

20105636D

HOUSE BILL NO. 1589

Offered January 15, 2020

A *BILL to amend and reenact §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308.016, 18.2-334.3, 18.2-340.22, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-3, 58.1-302, 58.1-322.02, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4012, 58.1-4020.1, 58.1-4025, 58.1-4027, and 59.1-148.3 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4056; and to repeal § 58.1-4007.2 of the Code of Virginia, relating to the Virginia Lottery Board; repeal prohibition against sale of lottery tickets over the Internet; regulation of the manufacturing, distributing, hosting, and playing of electronic gaming devices; penalties.*

Patrons—Bagby and Sickles

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308.016, 18.2-334.3, 18.2-340.22, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-3, 58.1-302, 58.1-322.02, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4012, 58.1-4020.1, 58.1-4025, 58.1-4027, and 59.1-148.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4056, as follows:

§ 2.2-419. Definitions.

As used in this article, unless the context requires a different meaning:

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 4. A stock, bond, note, or other investment interest in an entity;
 5. A receipt given for the payment of money or other property;
 6. A right in action;
 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 8. A loan or forgiveness of indebtedness;
 9. A work of art, antique, or collectible;
 10. An automobile or other means of personal transportation;
 11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
 12. An honorarium or compensation for services;
 13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
 14. A promise or offer of employment; or
 15. Any other thing of value that is pecuniary or compensatory in value to a person.
- "Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.
- "Compensation" means:
1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or
 2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of

INTRODUCED

HB1589

59 indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of
60 value, for services rendered or to be rendered.

61 "Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the
62 amount actually expended for the expenses and it is substantiated by an itemization of expenses.

63 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in
64 § 30-355.

65 "Executive action" means the proposal, drafting, development, consideration, amendment, adoption,
66 approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or
67 official of legislation or executive orders issued by the Governor. "Executive action" includes
68 procurement transactions.

69 "Executive agency" means an agency, board, commission, or other body in the executive branch of
70 state government. "Executive agency" includes the State Corporation Commission, the Virginia Workers'
71 Compensation Commission, and the Virginia Lottery and Gaming Department.

72 "Executive official" means:

73 1. The Governor;
74 2. The Lieutenant Governor;
75 3. The Attorney General;
76 4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General
77 other than a clerical or secretarial employee;

78 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each
79 executive agency; or

80 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,
81 however selected.

82 "Expenditure" means:

83 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
84 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything
85 of value for any purpose;

86 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person
87 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
88 persons;

89 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct
90 payment of expenses incurred at the request or suggestion of the lobbyist;

91 4. A payment that directly benefits an executive or legislative official or a member of the official's
92 immediate family;

93 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses
94 of an employee for or in connection with direct communication with an executive or legislative official;

95 6. A payment for or in connection with soliciting or urging other persons to enter into direct
96 communication with an executive or legislative official; or

97 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
98 this chapter.

99 "Expenditure" does not mean a campaign contribution properly received and reported pursuant to
100 Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

101 "Fair market value" means the price that a good or service would bring between a willing seller and
102 a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the
103 actual price paid for the good or service shall be given consideration.

104 "Gift" means anything of value, including any gratuity, favor, discount, entertainment, hospitality,
105 loan, forbearance, or other item having monetary value, and includes services as well as gifts of
106 transportation, local travel, lodgings, and meals, whether provided in-kind or by purchase of a ticket,
107 payment in advance, or reimbursement after the expense has been incurred.

108 "Gift" does not mean:

109 1. Printed informational or promotional material;

110 2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or
111 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
112 tax purposes;

113 3. A devise or inheritance;

114 4. A gift of a value of less than \$20;

115 5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or
116 pass is used;

117 6. Any food or beverages provided to an individual at an event at which the individual is performing
118 official duties related to his public service;

119 7. Any food and beverages received at or registration or attendance fees waived for any event at
120 which the individual is a featured speaker, presenter, or lecturer;

8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service;

9. Any gift to an individual's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law;

10. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman;

11. Travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or

12. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered.

"Immediate family" means (i) the spouse and (ii) any other person who resides in the same household as the executive or legislative official and who is a dependent of the official.

"Legislative action" means:

1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the General Assembly or a legislative official;

2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by the General Assembly; or

3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.

"Legislative official" means:

1. A member or member-elect of the General Assembly;

2. A member of a committee, subcommittee, commission, or other entity established by and responsible to the General Assembly or either house of the General Assembly; or

3. Persons employed by the General Assembly or an entity established by and responsible to the General Assembly.

"Lobbying" means:

1. Influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official; or

2. Solicitation of others to influence an executive or legislative official.

"Lobbying" does not mean:

1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

2. Any school division;

182 3. Any organization or entity that exercises governmental powers that is established pursuant to an
183 interstate compact; or

184 4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of
185 this definition.

186 "Local government employee" means a public employee of a local government.

187 "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company,
188 syndicate, business trust, estate, company, corporation, association, club, committee, organization, or
189 group of persons acting in concert.

190 "Procurement transaction" means all functions that pertain to obtaining all goods, services, or
191 construction on behalf of an executive agency, including description of requirements, selection and
192 solicitation of sources, preparation and award of contract, and all phases of contract administration
193 where the stated or expected value of the contract is \$5 million or more.

194 "Secretary" means the Secretary of the Commonwealth.

195 "Value" means the actual cost or fair market value of an item or items, whichever is greater. If the
196 fair market value cannot be determined, the actual amount paid for the item or items shall be given
197 consideration.

198 "Widely attended event" means an event at which at least 25 persons have been invited to attend or
199 there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
200 individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
201 from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

202 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

203 The provisions of this chapter shall not apply to:

204 1. Officers and employees for whom the Constitution specifically directs the manner of selection;

205 2. Officers and employees of the Supreme Court and the Court of Appeals;

206 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
207 house thereof is required or not;

208 4. Officers elected by popular vote or by the General Assembly or either house thereof;

209 5. Members of boards and commissions however selected;

210 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
211 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
212 notaries public;

213 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
214 special inquiries, investigations, or examinations on its behalf;

215 8. The presidents and teaching and research staffs of state educational institutions;

216 9. Commissioned officers and enlisted personnel of the National Guard;

217 10. Student employees at institutions of higher education and patient or inmate help in other state
218 institutions;

219 11. Upon general or special authorization of the Governor, laborers, temporary employees, and
220 employees compensated on an hourly or daily basis;

221 12. County, city, town, and district officers, deputies, assistants, and employees;

222 13. The employees of the Virginia Workers' Compensation Commission;

223 14. The officers and employees of the Virginia Retirement System;

224 15. Employees whose positions are identified by the State Council of Higher Education and the
225 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the
226 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of
227 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The
228 Library of Virginia, and approved by the Director of the Department of Human Resource Management
229 as requiring specialized and professional training;

230 16. Employees of the Virginia Lottery and Gaming Department;

231 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
232 and service industries who have a human resources classification of industry worker;

233 18. Employees of the Virginia Commonwealth University Health System Authority;

234 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for
235 such employees shall be subject to the review and approval of the Board of Visitors of the University of
236 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
237 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
238 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

239 20. In executive branch agencies the employee who has accepted serving in the capacity of chief
240 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
241 assistant for policy or administration. An employee serving in either one of these two positions shall be
242 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve
243 in this exempt capacity;

21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

22. Officers and employees of the Virginia Port Authority;

23. Employees of the Virginia College Savings Plan;

24. Directors of state facilities operated by the Department of Behavioral Health and Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;

26. Employees of the Virginia Indigent Defense Commission;

27. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23.1-809; and

28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority.

§ 2.2-3114. Disclosure by state officers and employees.

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery and Gaming Oversight Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery and Gaming Oversight Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public

305 interest. The officer or employee shall either make his declaration orally to be recorded in written
306 minutes for his agency or file a signed written declaration with the clerk or administrative head of his
307 governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for
308 public inspection such declaration for a period of five years from the date of recording or receipt. If
309 reasonable time is not available to comply with the provisions of this subsection prior to participation in
310 the transaction, the officer or employee shall prepare and file the required declaration by the end of the
311 next business day.

312 G. An officer or employee of state government who is required to declare his interest pursuant to
313 subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a
314 party to the transaction is a client of his firm, (iii) that he does not personally represent or provide
315 services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in
316 the public interest. The officer or employee shall either make his declaration orally to be recorded in
317 written minutes for his agency or file a signed written declaration with the clerk or administrative head
318 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make
319 available for public inspection such declaration for a period of five years from the date of recording or
320 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to
321 participation in the transaction, the officer or employee shall prepare and file the required declaration by
322 the end of the next business day.

323 H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher
324 education in the Commonwealth shall not be required to file the disclosure form prescribed by the
325 Council pursuant to § 2.2-3117 or 2.2-3118.

326 **§ 2.2-3202. Eligibility for transitional severance benefit.**

327 A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia
328 Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act
329 pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16
330 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the
331 Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System,
332 (vi) who is employed by the Virginia Lottery and Gaming Department, (vii) who is employed by the
333 Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is
334 employed at a state educational institution as faculty (including, but not limited to, presidents and
335 teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions
336 in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia
337 Personnel Act pursuant to subdivision 3, 20, 23, or 28 of § 2.2-2905; and (a) for whom reemployment
338 with the Commonwealth is not possible because there is no available position for which the employee is
339 qualified or the position offered to the employee requires relocation or a reduction in salary and (b)
340 whose involuntary separation was due to causes other than job performance or misconduct, shall be
341 eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter.
342 The date of involuntary separation shall mean the date an employee was terminated from employment or
343 placed on leave without pay-layoff or equivalent status.

344 B. An otherwise eligible employee whose position is contingent upon project grants as defined in the
345 Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit
346 conferred by this chapter unless the funding source had agreed to assume all financial responsibility
347 therefor in its written contract with the Commonwealth.

348 C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular
349 vote shall not be eligible for the transitional severance benefit conferred by this chapter.

350 D. Eligibility shall commence on the date of involuntary separation.

351 E. Persons authorized by § 2.2-106 or 51.1-124.22 to appoint a chief administrative officer or the
352 administrative head of an agency shall adhere to the same criteria for eligibility for transitional
353 severance benefits as is required for gubernatorial appointees pursuant to subsection A.

354 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
355 **investigations.**

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

360 1. Information relating to investigations of applicants for licenses and permits, and of all licensees
361 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia
362 Lottery and Gaming Department, the Virginia Racing Commission, the Department of Agriculture and
363 Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et
364 seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal
365 Justice Services.

366 2. Records of active investigations being conducted by the Department of Health Professions or by

any health regulatory board in the Commonwealth pursuant to § 54.1-108.

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

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

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

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

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

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

9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

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

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application,

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

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

§ 2.2-3705.7. 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 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. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

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

As used in this subdivision:

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

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

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

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

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

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

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of

reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

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

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

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

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

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery and Gaming Department 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

551 nature produced or collected by or for the Authority or members of its medical or teaching staffs;
552 financial statements not publicly available that may be filed with the Authority from third parties; the
553 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid
554 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
555 determination of marketing and operational strategies where disclosure of such strategies would be
556 harmful to the competitive position of the Authority; and information of a proprietary nature produced
557 or collected by or for employees of the Authority, other than the Authority's financial or administrative
558 records, in the conduct of or as a result of study or research on medical, scientific, technical, or
559 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body
560 or a private concern, when such information has not been publicly released, published, copyrighted, or
561 patented. This exclusion shall also apply when such information is in the possession of Virginia
562 Commonwealth University.

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

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

576 17. Information held by the Virginia Lottery and Gaming Department pertaining to (i) the social
577 security number, tax identification number, state sales tax number, home address and telephone number,
578 personal and lottery banking account and transit numbers of a retailer, and financial information
579 regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except
580 that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by
581 the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the
582 winner consents in writing to such disclosure.

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

586 19. Information pertaining to the planning, scheduling, and performance of examinations of holder
587 records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared
588 by or for the State Treasurer or his agents or employees or persons employed to perform an audit or
589 examination of holder records.

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

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

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

611 23. Information held by the Judicial Inquiry and Review Commission made confidential by
612 § 17.1-913.

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

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

b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

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

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

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, 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 response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605. 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.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

§ 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, the Fort Monroe Authority, 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 *and Gaming Oversight* 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 *and Gaming Department* 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

797 which individual adult death cases are discussed by the state Adult Fatality Review Team established
798 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
799 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
800 meetings in which individual death cases are discussed by overdose fatality review teams established
801 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are
802 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

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

814 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
815 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
816 disposition by the Authority of real property, equipment, or technology software or hardware and related
817 goods or services, where disclosure would adversely affect the bargaining position or negotiating
818 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
819 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
820 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
821 affect the competitive position of the Authority; and members of the Authority's medical and teaching
822 staffs and qualifications for appointments thereto.

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

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

831 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
832 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §
833 56-484.12, related to the provision of wireless E-911 service.

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

840 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
841 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
842 defined in § 33.2-1800, or any independent review panel appointed to review information and advise
843 the responsible public entity concerning such records.

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

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

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

855 32. Discussion or consideration of confidential proprietary information and trade secrets developed
856 and held by a local public body providing certain telecommunication services or cable television services
857 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
858 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 § 24.2-410.2 or 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 response

920 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
921 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
922 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
923 §§ 15.2-1627.5 and 63.2-1605.

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

928 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
929 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
930 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
931 § 60.2-114.

932 52. *Deliberations of the Virginia Lottery and Gaming Oversight Board in an appeal conducted*
933 *pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a*
934 *license related to electronic gaming devices and any discussion, consideration, or review of matters*
935 *related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.*

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

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

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

946 E. This section shall not be construed to (i) require the disclosure of any contract between the
947 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
948 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
949 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
950 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
951 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
952 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
953 of such bonds.

954 **§ 2.2-4002. Exemptions from chapter generally.**

955 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.),
956 the following agencies shall be exempted from the provisions of this chapter, except to the extent that
957 they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

958 1. The General Assembly.

959 2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly
960 granted any of the powers of a court of record.

961 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the
962 management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2
963 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§
964 29.1-700 et seq.) of Title 29.1.

965 4. The Virginia Housing Development Authority.

966 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created
967 under this Code, including those with federal authorities.

968 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031,
969 such educational institutions shall be exempt from the publication requirements only with respect to
970 regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining
971 of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of
972 students.

973 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii)
974 classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for
975 producers' milk, time and method of payment, butterfat testing and differential.

976 8. The Virginia Resources Authority.

977 9. Agencies expressly exempted by any other provision of this Code.

978 10. The Department of General Services in promulgating standards for the inspection of buildings for
979 asbestos pursuant to § 2.2-1164.

980 11. The State Council of Higher Education for Virginia, in developing, issuing, and revising
981 guidelines pursuant to § 23.1-207.

12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection A of § 3.2-5406.

14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to § 2.2-2001.3.

16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-203.2.

17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.

18. The Virginia Small Business Financing Authority.

19. The Virginia Economic Development Partnership Authority.

20. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.

21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.

23. The Commissioner of the Marine Resources Commission in setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-1000.2.

24. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.

26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.

2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

3. The location, design, specifications or construction of public buildings or other facilities.

4. Grants of state or federal funds or property.

5. The chartering of corporations.

6. Customary military, militia, naval or police functions.

7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.

8. The conduct of elections or eligibility to vote.

9. Inmates of prisons or other such facilities or parolees therefrom.

10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

11. Traffic signs, markers or control devices.

12. Instructions for application or renewal of a license, certificate, or registration required by law.

13. Content of, or rules for the conduct of, any examination required by law.

14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery and Gaming Oversight Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5, and any operating procedures for review of

adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

24. Any rules adopted by the Charitable Gaming Board for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.

§ 8.01-195.11. Compensation for wrongful incarceration.

A. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony may be awarded compensation in an amount equal to 90 percent of the inflation adjusted Virginia per capita personal income as reported by the Bureau of Economic Analysis of the U.S. Department of Commerce for each year of incarceration, or portion thereof.

B. Any compensation computed pursuant to subsection A and approved by the General Assembly shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid an initial lump sum equal to 20 percent of the compensation award with the remaining 80 percent of the principal of the compensation award to be used by the State Treasurer to purchase an annuity from any A+ rated company, including any A+ rated company from which the Virginia Lottery and Gaming Department may purchase an annuity, to provide equal monthly payments to such person for a period certain of 25 years commencing no later than one year after the effective date of the appropriation. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages by the person awarded compensation. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of the person awarded compensation. All payments or costs of annuities under this section shall be made by check issued by the State Treasurer on warrant of the Comptroller.

C. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to subsection B, within 30 days of receipt of the written request for the disbursement of the transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Payment of the transition assistance grant from the Criminal Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Secretary of the Supreme Court of Virginia. In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career and technical training within the Virginia Community College System contingent upon successful completion of the training. Reimbursement for tuition shall be provided by the comprehensive community college at which the career or technical training was completed.

§ 9.1-101. Definitions.

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

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

"Board" means the Criminal Justice Services Board.

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

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

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

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

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

"Criminal justice agency" includes the Department of Criminal Justice Services.

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

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

"Department" means the Department of Criminal Justice Services.

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

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a sworn member of the security division of the Virginia Lottery and Gaming Department; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the

1166 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
1167 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
1168 of understanding with the private police department that addresses the duties and responsibilities of the
1169 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
1170 Private police departments and private police officers shall be subject to and comply with the
1171 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
1172 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
1173 and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable
1174 to private police departments. Any person employed as a private police officer pursuant to this section
1175 shall meet all requirements, including the minimum compulsory training requirements, for
1176 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits
1177 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
1178 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
1179 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
1180 employee of the Commonwealth or any locality. An authorized private police department may use the
1181 word "police" to describe its sworn officers and may join a regional criminal justice academy created
1182 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
1183 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
1184 whose status as a private police department was recognized by the Department at that time is hereby
1185 validated and may continue to operate as a private police department as may such entity's successor in
1186 interest, provided it complies with the requirements set forth herein.

1187 "School resource officer" means a certified law-enforcement officer hired by the local
1188 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
1189 and secondary schools.

1190 "School security officer" means an individual who is employed by the local school board or a private
1191 or religious school for the singular purpose of maintaining order and discipline, preventing crime,
1192 investigating violations of the policies of the school board or the private or religious school, and
1193 detaining students violating the law or the policies of the school board or the private or religious school
1194 on school property, school buses, or at school-sponsored events and who is responsible solely for
1195 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
1196 school.

1197 "Unapplied criminal history record information" means information pertaining to criminal offenses
1198 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
1199 record of an arrested or convicted person (i) because such information is not supported by fingerprints
1200 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission
1201 within the content of the submitted information.

1202 **§ 9.1-801. Public safety officer defined.**

1203 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
1204 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a
1205 correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail
1206 officer; a regional jail or jail farm superintendent; a member of any fire company or department or
1207 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or
1208 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part
1209 of the official safety program of such county, city, or town; an arson investigator; a member of the
1210 Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia
1211 National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the
1212 United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any police
1213 agent appointed under the provisions of § 56-353; any regular or special conservation police officer who
1214 receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to
1215 § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or
1216 employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to
1217 § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter
1218 regional hazardous materials emergency response team member; any investigator who is a full-time
1219 sworn member of the security division of the Virginia Lottery and Gaming Department; any full-time
1220 sworn member of the enforcement division of the Department of Motor Vehicles meeting the
1221 Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any
1222 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
1223 Title 23.1; and any conservation officer of the Department of Conservation and Recreation
1224 commissioned pursuant to § 10.1-115.

1225 **§ 11-16.1. Exemption; play of authorized electronic gaming devices.**

1226 *This chapter shall not apply to the play of electronic gaming devices or related activity that is lawful*
1227 *under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1 or to any contract, conduct, or*

transaction arising from conduct lawful thereunder.

§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, any conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery and Gaming Department, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the

federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

§ 18.2-334.3. Exemptions to article; state lottery.

Nothing in this article shall apply to any:

1. Any lottery conducted by the Commonwealth of Virginia pursuant to Article 1 (§ 58.1-4000 et seq.) of Chapter 40 of Title 58.1; or

2. The play of any electronic gaming devices or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1.

§ 18.2-340.22. Only raffles, bingo, network bingo, and instant bingo games permitted; prizes not gaming contracts.

A. This article permits qualified organizations to conduct raffles, bingo, network bingo, and instant bingo games. All games not explicitly authorized by this article or Board regulations adopted in accordance with § 18.2-340.18 are prohibited.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.

C. Nothing in this article shall prohibit an organization from using the Virginia Lottery's Lottery and Gaming Department's Pick-3 number or any number or other designation selected by the Virginia Lottery in connection with any lottery, as the basis for determining the winner of a raffle.

§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such

conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery and Gaming Department for the conduct of investigations as set forth in the

1412 Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.) and electronic gaming devices as set forth in
1413 Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, and the Department of Agriculture and
1414 Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.)
1415 of Chapter 8 of Title 18.2;

1416 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
1417 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
1418 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject
1419 to the limitations set out in subsection E;

1420 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
1421 investigations of applicants for compensated employment in licensed assisted living facilities and
1422 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

1423 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
1424 in § 4.1-103.1;

1425 18. The State Board of Elections and authorized officers and employees thereof and general registrars
1426 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
1427 voter registration, limited to any record of felony convictions;

1428 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
1429 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
1430 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

1431 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
1432 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
1433 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

1434 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
1435 Department of Education, or the Department of Behavioral Health and Developmental Services for the
1436 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1437 services;

1438 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1439 Department for the purpose of determining an individual's fitness for employment pursuant to
1440 departmental instructions;

1441 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
1442 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
1443 records information on behalf of such governing boards or administrators pursuant to a written
1444 agreement with the Department of State Police;

1445 24. Public institutions of higher education and nonprofit private institutions of higher education for
1446 the purpose of screening individuals who are offered or accept employment;

1447 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
1448 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
1449 higher education, for the purpose of assessing or intervening with an individual whose behavior may
1450 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
1451 history record information obtained pursuant to this section or otherwise use any record of an individual
1452 beyond the purpose that such disclosure was made to the threat assessment team;

1453 26. Executive directors of community services boards or the personnel director serving the
1454 community services board for the purpose of determining an individual's fitness for employment,
1455 approval as a sponsored residential service provider, or permission to enter into a shared living
1456 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
1457 §§ 37.2-506 and 37.2-607;

1458 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1459 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1460 or permission to enter into a shared living arrangement with a person receiving medical assistance
1461 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

1462 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1463 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1464 name, address, demographics and social security number of the data subject shall be released;

1465 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1466 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1467 purpose of determining if any applicant who accepts employment in any direct care position or requests
1468 approval as a sponsored residential service provider or permission to enter into a shared living
1469 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1470 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1471 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1472 37.2-607;

1473 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants

for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

45. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the

making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the

security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery and Gaming Department for the conduct of investigations as set forth in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.) and electronic gaming devices as set forth in Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject

1658 to the limitations set out in subsection E;

1659 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
1660 investigations of applicants for compensated employment in licensed assisted living facilities and
1661 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

1662 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
1663 in § 4.1-103.1;

1664 18. The State Board of Elections and authorized officers and employees thereof and general registrars
1665 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
1666 voter registration, limited to any record of felony convictions;

1667 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
1668 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
1669 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

1670 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
1671 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
1672 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

1673 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
1674 Department of Education, or the Department of Behavioral Health and Developmental Services for the
1675 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1676 services;

1677 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1678 Department for the purpose of determining an individual's fitness for employment pursuant to
1679 departmental instructions;

1680 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
1681 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
1682 records information on behalf of such governing boards or administrators pursuant to a written
1683 agreement with the Department of State Police;

1684 24. Public institutions of higher education and nonprofit private institutions of higher education for
1685 the purpose of screening individuals who are offered or accept employment;

1686 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
1687 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
1688 higher education, for the purpose of assessing or intervening with an individual whose behavior may
1689 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
1690 history record information obtained pursuant to this section or otherwise use any record of an individual
1691 beyond the purpose that such disclosure was made to the threat assessment team;

1692 26. Executive directors of community services boards or the personnel director serving the
1693 community services board for the purpose of determining an individual's fitness for employment,
1694 approval as a sponsored residential service provider, or permission to enter into a shared living
1695 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
1696 §§ 37.2-506 and 37.2-607;

1697 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1698 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1699 or permission to enter into a shared living arrangement with a person receiving medical assistance
1700 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

1701 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1702 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1703 name, address, demographics and social security number of the data subject shall be released;

1704 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1705 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1706 purpose of determining if any applicant who accepts employment in any direct care position or requests
1707 approval as a sponsored residential service provider or permission to enter into a shared living
1708 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1709 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1710 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1711 37.2-607;

1712 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1713 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1714 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

1715 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
1716 for the purpose of determining if any person being considered for election to any judgeship has been
1717 convicted of a crime;

1718 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1719 determining an individual's fitness for employment in positions designated as sensitive under Department

of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

1781 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
1782 history record information for employment or licensing inquiries except as provided by law.

1783 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
1784 Exchange prior to dissemination of any criminal history record information on offenses required to be
1785 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
1786 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
1787 where time is of the essence and the normal response time of the Exchange would exceed the necessary
1788 time period. A criminal justice agency to whom a request has been made for the dissemination of
1789 criminal history record information that is required to be reported to the Central Criminal Records
1790 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
1791 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
1792 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

1793 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
1794 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
1795 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

1796 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
1797 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
1798 for any offense specified in § 63.2-1720.

1799 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
1800 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
1801 definition of barrier crime in § 19.2-392.02.

1802 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
1803 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
1804 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
1805 the request to the employer or prospective employer making the request, provided that the person on
1806 whom the data is being obtained has consented in writing to the making of such request and has
1807 presented a photo-identification to the employer or prospective employer. In the event no conviction data
1808 is maintained on the person named in the request, the requesting employer or prospective employer shall
1809 be furnished at his cost a certification to that effect. The criminal history record search shall be
1810 conducted on forms provided by the Exchange.

1811 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
1812 information pursuant to the rules of court for obtaining discovery or for review by the court.

1813 **§ 37.2-304. Duties of Commissioner.**

1814 The Commissioner shall be the chief executive officer of the Department and shall have the
1815 following duties and powers:

1816 1. To supervise and manage the Department and its state facilities.

1817 2. To employ the personnel required to carry out the purposes of this title.

1818 3. To make and enter into all contracts and agreements necessary or incidental to the performance of
1819 the Department's duties and the execution of its powers under this title, including contracts with the
1820 United States, other states, and agencies and governmental subdivisions of the Commonwealth,
1821 consistent with policies and regulations of the Board and applicable federal and state statutes and
1822 regulations.

1823 4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the
1824 United States government, agencies and instrumentalities thereof, and any other source, subject to the
1825 approval of the Governor. To these ends, the Commissioner shall have the power to comply with
1826 conditions and execute agreements that may be necessary, convenient, or desirable, consistent with
1827 policies and regulations of the Board.

1828 5. To accept, execute, and administer any trust in which the Department may have an interest, under
1829 the terms of the instruments creating the trust, subject to the approval of the Governor.

1830 6. To transfer between state hospitals and training centers school-age individuals who have been
1831 identified as appropriate to be placed in public school programs and to negotiate with other school
1832 divisions for placements in order to ameliorate the impact on those school divisions located in a
1833 jurisdiction in which a state hospital or training center is located.

1834 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,
1835 established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical
1836 incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities
1837 and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to
1838 § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the
1839 Department within 15 working days of the critical incident, serious injury, or death.

1840 8. To work with the appropriate state and federal entities to ensure that any individual who has
1841 received services in a state facility for more than one year has possession of or receives prior to
1842 discharge any of the following documents, when they are needed to obtain the services contained in his

discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.

12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finances Committees that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

13. *To administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.*

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the Commissioner shall devote his entire time to his duties.

§ 37.2-314.1. Problem Gambling Treatment and Support Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to subsection A of § 58.1-4049 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing problem gambling treatment and prevention programs, and (iii) providing grants to supporting organizations that provide assistance to compulsive gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any

1904 information required for building permits;

1905 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court
1906 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent
1907 or by the commissioner of accounts making a settlement of accounts filed in such estate;

1908 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when
1909 requested by the General Assembly or any duly constituted committee of the General Assembly;

1910 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the
1911 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the
1912 Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow
1913 fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the
1914 Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two
1915 calendar years or in any year in which the Attorney General receives Stamping Agent information that
1916 potentially alters the required escrow deposit of the manufacturer. The information shall only be
1917 provided in the following manner: the manufacturer may make a written request, on a quarterly or
1918 yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the
1919 amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who
1920 reported stamping or selling its products and the amount reported. The Attorney General shall provide
1921 the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the
1922 reports the Stamping Agents filed with the Attorney General, it must first request them from the
1923 Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the
1924 reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the
1925 Attorney General, including a copy of the prior written request to the Stamping Agent and any response
1926 received, for copies of any reports not received. The Attorney General shall provide copies of the
1927 reports within 45 days of receipt of the request.

1928 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so
1929 classified as to prevent the identification of particular reports or returns and the items thereof or the
1930 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together
1931 with any relevant information which in the opinion of the Department may assist in the collection of
1932 such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department,
1933 upon request by the General Assembly or any duly constituted committee of the General Assembly,
1934 shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers,
1935 regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This
1936 section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or
1937 corporation is licensed to do business in that locality and divulging, upon written request, the name and
1938 address of any person, firm or corporation transacting business under a fictitious name. Additionally,
1939 notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon
1940 written request stating the reason for such request, the Tax Commissioner with information obtained
1941 from local tax returns and other information pertaining to the income, sales and property of any person,
1942 firm or corporation licensed to do business in that locality.

1943 2. This section shall not prohibit the Department from disclosing whether a person, firm, or
1944 corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or
1945 whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding
1946 any other provision of law, the Department is hereby authorized to make available the names and
1947 certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

1948 3. This section shall not prohibit the Department from disclosing information to nongovernmental
1949 entities with which the Department has entered into a contract to provide services that assist it in the
1950 administration of refund processing or other services related to its administration of taxes.

1951 4. This section shall not prohibit the Department from disclosing information to taxpayers regarding
1952 whether the taxpayer's employer or another person or entity required to withhold on behalf of such
1953 taxpayer submitted withholding records to the Department for a specific taxable year as required
1954 pursuant to subdivision C 1 of § 58.1-478.

1955 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or
1956 other similar local official who collects or administers taxes for a county, city, or town from disclosing
1957 information to nongovernmental entities with which the locality has entered into a contract to provide
1958 services that assist it in the administration of refund processing or other non-audit services related to its
1959 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar
1960 local official who collects or administers taxes for a county, city, or town shall not disclose information
1961 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality
1962 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that
1963 such entity agrees to abide by such obligations.

1964 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
1965 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director

1966 of finance, or other similar collector of county, city, or town taxes who, for the performance of his
 1967 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
 1968 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount
 1969 of income, filing status, number and type of dependents, and Forms W-2 and 1099 to facilitate the
 1970 administration of public assistance or social services benefits as defined in § 63.2-100 or child support
 1971 services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2; (iii) provide to the chief executive
 1972 officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request,
 1973 the names and home addresses of those persons identified by the designated guarantor as having
 1974 delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon
 1975 request to state agencies and institutions for their confidential use in facilitating the collection of
 1976 accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating
 1977 the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the
 1978 Commissioner of the Virginia Employment Commission, after entering into a written agreement, such
 1979 tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid
 1980 benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written
 1981 agreement, such tax information as may be necessary to facilitate the collection of state and local taxes
 1982 and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the
 1983 Virginia Lottery and Gaming Department such tax information as may be necessary to identify those
 1984 lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its
 1985 confidential use such tax information as may be necessary to facilitate the location of owners and
 1986 holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation
 1987 Commission, upon entering into a written agreement, such tax information as may be necessary to
 1988 facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive
 1989 Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax
 1990 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi)
 1991 provide to the Commissioner of the Department of Agriculture and Consumer Services such tax
 1992 information as may be necessary to identify those applicants for registration as a supplier of charitable
 1993 gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the
 1994 Department of Housing and Community Development for its confidential use such tax information as
 1995 may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise
 1996 Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide
 1997 current name and address information to private collectors entering into a written agreement with the
 1998 Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its
 1999 political subdivisions; however, the Tax Commissioner is not authorized to provide such information to
 2000 a private collector who has used or disseminated in an unauthorized or prohibited manner any such
 2001 information previously provided to such collector; (xiv) provide current name and address information as
 2002 to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any
 2003 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for
 2004 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or
 2005 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering
 2006 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid
 2007 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource
 2008 Management, upon entering into a written agreement, such tax information as may be necessary to
 2009 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings
 2010 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any
 2011 other officer of any county, city, or town performing any or all of the duties of a commissioner of the
 2012 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list
 2013 of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii)
 2014 provide to the Executive Director of the Northern Virginia Transportation Commission for his
 2015 confidential use such tax information as may be necessary to facilitate the collection of the motor
 2016 vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the
 2017 name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as
 2018 subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx)
 2019 provide to the developer or the economic development authority of a tourism project authorized by
 2020 § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap
 2021 financing; and (xxi) provide to the Virginia Retirement System and the Department of Human Resource
 2022 Management, after entering into a written agreement, such tax information as may be necessary to
 2023 facilitate the enforcement of subdivision C 4 of § 9.1-401. The Tax Commissioner is further authorized
 2024 to enter into written agreements with duly constituted tax officials of other states and of the United
 2025 States for the inspection of tax returns, the making of audits, and the exchange of information relating to
 2026 any tax administered by the Department of Taxation. Any person to whom tax information is divulged

2027 pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he
2028 were a tax official.

2029 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
2030 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
2031 stating the reason for such request, the chief executive officer of any county or city with information
2032 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
2033 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
2034 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
2035 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
2036 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
2037 profession or occupation administered by the Department of Professional and Occupational Regulation,
2038 only after the Department of Professional and Occupational Regulation exhausts all other means of
2039 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
2040 association, property owners' association or real estate cooperative association, or to the owner of
2041 property governed by any such association, the names and addresses of parties having a security interest
2042 in real property governed by any such association; however, such information shall be released only
2043 upon written request stating the reason for such request, which reason shall be limited to proposing or
2044 opposing changes to the governing documents of the association, and any information received by any
2045 person under this subsection shall be used only for the reason stated in the written request. The treasurer
2046 or other local assessing official may require any person requesting information pursuant to clause (iii) of
2047 this subsection to pay the reasonable cost of providing such information. Any person to whom tax
2048 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties
2049 prescribed herein as though he were a tax official.

2050 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
2051 treasurer or other collector of taxes for a county, city or town is authorized to provide information
2052 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course
2053 of performing his duties to the commissioner of the revenue or other assessing official for such
2054 jurisdiction for use by such commissioner or other official in performing assessments.

2055 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
2056 motor vehicle local license decal the year, make, and model and any other legal identification
2057 information about the particular motor vehicle for which that local license decal is assigned.

2058 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
2059 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
2060 written request, the name, address, and social security number of a taxpayer, necessary for the
2061 performance of the Commissioner's official duties regarding the administration and enforcement of laws
2062 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
2063 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
2064 Commissioner of the obligations under this section.

2065 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
2066 any confidential tax document which he knows or has reason to know is a confidential tax document. A
2067 confidential tax document is any correspondence, document, or tax return that is prohibited from being
2068 divulged by subsection A, B, C, or D and includes any document containing information on the
2069 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
2070 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
2071 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
2072 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

2073 **§ 58.1-302. Definitions.**

2074 For the purpose of this chapter and unless otherwise required by the context:

2075 "Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to
2076 each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or
2077 others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same
2078 interests.

2079 "Compensation" means wages, salaries, commissions and any other form of remuneration paid or
2080 accrued to employees for personal services.

2081 "Corporation" includes associations, joint stock companies and insurance companies.

2082 "Domicile" means the permanent place of residence of a taxpayer and the place to which he intends
2083 to return even though he may actually reside elsewhere. In determining domicile, consideration may be
2084 given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not
2085 limited to, financial independence, business pursuits, employment, income sources, residence for federal
2086 income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of
2087 personal and real property owned by the applicant, motor vehicle and other personal property
2088 registration, residence for purposes of voting as proven by registration to vote, if any, and such other

2089 factors as may reasonably be deemed necessary to determine the person's domicile.

2090 "Foreign source income" means:

2091 1. Interest, other than interest derived from sources within the United States;

2092 2. Dividends, other than dividends derived from sources within the United States;

2093 3. Rents, royalties, license, and technical fees from property located or services performed without
2094 the United States or from any interest in such property, including rents, royalties, or fees for the use of
2095 or the privilege of using without the United States any patents, copyrights, secret processes and
2096 formulas, good will, trademarks, trade brands, franchises, and other like properties;

2097 4. Gains, profits, or other income from the sale of intangible or real property located without the
2098 United States; and

2099 5. The amount of an individual's share of net income attributable to a foreign source qualified
2100 business unit of an electing small business corporation (S corporation). For purposes of this subsection,
2101 qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such
2102 income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

2103 In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the
2104 Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

2105 "Income and deductions from Virginia sources" includes:

2106 1. Items of income, gain, loss and deduction attributable to:

2107 a. The ownership of any interest in real or tangible personal property in Virginia;

2108 b. A business, trade, profession or occupation carried on in Virginia; or

2109 c. Prizes paid by the Virginia Lottery and Gaming Department, and gambling winnings from wagers
2110 placed or paid at a location in Virginia.

2111 2. Income from intangible personal property, including annuities, dividends, interest, royalties and
2112 gains from the disposition of intangible personal property to the extent that such income is from
2113 property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

2114 "Income tax return preparer" means any person who prepares for compensation, or who employs one
2115 or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for
2116 refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion
2117 of a return or claim for refund shall be treated as if it were the preparation of the return or claim for
2118 refund. A person shall not be an "income tax return preparer" merely because the person:

2119 1. Furnishes typing, reproducing, or other mechanical assistance;

2120 2. Prepares a return or claim for refund of the employer (or of an officer or employee of the
2121 employer) by whom he is regularly and continuously employed;

2122 3. Prepares as a fiduciary a return or claim for refund for any person; or

2123 4. Prepares an application for correction of an erroneous assessment or a protective claim for refund
2124 for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in
2125 response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the
2126 taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly
2127 affects the tax liability of such taxpayer.

2128 "Individual" means all natural persons whether married or unmarried and fiduciaries acting for
2129 natural persons, but not fiduciaries acting for trusts or estates.

2130 "Intangible expenses and costs" means:

2131 1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or
2132 indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any
2133 other disposition of intangible property to the extent such amounts are allowed as deductions or costs in
2134 determining taxable income;

2135 2. Losses related to or incurred in connection directly or indirectly with factoring transactions or
2136 discounting transactions;

2137 3. Royalty, patent, technical and copyright fees;

2138 4. Licensing fees; and

2139 5. Other similar expenses and costs.

2140 "Intangible property" means patents, patent applications, trade names, trademarks, service marks,
2141 copyrights and similar types of intangible assets.

2142 "Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163
2143 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue
2144 Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection
2145 with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease,
2146 transfer, or disposition of intangible property.

2147 "Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

2148 "Related entity" means:

2149 1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318

2150 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own,
2151 directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the
2152 taxpayer's outstanding stock;

2153 2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation,
2154 if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and
2155 corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent
2156 of the value of the taxpayer's outstanding stock; or

2157 3. A corporation, or a party related to the corporation in a manner that would require an attribution
2158 of stock from the corporation to the party or from the party to the corporation under the attribution rules
2159 of § 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially or
2160 constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution
2161 rules of § 318 of the Internal Revenue Code shall apply for purposes of determining whether the
2162 ownership requirements of this subdivision have been met.

2163 "Related member" means a person that, with respect to the taxpayer during all or any portion of the
2164 taxable year, is a related entity, a component member as defined in § 1563(b) of the Internal Revenue
2165 Code, or is a person to or from whom there is attribution of stock ownership in accordance with
2166 § 1563(e) of the Internal Revenue Code.

2167 "Resident" applies only to natural persons and includes, for the purpose of determining liability for
2168 the taxes imposed by this chapter upon the income of any taxable year every person domiciled in
2169 Virginia at any time during the taxable year and every other person who, for an aggregate of more than
2170 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in
2171 Virginia or not. The word "resident" shall not include any member of the United States Congress who is
2172 domiciled in another state.

2173 "Resident estate or trust" means:

- 2174 1. The estate of a decedent who at his death was domiciled in the Commonwealth;
2175 2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth; or
2176 3. A trust created by or consisting of property of a person domiciled in the Commonwealth

2177 "Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or
2178 other disposition of intangible property shall include only the net gain realized from the transaction.

2179 "State," for purposes of Article 10 (§ 58.1-400 et seq.), means any state of the United States, the
2180 District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United
2181 States, and any foreign country.

2182 "Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary
2183 income tax return under the laws of the United States.

2184 "Virginia fiduciary adjustment" means the net amount of the applicable modifications described in
2185 §§ 58.1-322.01, 58.1-322.02, and 58.1-322.04 (including subdivision 1 of § 58.1-322.04 if the estate or
2186 trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction
2187 of an estate or trust. The fiduciary adjustment shall not include the modification in § 58.1-322.03, except
2188 that the amount of state income taxes excluded from federal taxable income shall be included. The
2189 fiduciary adjustment shall also include the modification in subdivision 7 of § 58.1-322.03 regarding the
2190 deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.

2191 **§ 58.1-322.02. Virginia taxable income; subtractions.**

2192 In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal
2193 adjusted gross income, there shall be subtracted:

2194 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
2195 and on obligations or securities of any authority, commission, or instrumentality of the United States to
2196 the extent exempt from state income taxes under the laws of the United States, including, but not
2197 limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of
2198 federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2199 2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth
2200 or of any political subdivision or instrumentality of the Commonwealth.

2201 3. Benefits received under Title II of the Social Security Act and other benefits subject to federal
2202 income taxation solely pursuant to § 86 of the Internal Revenue Code.

2203 4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code;
2204 however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a
2205 subtraction under this subdivision.

2206 5. The amount of any refund or credit for overpayment of income taxes imposed by the
2207 Commonwealth or any other taxing jurisdiction.

2208 6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not
2209 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

2210 7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery and
2211 Gaming Department.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe

2273 under the influence or threat of Nazi invasion.

2274 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by
2275 the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or
2276 omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath,
2277 (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution,
2278 or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II
2279 and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual
2280 forced into labor against his will, under the threat of death, during World War II and its prelude and
2281 direct aftermath.

2282 20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased
2283 military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction
2284 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal
2285 gross income in accordance with § 134 of the Internal Revenue Code.

2286 21. The death benefit payments from an annuity contract that are received by a beneficiary of such
2287 contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an
2288 insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under
2289 this subdivision shall be allowed only for that portion of the death benefit payment that is included in
2290 federal adjusted gross income.

2291 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
2292 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
2293 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
2294 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

2295 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined
2296 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the
2297 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,
2298 and launched from an airport or spaceport in Virginia.

2299 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income
2300 taxed as investment services partnership interest income (otherwise known as investment partnership
2301 carried interest income) for federal income tax purposes. To qualify for a subtraction under this
2302 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in
2303 § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided
2304 that the business has its principal office or facility in the Commonwealth and less than \$3 million in
2305 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
2306 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No
2307 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
2308 shall be eligible for the subtraction under this subdivision for an investment in the same business.

2309 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
2310 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
2311 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
2312 and (ii) interest income or other income for federal income tax purposes attributable to such person's
2313 first-time home buyer savings account.

2314 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
2315 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
2316 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
2317 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
2318 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
2319 year that was used for other than the payment of eligible costs, computed by multiplying the amount
2320 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
2321 the account at the time of the withdrawal to the total balance in the account at such time.

2322 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
2323 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
2324 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
2325 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)
2326 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified
2327 beneficiary.

2328 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
2329 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

2330 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year
2331 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of
2332 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal
2333 Revenue Code.

2334 27. a. Income, including investment services partnership interest income (otherwise known as

investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

§ 58.1-460. Definitions.

For the purposes of this article:

"Employee" includes an individual, whether a resident or a nonresident of the Commonwealth, who performs or performed any service in the Commonwealth for wages, or a resident of the Commonwealth who performs or performed any service in the service outside the Commonwealth for wages. The word "employee" also includes an officer, employee, or elected official of the United States, the Commonwealth, or any other state or any territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing or an officer of a corporation. The term shall not include the beneficial owner of an individual retirement account (IRA) or simplified employee pension plan (SEPP).

"Employer" means the Commonwealth, or any political subdivision thereof, the United States, or any agency or instrumentality of any one or more of the foregoing, or the person, whether a resident or a nonresident of the Commonwealth, for whom an individual performs or performed any service as an

2396 employee or from whom a person receives a prize in excess of \$5,001 pursuant to the Virginia Lottery
2397 *and Gaming Law* (§ 58.1-4000 et seq.), except that:

2398 1. If the person, governmental unit, or agency thereof, for whom the individual performs or
2399 performed the service does not have control of the payment of the wages for such services, the term
2400 "employer" (except as used in the definition of "wages" herein) means the person having control of the
2401 payment of such wages, and

2402 2. In the case of a person paying wages on behalf of a nonresident person not engaged in trade or
2403 business within the Commonwealth or on behalf of any governmental unit or agency thereof not located
2404 within the Commonwealth, the term, "employer" (except as used in the definition of "wages" herein)
2405 means such person. The term shall not include a financial institution, corporation, partnership or other
2406 person or entity with respect to benefits paid as custodian, trustee or depository for an individual
2407 retirement account (IRA) or simplified employee pension plan (SEPP).

2408 "Miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly,
2409 semimonthly, monthly, quarterly, semiannual, or annual payroll period.

2410 "Payroll period" means a period for which a payment of wages is ordinarily made to the employee
2411 by his employer.

2412 "Wages" means wages as defined under § 3401(a) of the Internal Revenue Code, as well as any
2413 other amounts from which federal income tax is withheld under the provisions of §§ 3402 and 3405 of
2414 the Internal Revenue Code and also includes all prizes in excess of \$5,001 paid by the Virginia Lottery
2415 *and Gaming Department*; however, such term shall not include amounts paid pursuant to individual
2416 retirement plans and simplified employee pension plans as defined in §§ 7701 (a)(37) and 408 (c) of the
2417 Internal Revenue Code and shall not include remuneration paid for acting in or service as a member of
2418 the crew of a (i) motion picture feature film, (ii) television series or commercial, or (iii) promotional
2419 film filmed totally or partially in the Commonwealth by an individual or corporation which conducts
2420 business in the Commonwealth for less than 90 days of the tax year and when such film, series or
2421 commercial is processed, edited and marketed outside the Commonwealth. Every such individual or
2422 corporation shall, immediately subsequent to the filming of such portion of the film, series or
2423 commercial filmed in the Commonwealth, file with the Commissioner on forms furnished the
2424 Department, a list of the names and social security account numbers of each actor or crew member who
2425 is a resident of the Commonwealth and is compensated by such individual or corporation.

2426 CHAPTER 40.

2427 VIRGINIA LOTTERY AND GAMING LAW.

2428 Article 1.

2429 *Virginia Lottery and Gaming Oversight Board; Administration of Tickets and Prizes.*

2430 § 58.1-4000. Short title.

2431 This chapter shall be known and may be cited as the "Virginia Lottery *and Gaming Law*."

2432 § 58.1-4002. Definitions.

2433 For the purposes of this chapter:

2434 "Board" means the Virginia Lottery *and Gaming Oversight Board* established by this chapter.

2435 "Department" means the independent agency responsible for the administration of the Virginia
2436 Lottery ~~created in pursuant to this chapter~~ *article and the regulation of electronic gaming devices*
2437 *pursuant to Article 2 (§ 58.1-4030 et seq.).*

2438 "Director" means the Director of the Virginia Lottery *and Gaming Department*.

2439 "Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this
2440 ~~chapter~~ *article*.

2441 "Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery
2442 tickets on behalf of individuals located within or outside the Commonwealth and delivering or
2443 transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit
2444 delivery service.

2445 § 58.1-4003. Virginia Lottery and Gaming Department; Virginia Lottery and Gaming Oversight 2446 Board.

2447 Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any
2448 other provision of law, there is hereby established as an independent agency of the Commonwealth,
2449 exclusive of the legislative, executive, or judicial branches of government, the Virginia Lottery *and*
2450 *Gaming Department*, which shall include a Director and a Virginia Lottery *and Gaming Oversight Board*
2451 for the purpose of operating a state lottery *and regulating electronic gaming devices pursuant to Article*
2452 *2 (§ 58.1-4030 et seq.).*

2453 § 58.1-4006. Powers of the Director.

2454 A. The Director shall supervise and administer the:

2455 1. The operation of the lottery in accordance with the provisions of this ~~chapter~~ *article* and with the
2456 rules and regulations promulgated hereunder; and

2457 2. The regulation of electronic gaming devices in accordance with Article 2 (§ 58.1-4030 et seq.) and

with the rules and regulations promulgated hereunder.

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery *and the regulation of electronic gaming devices*; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery *and the regulation of electronic gaming devices*.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

8. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate ~~Committee on Finance Committee~~, House ~~Committee on Finance Committee~~ and House ~~Committee on Appropriations Committee~~ the total lottery revenues, prize disbursements, and other expenses for the preceding month, and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this ~~chapter~~ *article* as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters ~~which~~ *that* require immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery *or the regulation of electronic gaming devices*.

10. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of \$600 in the manner required by the lottery rules and regulations.

11. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,001.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents ~~which~~ *that* he determines will be cost effective and support increased sales of lottery products.

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery *pursuant to this article and the regulation of electronic gaming devices pursuant to Article 2 (§ 58.1-4030 et seq.)*. The regulations governing the establishment and operation of the lottery *and the regulation of electronic gaming devices* shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery *and regulation of electronic gaming devices* and for the convenience of the purchasers of tickets or shares, ~~and~~ the holders of winning tickets or shares, *and the players of electronic gaming devices*. The regulations, which may be amended, repealed, or supplemented as necessary, shall include, but not be limited to, the following:

1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.

2. The price or prices of tickets or shares in the lottery.

3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.

4. The manner of selecting the winning tickets or shares.

5. The manner of payment of prizes to the holders of winning tickets or shares.

6. The frequency of the drawings or selections of winning tickets or shares without limitation.

2519 7. Without limitation as to number, the type or types of locations at which tickets or shares may be
2520 sold.

2521 8. The method to be used in selling tickets or shares, *including the sale of tickets or shares over the*
2522 *Internet.*

2523 9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

2524 10. The licensing of agents to sell tickets or shares who will best serve the public convenience and
2525 promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A
2526 licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at
2527 the agent's place of business so long as the employee is supervised in the selling or vending of tickets
2528 by the manager or supervisor in charge at the location where the tickets are being sold. Employment of
2529 such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

2530 11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to
2531 provide for the adequate availability of tickets or shares to prospective buyers and for the convenience
2532 of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to
2533 approve temporary bonus or incentive programs for payments to licensed sales agents.

2534 12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other
2535 sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 ~~of this~~
2536 ~~chapter.~~

2537 13. Such other matters necessary or desirable for the efficient and economical operation and
2538 administration of the lottery.

2539 14. *The regulation of electronic gaming devices pursuant to Article 2 (§ 58.1-4030 et seq.).*

2540 The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2;
2541 however, the Board shall promulgate regulations, after consultation with the Director, relative to
2542 departmental procurement which include standards of ethics for procurement consistent with the
2543 provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and which ensure that
2544 departmental procurement will be based on competitive principles.

2545 The Board shall have the power to advise and recommend, but shall have no power to veto or
2546 modify administrative decisions of the Director. However, the Board shall have the power to accept,
2547 modify, or reject any revenue projections before such projections are forwarded to the Governor.

2548 B. The Board shall carry on a continuous study and investigation of the lottery *and electronic*
2549 *gaming devices* throughout the Commonwealth to:

2550 1. Ascertain any defects of this chapter or the regulations issued hereunder ~~which that~~ cause abuses
2551 in the administration and operation of the lottery *or the regulation of electronic gaming devices* and any
2552 evasions of such provisions.

2553 2. Formulate, with the Director, recommendations for changes in this chapter and the regulations
2554 promulgated hereunder to prevent such abuses and evasions.

2555 3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge
2556 for organized crime and illegal gambling.

2557 4. Ensure that this law and the regulations of the Board are in such form and are so administered as
2558 to serve the true purpose of this chapter.

2559 C. The Board shall make a continuous study and investigation of (i) the operation and the
2560 administration of similar laws ~~which that~~ may be in effect in other states or countries, (ii) any literature
2561 on the subject ~~which that~~ may be published or available, (iii) any federal laws ~~which that~~ may affect the
2562 operation of the lottery *or electronic gaming devices*, and (iv) the reaction of Virginia citizens to the
2563 potential features of the lottery with a view to recommending or effecting changes that will serve the
2564 purpose of this chapter.

2565 D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or
2566 revocation of a license of a lottery agent pursuant to subdivision A 10 ~~of subsection A~~ of this section
2567 and subdivision B 5 ~~of subsection B~~ of § 58.1-4006 ~~of this chapter~~. *The Board shall also hear and*
2568 *decide an appeal of any penalty, any denial by the Director of a license or renewal, or any suspension*
2569 *or revocation of a license imposed by the Director pursuant to Article 2 (§ 58.1-4030 et seq.).*

2570 E. The Board shall have the authority to initiate procedures for the planning, acquisition, and
2571 construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3
2572 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

2573 **§ 58.1-4008. Employees of the Department; background investigations of employees.**

2574 All persons employed by the Department shall be fingerprinted before, and as a condition of,
2575 employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a National
2576 Criminal Records search and to the Department of State Police for a Virginia Criminal History Records
2577 search. All board members, officers and employees of any vendor to the Department of lottery on-line
2578 or instant ticket goods or services working directly on a contract with the Department for such goods or
2579 services shall be fingerprinted, and such fingerprints shall be submitted to the Federal Bureau of
2580 Investigation for a National Criminal Records search conducted by the chief security officer of the

Virginia Lottery Department. A background investigation shall be conducted by the chief security officer of the *Virginia Lottery Department* on every applicant prior to employment by the Department. However, all division directors of the *Virginia Lottery Department* and employees of the *Virginia Lottery Department* performing duties primarily related to security matters shall be subject to a background investigation report conducted by the Department of State Police prior to employment by the Department. The Department of State Police shall be reimbursed by the *Virginia Lottery Department* for the cost of investigations conducted pursuant to this section or § 58.1-4005. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the Department or on contracts with vendors described in this section.

§ 58.1-4009. Licensing of lottery sales agents; penalty.

A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business primarily as a lottery sales agent. Before issuing such license, the Director shall consider such factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to serve the public convenience; and (iv) the volume of expected sales.

B. For the purposes of this section, the term "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies, and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies, and instrumentalities thereof.

C. The chief security officer of the *Virginia Lottery Department* shall conduct a background investigation, to include a Virginia Criminal History Records search, and fingerprints that shall be submitted to the Federal Bureau of Investigation if the Director deems a National Criminal Records search necessary, on applicants for licensure as lottery sales agents. The Director may refuse to issue a license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) engaged in conduct prejudicial to public confidence in the Lottery. The Director may refuse to grant a license or may suspend, revoke or refuse to renew a license issued pursuant to this chapter to a partnership or corporation, if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (a) convicted of a crime involving moral turpitude, (b) convicted of bookmaking or other forms of illegal gambling, (c) found guilty of any fraud or misrepresentation in any connection, (d) convicted of a felony, or (e) engaged in conduct prejudicial to public confidence in the Lottery. Whoever knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application for licensure to the *Virginia Lottery Department* for lottery sales agent is guilty of a Class 1 misdemeanor.

D. In the event an applicant is a former lottery sales agent whose license was suspended, revoked, or refused renewal pursuant to this section or § 58.1-4012, no application for a new license to sell lottery tickets or shares shall be considered for a minimum period of 90 days following the suspension, revocation, or refusal to renew.

E. Prior to issuance of a license, every lottery sales agent shall either (i) be bonded by a surety company entitled to do business in this Commonwealth in such amount and penalty as may be prescribed by the regulations of the Department or (ii) provide such other surety as may be satisfactory to the Director, payable to the *Virginia Lottery and Gaming Department* and conditioned upon the faithful performance of his duties.

F. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the regulations of the Department.

§ 58.1-4011. Meaning of "gross receipts."

A. Notwithstanding the provisions of Chapter 37 (§ 58.1-3700 et seq.) or § 58.1-4025 relating to local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation actually paid to a licensed sales agent as provided by rule or regulation adopted by the Board consistent with the provisions of subdivision A 11 of § 58.1-4007.

B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental payments for the business premises on which state lottery tickets are sold on the basis of retail sales shall have that portion of rental payment based on sales of state lottery tickets or shares computed on the basis of the compensation received as a lottery agent from the *Virginia Lottery Department*.

§ 58.1-4012. Suspension and revocation of licenses.

The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without

2642 prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the
2643 Director. A license may be suspended, revoked, or refused renewal by the Director for one or more of
2644 the following reasons:

- 2645 1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;
- 2646 2. Failure to file a bond if required by the Director or to comply with instructions and rules and
2647 regulations of the Department concerning the licensed activity, especially with regard to the prompt
2648 payment of claims;
- 2649 3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;
- 2650 4. Failure to file any return or report, to keep records or to pay any fees or other charges required by
2651 this chapter;
- 2652 5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the
2653 Commonwealth lottery *or the administration and regulation of electronic gaming devices*;
- 2654 6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative
2655 costs and public convenience is adequately served by other licensees;
- 2656 7. A material change, since issuance of the license, with respect to any matters required to be
2657 considered by the Director under this chapter; ~~or~~
- 2658 8. *Failure to pay any fees or penalties required by this chapter; or*
- 2659 9. Other factors established by Department regulation.

2660 **§ 58.1-4020.1. Voluntary assignment of lottery prizes or pledge as collateral for a loan;**
2661 **requirements for the assignees and lenders.**

2662 A. Lottery prizes, payable in installments over a period of time, excluding prizes payable for the
2663 winner's life, may be voluntarily assigned or pledged as collateral for a loan, in whole or in part, by the
2664 person entitled to such installments, by written contract affirming that the requirements of this section
2665 have been met and endorsed by written order of a court of competent jurisdiction after a hearing. The
2666 order shall specify the name, address and social security number or tax identification number of the
2667 assignee or lender and shall specifically describe the payments be assigned or pledged as collateral by
2668 date and gross pre-tax amount. The Department shall be given notice of any hearing held pursuant to
2669 this section and shall have the right to appear and participate in such hearing. Venue for hearings held
2670 pursuant to this section shall be in the Circuit Court of the City of Richmond.

2671 The rate charged for any such assignment or loan shall not exceed 15 percent.

2672 The contract shall:

2673 1. Be signed by the assignor and the assignee or the lender and the borrower, and the assignor or
2674 borrower shall affirm the assignment or loan has been voluntarily executed.

2675 2. Include or be accompanied by a sworn statement attesting that the assignor or borrower (i) is of
2676 sound mind and not acting under duress; (ii) has been advised in writing by the assignee or lender to
2677 seek independent legal counsel and independent financial counsel concerning the implications of the
2678 assignment or loan, including the tax consequences, and has either received such advice or knowingly
2679 waived such advice in writing; (iii) understands that he is relinquishing or limiting his rights to receive
2680 the lottery proceeds; and (iv) has received from the ~~Virginia Lottery Department~~, in response to a
2681 written request therefor, confirmation of the assignee's or lender's registration with the ~~Virginia Lottery~~
2682 ~~Department~~ in accordance with subsection E ~~of this section~~.

2683 3. Include a disclosure statement setting forth (i) the amounts assigned or loaned; (ii) the dates such
2684 amounts are payable; (iii) the purchase price paid for the assignment or loan; (iv) the rate of discount to
2685 present value, assuming daily compounding and funding on the contract date; (v) the amount of any fees
2686 associated with the assignment or loan and by whom such fees are payable; and (vi) the tax
2687 identification number of the assignee.

2688 4. Expressly state that the assignor or borrower has three business days after signing the contract to
2689 cancel the assignment or loan.

2690 5. Expressly state that the assignee or lender is eligible to purchase, share or receive prizes of the
2691 ~~Virginia Lottery Department~~ pursuant to §§ 58.1-4015, 58.1-4016 and subsection A of § 58.1-4019, and
2692 that the ~~Virginia Lottery Department~~ has complied with subsection B of § 58.1-4019 in that the original
2693 prizewinner is (or if deceased, was) a natural person if and to the extent that the prize was awarded on
2694 or after the effective date pursuant to subsection B of § 58.1-4019.

2695 6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant to Article 21
2696 (§ 58.1-520 et seq.) of Chapter 3 of this title.

2697 B. The Commonwealth, the ~~Virginia Lottery Department~~, and any employee or representative of
2698 either shall be indemnified and held harmless upon payment of amounts due as set forth in the court
2699 order.

2700 C. The ~~Lottery Department~~ may establish a reasonable fee to process the assignments provided for in
2701 this section and to receive, review, and file the registration required by subsection E and confirm
2702 compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs
2703 of processing the assignments or registrations.

D. Notwithstanding the provisions of this section, the Commonwealth and the Virginia Lottery Department shall not accept any assignment if either of the following has occurred:

1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "Federal law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Internal Revenue Service.

2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "State law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Department of Taxation.

E. An assignee, prospective assignee, lender, or prospective lender shall not make any representation in any written or oral communications with a lottery winner that implies that the assignee, prospective assignee, lender, or prospective lender is associated with or an agent of the Virginia Lottery Department. Every prospective assignee or prospective lender shall register with the Virginia Lottery Department, prior to contracting for any assignment or loan pursuant to this section. The registration shall include (i) the assignee's or lender's standard information packet or materials given or sent to prospective assignees or borrowers, (ii) the assignee's or lender's standard form of agreement, (iii) the assignee's or lender's federal tax identification number, and (iv) where applicable, the assignee's or lender's most recent public financial statement. The Director may deny, suspend or revoke a registration for a violation of this chapter or for such other reason as the Board, by regulation, may establish.

§ 58.1-4025. Exemption of lottery prizes and sales of tickets from state and local taxation.

Except as provided in Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 and § 58.1-4011, no state or local taxes of any type whatsoever shall be imposed upon any prize awarded or upon the sale of any lottery ticket sold pursuant to the Virginia Lottery and Gaming Law.

§ 58.1-4027. Judicial review.

The action of the Board in (i) granting, or in refusing to grant, in or denying a license or registration or suspending or revoking any license or registration under the provisions of this chapter article and (ii) granting, denying, suspending, or revoking any license or imposing any penalty pursuant to Article 2 (§ 58.1-4030 et seq.) shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

Article 2.

Electronic Gaming Devices.

§ 58.1-4030. Definitions.

As used in this article, unless the context requires a different meaning:

"Distributor" means any person that (i) buys electronic gaming devices from a manufacturer, (ii) distributes such devices to host locations, and (iii) maintains and services such devices.

"Electronic gaming device" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined not entirely by chance, and that may deliver or entitle the person playing or operating the device to receive cash in excess of the cost of operating, activating, or playing the game, whether the payoff is made automatically from the device or manually.

"Gross profits" means all revenue generated from the play of electronic gaming devices minus prizes paid out to successful players.

"Gross revenue" means all revenue generated from the play of electronic gaming devices.

"Host location" means an establishment at which electronic gaming devices are placed and offered to the public for play.

"Independent testing laboratory" means a laboratory with a national reputation for honesty, independence, and timeliness that is demonstrably competent and qualified to scientifically test and evaluate electronic gaming devices for compliance with this article and to otherwise perform the functions assigned to it by this article. An independent testing laboratory shall not be owned or controlled by a manufacturer, distributor, or host location licensee or the Commonwealth.

"Individual" means a natural person.

"Licensee" or "license holder" means any person holding a manufacturer, distributor, or host location license under this article.

"Manufacturer" means any person that manufactures and sells major components or parts, including software and hardware, for electronic gaming devices to distributors.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Player" means an individual who plays an electronic gaming device.

"Single play" means the period beginning when a player activates and pays for the interactive game

2765 play function of an electronic gaming device and ending at the time when the game play function or
2766 series of free subgames thereunder will not continue without payment by the player of additional
2767 consideration.

2768 "Successful player" means an individual who wins on one or more plays of an electronic gaming
2769 device.

2770 **§ 58.1-4031. Powers and duties of the Director related to electronic gaming devices; reporting.**

2771 A. The Director shall have the following additional powers and duties related to the regulation of
2772 electronic gaming devices:

2773 1. Issue licenses under this article, and supervise all activities licensed under the provisions of this
2774 article, including the manufacturing, distributing, hosting, and playing of electronic gaming devices;

2775 2. Suspend, revoke, or refuse to renew any license issued pursuant to this article or the rules and
2776 regulations adopted pursuant to this article;

2777 3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of
2778 any licensee, and compel the production of any books, documents, records, or memoranda of any
2779 licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied
2780 with;

2781 4. Order such audits as deemed necessary;

2782 5. Certify monthly to the State Comptroller and the Board a full and complete statement of electronic
2783 gaming device revenue and expenses for the previous month;

2784 6. Assess and collect civil penalties for violations of this article and Board regulations;

2785 7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate
2786 Committee on Finance, House Committee on Finance, and House Committee on Appropriations the total
2787 electronic gaming device revenues and expenses for the previous month and make an annual report,
2788 which shall include a full and complete statement of electronic gaming device revenues and expenses, to
2789 the Governor and the General Assembly, including recommendations for changes in this article as the
2790 Director and Board deem prudent; and

2791 8. Do all acts necessary and advisable to carry out the purposes of this article.

2792 B. The Director may require bond or other surety satisfactory to the Director from license holders in
2793 such amount as provided in the rules and regulations of the Board adopted under this article;

2794 **§ 58.1-4032. Powers and duties of the Board related to electronic gaming devices.**

2795 In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate
2796 regulations related to electronic gaming devices that:

2797 1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient
2798 for the administration of this article;

2799 2. Provide a schedule of application, license, and renewal fees that shall be sufficient to cover the
2800 costs of the administration and regulation of electronic gaming devices pursuant to this article;

2801 3. Establish requirements for all licensees under this article for the form, content, and retention of
2802 all records and accounts;

2803 4. Establish a process for the approval or disapproval of electronic gaming devices and games
2804 offered on such devices;

2805 5. Establish cash handling procedures for distributor and host location licensees that require such
2806 licensees to keep separate accounts for gaming and non-gaming transactions;

2807 6. Require inspections of all licensees at a frequency determined by the Board; and

2808 7. Establish a program of periodic testing and inspection for all electronic gaming devices.

2809 **§ 58.1-4033. Licenses that may be granted by the Director.**

2810 The Director may grant the following licenses:

2811 1. Manufacturer license, which shall authorize the licensee to manufacture and sell to distributors
2812 major components or parts, including software and hardware, for electronic gaming devices.

2813 2. Distributor license, which shall authorize the licensee to (i) buy electronic gaming devices from a
2814 manufacturer, (ii) distribute such devices to host locations, and (iii) maintain and service such devices.

2815 3. Host location license, which shall authorize the licensee to allow the placement and offering for
2816 play by the public of electronic gaming devices at such licensee's establishment.

2817 **§ 58.1-4034. General licensing requirements; penalty.**

2818 A. An applicant for a manufacturer, distributor, or host location license shall submit an application
2819 to the Director on forms provided by the Director, accompanied by any fees required by the Board.

2820 B. The chief security officer of the Department shall conduct a background investigation, to include a
2821 Virginia criminal history records search and fingerprinting, that shall be submitted to the Federal
2822 Bureau of Investigation if the Director deems a national criminal records search is necessary, on
2823 applicants for licensure pursuant to this article.

2824 C. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license
2825 issued pursuant to this article to any person who has been (i) convicted of a crime involving moral
2826 turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud

or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in electronic gaming devices.

D. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license issued pursuant to this article to a partnership or corporation, if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in electronic gaming devices.

E. The Director may also refuse to grant a license pursuant to this article if:

1. The Director reasonably believes that the applicant or any general or limited partner, or officer or director of such applicant lacks good character, honesty, or integrity;

2. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of electronic gaming devices, or (iii) promote unfair or illegal activities in the conduct of electronic gaming devices;

3. The applicant or any general or limited partner or any officer or director of such applicant knowingly makes a false statement of material fact or deliberately fails to disclose information requested by the Director;

4. The applicant or any general or limited partner or any officer or director of such applicant knowingly fails to comply with the provisions of this article or any requirements of the Director;

5. The applicant's license to manufacture, distribute, or offer to the public for play an electronic gaming device issued by any other jurisdiction has been suspended or revoked;

6. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

7. The applicant's application is incomplete.

F. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application pursuant to this article is guilty of a Class 1 misdemeanor. The Director shall revoke the license of a licensee if, subsequent to the issuance of the license, the Director determines that the licensee knowingly or recklessly made a false statement of material fact to the Director in applying for the license.

§ 58.1-4035. License posting; expiration.

A. Each license granted by the Director shall designate the place where the business of the licensee will be carried out.

B. Each license shall be posted in a location conspicuous to the public at the place where the licensee carries out the business for which the license is granted.

C. The privileges conferred by any license granted by the Director shall continue until the last day of the twelfth month next ensuing or the last day of the designated month and year of expiration, except the license may be sooner terminated for any cause for which the Director would be entitled to refuse to grant a license or by operation of law, voluntary surrender, or order of the Director.

D. The Director may grant licenses for one year or for multiple years, not to exceed three years. Qualifications for a multiyear license shall be determined on the basis of criteria established by the Director. Fees for multiyear licenses shall not be refundable.

E. At least 60 days before the expiration of a license, the license holder may submit a renewal application, on forms prescribed by the Director. The Director may deny a license renewal if he finds grounds for denial as described in § 58.1-4034.

§ 58.1-4036. Prohibition against the issuance of multiple licenses to one person.

A. For purposes of this section, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including but not limited to being an investor or serving in a management position.

B. No licensee who has been issued a manufacturer license shall be issued a distributor license or host location license, or have any interest in a distributor licensee or host location licensee.

C. No licensee who has been issued a distributor license shall be issued a manufacturer license or host location license, or have any interest in a manufacturer licensee or host location licensee.

D. No licensee who has been issued a host location license shall be issued a manufacturer license or distributor license, or have any interest in a manufacturer licensee or distributor licensee.

§ 58.1-4037. Prohibition against transferring licenses without approval by Director.

A licensee may not transfer its license, or assign responsibility for compliance with the conditions of its license, to any party, including a transfer of effective control of the licensee, without approval by the Director.

§ 58.1-4038. Suspension and revocation of licenses; civil penalties; hearing and appeal.

A. If the Director determines that any provision of this article, or any regulation or condition of the

2888 Board, has not been complied with or has been violated by a licensee, he may, with at least 15 days'
2889 notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed
2890 \$100,000 and (ii) suspend or revoke the license holder's license. If any license is suspended or revoked,
2891 the Director shall state its reasons for doing so, which shall be entered of record.

2892 B. Any person aggrieved by a refusal of the Director to issue any license, the suspension or
2893 revocation of a license, the imposition of a fine, or any other action of the Director may seek review of
2894 such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act in the
2895 Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5 of the
2896 Administrative Process Act.

2897 C. Suspension or revocation of a license by the Director for any violation shall not preclude criminal
2898 liability for such violation.

2899 **§ 58.1-4039. Requirement for written agreement between distributor licensee and host location**
2900 **licensee; division of revenue.**

2901 A. No distributor licensee may place or maintain an electronic gaming device on the premises of a
2902 host location licensee unless the distributor licensee and the host location licensee have entered into a
2903 written agreement that sets forth the terms and conditions for the placement and maintenance of such
2904 devices.

2905 B. A copy of the written agreement shall be maintained in the business office of both the distributor
2906 licensee and the host location licensee and shall be available at all times for inspection by the Director.

2907 C. The written agreement shall be exclusive between one distributor licensee and one host location
2908 licensee.

2909 D. The written agreement shall be valid for a term of one year.

2910 E. The distributor licensee and host location licensee shall agree within the written agreement as to
2911 the allocation of all gross profits from the play of electronic gaming devices between the two licensees.
2912 No person shall receive a portion of any proceeds from the play of electronic gaming devices except for
2913 distributor licensees and host location licensees.

2914 **§ 58.1-4040. Approval of electronic gaming devices by the Director.**

2915 A. No electronic gaming device shall be offered for play by the public in the Commonwealth unless
2916 such electronic gaming device has first been approved by the Director.

2917 B. Before selling, leasing, or otherwise providing an electronic gaming device to a distributor, a
2918 manufacturer shall provide a prototype or production sample of such electronic gaming device to an
2919 independent testing laboratory that has been approved by the Director, which shall evaluate and certify
2920 whether such electronic gaming device meets the definition of electronic gaming device under
2921 § 58.1-4030, the requirements of § 58.1-4041, and any other requirements established in Board
2922 regulations.

2923 Along with the prototype or production sample of the electronic gaming device, the manufacturer
2924 shall provide the following information concerning the electronic gaming device to the independent
2925 testing laboratory:

- 2926 1. The method of determining the game outcome;
 - 2927 2. The available wagering denominations;
 - 2928 3. The minimum wager amount;
 - 2929 4. The maximum wager amount;
 - 2930 5. The amount of takeout for each wager;
 - 2931 6. The method of calculating winning payouts;
 - 2932 7. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;
 - 2933 8. The minimum payouts and the method of guaranteeing minimum payouts; and
 - 2934 9. Any other information requested by the independent testing laboratory or required by the Board
- 2935 for use in the testing of the electronic gaming device.

2936 The report of the independent testing laboratory shall be submitted by the manufacturer to the
2937 Director. The Director shall use the report in evaluating whether the electronic gaming device shall be
2938 approved under this article.

2939 If at any time a manufacturer makes a substantive change to any electronic gaming device that has
2940 previously been approved by the Director, such manufacturer shall resubmit the electronic gaming
2941 device to the Director in a manner prescribed by Board regulation.

2942 **§ 58.1-4041. Requirements of electronic gaming devices.**

2943 A. In addition to meeting the definition of electronic gaming device established in § 58.1-4030,
2944 electronic gaming devices shall:

- 2945 1. Show the rules of play for each game in a way that adequately describes or displays such
2946 information so that a reasonable person could understand the game prior to placing a wager;
- 2947 2. Clearly indicate that the outcome of the game is affected by skill;
- 2948 3. Accept only cash wagers;
- 2949 4. Make all possible game outcomes available upon the initiation of each game;

- 2950 5. Prohibit the modification of the rules of play for a game, including the probability and award of a
 2951 game outcome, once a game is initiated;
- 2952 6. Prohibit the remote modification or manipulation of games;
- 2953 7. Pay out no more than \$600 in winnings for a single play of a game;
- 2954 8. Have a payout percentage of at least 75 percent and not more than 85 percent;
- 2955 9. Have a power switch that is located inside of the device to prevent power from being switched off
 2956 from outside of the device;
- 2957 10. Be designed such that power and data cables into and out of the device are routed so that they
 2958 are not accessible by the general public;
- 2959 11. Have an identification badge affixed to the exterior of the device by the manufacturer that is not
 2960 removable without leaving evidence of tampering. Such badge shall include the following information:
- 2961 a. The name of the manufacturer;
- 2962 b. A unique serial number;
- 2963 c. The device model number; and
- 2964 d. The date of manufacture;
- 2965 12. Be constructed of materials that are designed to allow only authorized access to the interior of
 2966 the device. Such materials shall be designed to show evidence of tampering if unauthorized access does
 2967 occur;
- 2968 13. Have seals between the device and the doors of a locked area that are designed to resist the use
 2969 of tools or other objects used to breach the locked area by physical force;
- 2970 14. Have external doors that shall be locked and monitored by door access sensors;
- 2971 15. Have a currency storage area that is secured by two locks before the currency can be removed
 2972 and that is only accessible by the distributor licensee;
- 2973 16. Make payments to successful players by issuing a voucher that can be redeemed for cash at the
 2974 host location; and
- 2975 17. Have the ability to allow for an independent integrity check by an independent testing laboratory
 2976 approved by the Director of all software that may affect the integrity of the game.
- 2977 B. In no event shall the combined total number of electronic gaming devices in the Commonwealth
 2978 exceed 15,000. The Board shall promulgate regulations establishing a competitive process for the
 2979 allocation of such devices among distributor licensees.
- 2980 **§ 58.1-4042. Independent integrity checks of electronic gambling devices.**
- 2981 Each electronic gaming device shall be tested by an independent testing laboratory approved by the
 2982 Director to ensure its integrity and proper working order. This evaluation shall include a review of
 2983 installed software periodically within a timeframe established by the Director.
- 2984 The independent testing laboratory's software may be embedded within the game software, utilize an
 2985 interface port to communicate with the device, or require the removal of device media for external
 2986 verification.
- 2987 The distributor licensee shall pay the cost of the independent testing laboratory's review and testing,
 2988 and the reports of the same shall be delivered to the licensee and the Director.
- 2989 **§ 58.1-4043. Requirement for central monitoring system.**
- 2990 Each electronic gaming device being operated in the Commonwealth shall be connected to a central
 2991 monitoring system established and operated by the Department.
- 2992 The central monitoring system shall collect the following information from each device: (i) cash in,
 2993 (ii) payouts, (iii) points played, (iv) points won, (v) gross terminal income, (vi) net terminal income, (vii)
 2994 the number of plays of the game, (viii) the amounts paid to play the game, (ix) all taxes accrued and
 2995 paid, and (x) any other information required by Board regulations.
- 2996 **§ 58.1-4044. Requirements of distributor licensees.**
- 2997 A. No distributor licensee shall own an electronic gaming device unless such device has been
 2998 manufactured by and purchased from a manufacturer licensee. No contract between a distributor
 2999 licensee and a manufacturer licensee shall grant the distributor licensee exclusive rights to own,
 3000 maintain, or place a type, model, or brand of electronic gaming device in the Commonwealth.
- 3001 B. No distributor licensee shall place or maintain an electronic gaming device at any establishment
 3002 where it is offered to the public for play for a charge, directly or indirectly, unless such establishment is
 3003 a host location licensee.
- 3004 C. Each distributor licensee that places or maintains an electronic gaming device at any
 3005 establishment where it is offered to the public for play for a charge, directly or indirectly, shall submit
 3006 or confirm a report to the Department, on a frequency established by the Board, detailing:
- 3007 1. The gross revenue of each electronic gaming device that the distributor owns and maintains; and
- 3008 2. The gross profits of each electronic gaming device that the distributor owns and maintains.
- 3009 **§ 58.1-4045. Requirements of host location licensees.**
- 3010 A. No host location licensee shall allow an electronic gaming device to be placed upon the premises

3011 of such licensee's establishment unless such device is owned and maintained by a distributor licensee.
3012 B. The primary business of a host location licensee shall not be the offering for play of electronic
3013 gaming devices.
3014 C. No host location licensee shall derive more than 50 percent of such location's monthly gross
3015 receipts from the play of electronic gaming devices at such location.
3016 D. No host location licensee shall offer more than five electronic gaming devices to the public for
3017 play at such host location licensee's establishment.
3018 E. Each host location licensee shall submit or confirm a report to the Department, on a frequency
3019 established by the Board, detailing:
3020 1. The gross receipts of the location;
3021 2. The gross revenue of each electronic gaming device; and
3022 3. The gross profits of each electronic gaming device.
3023 **§ 58.1-4046. Responsible gaming.**
3024 A. In an effort to promote responsible gaming by players, host location licensees shall:
3025 1. Post in a conspicuous place a sign that bears a toll-free number for problem gambling assistance
3026 that has been approved by the Virginia Council on Problem Gambling or other organizations that
3027 provide assistance to problem gamblers;
3028 2. Provide informational leaflets or other similar materials at the licensee's facilities on the dangers
3029 associated with problem gambling;
3030 3. If the licensee holds a license from the Virginia Alcoholic Beverage Control Authority to serve
3031 alcoholic beverages, train its employees to identify patrons who have consumed excessive amounts of
3032 alcohol to prevent such patrons from continuing to engage in wagering activity while impaired; and
3033 4. Ensure that any request by a patron who wishes to self-exclude from the licensee's facilities is
3034 honored by the licensee.
3035 B. Nothing contained in this section shall be construed to create any cause of action against the
3036 Board or Department for the failure of a host location licensee to comply with the requirements of this
3037 section.
3038 **§ 58.1-4047. Local regulation of electronic gaming devices.**
3039 A. This article shall not be interpreted to supersede or limit the authority of a locality to adopt and
3040 enforce local ordinances to regulate businesses licensed under this article, including local zoning and
3041 land use requirements and business license requirements, to completely prohibit the establishment or
3042 operation of one or more types of businesses licensed under this article within the locality, or to limit
3043 the number of one or more types of businesses licensed under this article that may operate within the
3044 locality.
3045 B. If a locality chooses to permit the establishment or operation of one or more types of businesses
3046 licensed under this article within the locality, the locality may adopt an ordinance providing licensing
3047 requirements applicable to such businesses within the locality, which may include provisions establishing
3048 a local licensing fee schedule to defray application, administrative, and enforcement costs associated
3049 with the operation of the business in the locality.
3050 **§ 58.1-4048. Tax on gross profits.**
3051 A. There shall be imposed a tax of 35 percent on all gross profits from the play of electronic gaming
3052 devices.
3053 B. The tax imposed pursuant to this section shall be remitted by the distributor licensee to the
3054 Department at a frequency established by Board regulations. If the distributor licensee's accounting
3055 necessitates corrections to a previously remitted tax, such licensee shall document such corrections when
3056 remitting the next tax installment.
3057 C. The tax collected by the Department pursuant to this section shall be placed in the Virginia
3058 Lottery Fund, established pursuant to § 58.1-4022, pending distribution pursuant to § 58.1-4049.
3059 **§ 58.1-4049. Distribution of tax revenue.**
3060 A. The Department shall allocate two percent of the tax revenue collected pursuant to § 58.1-4048 to
3061 the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.
3062 B. The Department shall allocate 94 percent of the tax revenue collected pursuant to § 58.1-4048 to
3063 the Virginia Electronic Gaming Device Education Support Fund established pursuant to § 58.1-4050.
3064 C. The Department shall allocate the remaining four percent of the tax revenue collected pursuant to
3065 § 58.1-4048 to the Virginia Lottery Fund established pursuant to § 58.1-4022. From this amount a sum
3066 sufficient shall be appropriated to fund the operations of the Board related to the administration and
3067 regulation of electronic gaming devices pursuant to this article.
3068 D. Allocation of funds by the Department pursuant to this section shall occur no later than 60 days
3069 after such funds are collected, and only after the Department has verified the accuracy of the collected
3070 balances.
3071 **§ 58.1-4050. Virginia Electronic Gaming Device Education Support Fund.**
3072 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia

Electronic Gaming Device Education Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues allocated by the Department under § 58.1-4049 for deposit into the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of public education.

§ 58.1-4051. Illegal manufacturing, distributing, or hosting; penalty.

A. No person shall:

1. Manufacture or sell to distributors major components or parts, including software and hardware, for electronic gaming devices without a license issued by the Director.

2. Buy electronic gaming devices from a manufacturer, distribute such devices to host locations, or maintain and service such devices without a license issued by the Director.

3. Operate an establishment where one or more bona fide electronic gaming devices are made available for play by the public without a license issued by the Director.

B. A violation of this section is a Class 6 felony.

§ 58.1-4052. Underage play prohibited; penalty.

A. No person shall play any electronic gaming device unless such person is 21 years of age or older.

B. No person shall redeem any evidence of winnings from any person who is not 21 years of age or older.

C. A violation of this section is a Class 1 misdemeanor.

§ 58.1-4053. Prohibited acts by host location licensees; penalty.

A. No host location licensee shall:

1. Permit any person who is not 21 years of age or older to play any electronic gaming device;

2. Give any reward for the play of an electronic gaming device that is not authorized by this article; or

3. Give any reward for the play of an electronic gaming device that is redeemable at a location other than the host location's premises.

B. A violation of this section is a Class 1 misdemeanor.

§ 58.1-4054. Illegal tampering with electronic gaming devices; penalty.

No person other than a distributor licensee shall possess or use any key or device designed for the purpose of opening, entering, or affecting the operation of an electronic gaming device or otherwise tamper with an electronic gaming device. A violation of this section is a Class 6 felony.

§ 58.1-4055. Conspiracies and attempts to commit violations; penalty.

A. Any person who conspires, confederates, or combines with another, either within or outside the Commonwealth, to commit a felony prohibited by this article is guilty of a Class 6 felony.

B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

§ 58.1-4056. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.

Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply to electronic gaming devices under this article. The Board shall promulgate regulations to interpret and clarify the applicability of Article 1 to this article.

§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.

A. The Department of State Police, the Department of Game and Inland Fisheries, the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery and Gaming Department, the Marine Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of Forestry, any sheriff, any regional jail board or authority, and any local police department may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for a service-incurred disability with no expectation of returning to the employment where he incurred the disability to purchase the service handgun issued or previously issued to him by the agency or institution at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This privilege shall also extend to any former Superintendent of the Department of State Police who leaves service after a minimum of five years. This privilege shall also extend to any person listed in this subsection who is eligible for retirement with at least 10 years of

3134 service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this
3135 section to accept a position covered by the Virginia Retirement System. Other weapons issued by the
3136 agencies listed in this subsection for personal duty use of an officer may, with approval of the agency
3137 head, be sold to the officer subject to the qualifications of this section at a fair market price determined
3138 as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular
3139 hardware or sporting goods store by a private citizen without restrictions other than the instant
3140 background check.

3141 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who
3142 retires with five or more years of service, but less than 10, to purchase the service handgun issued to
3143 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's
3144 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in
3145 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the
3146 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on
3147 the date of the officer's retirement. Determinations of fair market value may be made by reference to a
3148 recognized pricing guide.

3149 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn
3150 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least
3151 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

3152 D. The governing board of any institution of higher learning named in § 23.1-1100 may allow any
3153 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1
3154 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent
3155 to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market
3156 value may be made by reference to a recognized pricing guide.

3157 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a
3158 state agency listed in subsection A, when the agency allows purchases of service handguns, and who
3159 retires after 10 years of state service, even if a portion of his service was with another state agency, may
3160 purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

3161 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a
3162 minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to
3163 him.

3164 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more
3165 than 10 years of service to purchase the service handgun issued to him by the agency at a price that is
3166 equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

3167 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
3168 currently employed by the agency to purchase his service handgun, with the approval of the chief
3169 law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the
3170 agency has purchased new service handguns for its officers, and the handgun subject to the sale is no
3171 longer used by the agency or officer in the course of duty.

3172 **2. That § 58.1-4007.2 of the Code of Virginia is repealed.**

3173 **3. That the initial adoption by the Virginia Lottery and Gaming Oversight Board (the Board), as**
3174 **renamed by this act, of regulations necessary to implement the provisions of this act shall be**
3175 **exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except**
3176 **that the Board shall provide an opportunity for public comment on the regulations prior to**
3177 **adoption.**

3178 **4. That the initial procurement by the Virginia Lottery and Gaming Department, as renamed by**
3179 **this act, of the central monitoring system required by § 58.1-4043 of the Code of Virginia, as**
3180 **created by this act, shall be exempt from the departmental procurement regulations promulgated**
3181 **by the Virginia Lottery and Gaming Oversight Board, as renamed by this act, pursuant to**
3182 **§ 58.1-4007 of the Code of Virginia, as amended by this act.**

3183 **5. That, notwithstanding the provisions of the first enactment of this act to the contrary, (i) until**
3184 **the Virginia Lottery and Gaming Oversight Board (the Board), as renamed by this act, adopts the**
3185 **regulations necessary to implement the provisions of this act pursuant to the third enactment of**
3186 **this act and (ii) the central monitoring system required by § 58.1-4043 of the Code of Virginia, as**
3187 **created by this act, is operational, the Director of the Virginia Lottery may issue a provisional**
3188 **license under the first enactment of this act to any entity that is engaged in the manufacturing,**
3189 **distributing, or hosting of any electronic gaming device on July 1, 2020. The Board shall establish**
3190 **procedures for the issuance of provisional licenses. The granting of a provisional license pursuant**
3191 **to this enactment shall not entitle such license holder to the automatic granting of a license**
3192 **pursuant to the first enactment of this act. Holders of provisional licenses pursuant to this**
3193 **enactment shall self-report the information required by § 58.1-4043 of the Code of Virginia, as**
3194 **created by this act, to the Department pursuant to procedures established by the Board.**
3195 **Manufacturing, distributing, or hosting any electronic gaming device at any time between July 1,**

3196 2020 and the date upon which (a) the regulations necessary to implement the provisions of this act
3197 are adopted and (b) the central monitoring system is operational without obtaining a provisional
3198 license pursuant to this enactment or failure to self-report the information required by this
3199 enactment may permanently disqualify a person from obtaining a license pursuant to the first
3200 enactment of this act. Any such disqualifications shall be within the sole discretion of the Director.
3201 6. That the provisions of this act may result in a net increase in periods of imprisonment or
3202 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
3203 necessary appropriation cannot be determined for periods of imprisonment in state adult
3204 correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia
3205 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to
3206 § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be
3207 determined for periods of commitment to the custody of the Department of Juvenile Justice.