantive analysis or revision shall not be
72 deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of
73 any resumes or applications submitted by persons who are appointed by the Governor pursuant to
74 § 2.2-106 or 2.2-107.

75 As used in this subdivision:

76 "Members of the General Assembly" means each member of the Senate of Virginia and the House of
77 Delegates and their legislative aides when working on behalf of such member.

78 "Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of
79 policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those
80 individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

81 "Working papers" means those records prepared by or for a public official identified in this
82 subdivision for his personal or deliberative use.

83 3. Information contained in library records that can be used to identify (i) both (a) any library patron
84 who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library
85 patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent,
86 including a noncustodial parent, or guardian of such library patron.

87 4. Contract cost estimates prepared for the confidential use of the Department of Transportation in
88 awarding contracts for construction or the purchase of goods or services, and records and automated
89 systems prepared for the Department's Bid Analysis and Monitoring Program.

90 5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,
91 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by
92 the political subdivision.

93 6. Information furnished by a member of the General Assembly to a meeting of a standing
94 committee, special committee, or subcommittee of his house established solely for the purpose of
95 reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of
96 formulating advisory opinions to members on standards of conduct, or both.

97 7. Customer account information of a public utility affiliated with a political subdivision of the
98 Commonwealth, including the customer's name and service address, but excluding the amount of utility
99 service provided and the amount of money charged or paid for such utility service.

100 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development
101 Authority concerning individuals who have applied for or received loans or other housing assistance or
102 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
103 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the
104 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and
105 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the
106 waiting list for housing assistance programs funded by local governments or by any such authority; or
107 (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other
108 local government agency concerning persons who have applied for occupancy or who have occupied
109 affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's
110 own information shall not be denied.

111 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if
112 disclosure of such information would have a detrimental effect upon the negotiating position of a
113 governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

114 10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled
115 plant and animal species, natural communities, caves, and significant historic and archaeological sites if,
116 in the opinion of the public body that has the responsibility for such information, disclosure of the
117 information would jeopardize the continued existence or the integrity of the resource. This exclusion
118 shall not apply to requests from the owner of the land upon which the resource is located.

119 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a
120 proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a

specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a 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 post-retirement 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 visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to 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, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, 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) 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, the board of visitors of The College of William and Mary in 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.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery

182 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
183 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,
184 hometown, and amount won shall be disclosed.

185 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a
186 person regulated by the Board, where such person has tested negative or has not been the subject of a
187 disciplinary action by the Board for a positive test result.

188 19. Information pertaining to the planning, scheduling, and performance of examinations of holder
189 records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by
190 or for the State Treasurer or his agents or employees or persons employed to perform an audit or
191 examination of holder records.

192 20. Information held by the Virginia Department of Emergency Management or a local governing
193 body relating to citizen emergency response teams established pursuant to an ordinance of a local
194 governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or
195 operating schedule of an individual participant in the program.

196 21. Information held by state or local park and recreation departments and local and regional park
197 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
198 subdivision shall operate to prevent the disclosure of information defined as directory information under
199 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the
200 public body has undertaken the parental notification and opt-out requirements provided by such
201 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of
202 such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction
203 has restricted or denied such access. For such information of persons who are emancipated, the right of
204 access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of
205 the information may waive, in writing, the protections afforded by this subdivision. If the protections are
206 so waived, the public body shall open such information for inspection and copying.

207 22. Information submitted for inclusion in the Statewide Alert Network administered by the
208 Department of Emergency Management that reveal names, physical addresses, email addresses, computer
209 or internet protocol information, telephone numbers, pager numbers, other wireless or portable
210 communications device information, or operating schedules of individuals or agencies, where the release
211 of such information would compromise the security of the Statewide Alert Network or individuals
212 participating in the Statewide Alert Network.

213 23. Information held by the Judicial Inquiry and Review Commission made confidential by
214 § 17.1-913.

215 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local
216 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement
217 system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

218 a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings
219 Plan on the pursuit of particular investment strategies, or the selection or termination of investment
220 managers, prior to the execution of such investment strategies or the selection or termination of such
221 managers, if disclosure of such information would have an adverse impact on the financial interest of
222 the retirement system or the Virginia College Savings Plan; and

223 b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a
224 private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records
225 would have an adverse impact on the financial interest of the retirement system or the Virginia College
226 Savings Plan.

227 For the records specified in subdivision b to be excluded from the provisions of this chapter, the
228 entity shall make a written request to the retirement system or the Virginia College Savings Plan:

229 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which
230 protection from disclosure is sought;

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

232 (3) Stating the reasons why protection is necessary.

233 The retirement system or the Virginia College Savings Plan shall determine whether the requested
234 exclusion from disclosure meets the requirements set forth in subdivision b.

235 Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of
236 any investment held or the present value and performance of all asset classes and subclasses.

237 25. Information held by the Department of Corrections made confidential by § 53.1-233.

238 26. Information maintained by the Department of the Treasury or participants in the Local
239 Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the
240 Department to establish accounts in accordance with § 2.2-4602.

241 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident
242 Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers,
243 except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) ~~individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5.~~ The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

§ 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

305 locating or expanding its facilities in the community.

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

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

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

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

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

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

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

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

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

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

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

353 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
354 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
355 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
356 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
357 and subdivision 11 of § 2.2-3705.7.

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

363 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
364 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
365 or emergency service officials concerning actions taken to respond to such matters or a related threat to
366 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, 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, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

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 former Wireless Carrier E-911 Cost Recovery Subcommittee

created pursuant to former § 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 B 1 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 A 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, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

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

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

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

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of

information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

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

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

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

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

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

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

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

~~50.~~ Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

~~51- 50.~~ Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

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

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

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same 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.