

20105003D

**HOUSE BILL NO. 903**

Offered January 8, 2020

Prefiled January 7, 2020

*A BILL to amend and reenact §§ 2.2-3705.6, 2.2-3711, 18.2-334.3, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4006, 58.1-4007, 58.1-4012, and 58.1-4027 of the Code of Virginia and 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, relating to the Virginia Lottery Board; regulation of the manufacturing, distributing, operating, hosting, and playing of dominant skill video games; penalties.*

Patron—Sickles

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3705.6, 2.2-3711, 18.2-334.3, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4006, 58.1-4007, 58.1-4012, and 58.1-4027 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:**

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such

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59 information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce  
60 Act or other laws administered by the Surface Transportation Board or the Federal Railroad  
61 Administration with respect to data provided in confidence to the Surface Transportation Board and the  
62 Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to  
63 any wholly owned subsidiary of a public body.

64 10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or  
65 proprietary information by any person in connection with a procurement transaction or by any person  
66 who has submitted to a public body an application for prequalification to bid on public construction  
67 projects in accordance with subsection B of § 2.2-4317.

68 11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity,  
69 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed  
70 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private  
71 Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information  
72 was made public prior to or after the execution of an interim or a comprehensive agreement,  
73 § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public  
74 entity would be adversely affected and (ii) the basis for the determination required in clause (i) is  
75 documented in writing by the responsible public entity; and

76 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or  
77 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995  
78 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002  
79 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity;  
80 (ii) financial information of the private entity, including balance sheets and financial statements, that are  
81 not generally available to the public through regulatory disclosure or otherwise; or (iii) other information  
82 submitted by the private entity where if such information was made public prior to the execution of an  
83 interim agreement or a comprehensive agreement, the financial interest or bargaining position of the  
84 public or private entity would be adversely affected. In order for the information specified in clauses (i),  
85 (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written  
86 request to the responsible public entity:

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

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

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

91 The responsible public entity shall determine whether the requested exclusion from disclosure is  
92 necessary to protect the trade secrets or financial information of the private entity. To protect other  
93 information submitted by the private entity from disclosure, the responsible public entity shall determine  
94 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement  
95 would adversely affect the financial interest or bargaining position of the public or private entity. The  
96 responsible public entity shall make a written determination of the nature and scope of the protection to  
97 be afforded by the responsible public entity under this subdivision. Once a written determination is made  
98 by the responsible public entity, the information afforded protection under this subdivision shall continue  
99 to be protected from disclosure when in the possession of any affected jurisdiction or affected local  
100 jurisdiction.

101 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to  
102 authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b)  
103 information concerning the terms and conditions of any interim or comprehensive agreement, service  
104 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity  
105 and the private entity; (c) information concerning the terms and conditions of any financing arrangement  
106 that involves the use of any public funds; or (d) information concerning the performance of any private  
107 entity developing or operating a qualifying transportation facility or a qualifying project.

108 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"  
109 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation  
110 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined  
111 in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education  
112 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

113 12. Confidential proprietary information or trade secrets, not publicly available, provided by a private  
114 person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a  
115 fund administered in connection with financial assistance rendered or to be rendered by the Virginia  
116 Resources Authority where, if such information were made public, the financial interest of the private  
117 person or entity would be adversely affected.

118 13. Trade secrets or confidential proprietary information that is not generally available to the public  
119 through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii)  
120 franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority

pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

182 In order for the information specified in this subdivision to be excluded from the provisions of this  
183 chapter, the private or nongovernmental entity shall make a written request to the State Inspector  
184 General:

185 a. Invoking such exclusion upon submission of the data or other materials for which protection from  
186 disclosure is sought;

187 b. Identifying with specificity the data or other materials for which protection is sought; and

188 c. Stating the reasons why protection is necessary.

189 The State Inspector General shall determine whether the requested exclusion from disclosure is  
190 necessary to protect the trade secrets or financial information of the private entity. The State Inspector  
191 General shall make a written determination of the nature and scope of the protection to be afforded by it  
192 under this subdivision.

193 23. Information relating to a grant application, or accompanying a grant application, submitted to the  
194 Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial  
195 information of a grant applicant that is not a public body, including balance sheets and financial  
196 statements, that are not generally available to the public through regulatory disclosure or otherwise, or  
197 (c) research-related information produced or collected by the applicant in the conduct of or as a result of  
198 study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when  
199 such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful  
200 to the competitive position of the applicant; and memoranda, staff evaluations, or other information  
201 prepared by the Commission or its staff exclusively for the evaluation of grant applications. The  
202 exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in  
203 furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

204 In order for the information specified in this subdivision to be excluded from the provisions of this  
205 chapter, the applicant shall make a written request to the Commission:

206 a. Invoking such exclusion upon submission of the data or other materials for which protection from  
207 disclosure is sought;

208 b. Identifying with specificity the data, information or other materials for which protection is sought;  
209 and

210 c. Stating the reasons why protection is necessary.

211 The Commission shall determine whether the requested exclusion from disclosure is necessary to  
212 protect the trade secrets, financial information, or research-related information of the applicant. The  
213 Commission shall make a written determination of the nature and scope of the protection to be afforded  
214 by it under this subdivision.

215 24. a. Information held by the Commercial Space Flight Authority relating to rate structures or  
216 charges for the use of projects of, the sale of products of, or services rendered by the Authority if  
217 disclosure of such information would adversely affect the financial interest or bargaining position of the  
218 Authority or a private entity providing the information to the Authority; or

219 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of  
220 such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the  
221 private entity, including balance sheets and financial statements, that are not generally available to the  
222 public through regulatory disclosure or otherwise; or (c) other information submitted by the private  
223 entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private  
224 entity.

225 In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded  
226 from the provisions of this chapter, the private entity shall make a written request to the Authority:

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

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

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

231 The Authority shall determine whether the requested exclusion from disclosure is necessary to protect  
232 the trade secrets or financial information of the private entity. To protect other information submitted by  
233 the private entity from disclosure, the Authority shall determine whether public disclosure would  
234 adversely affect the financial interest or bargaining position of the Authority or private entity. The  
235 Authority shall make a written determination of the nature and scope of the protection to be afforded by  
236 it under this subdivision.

237 25. Information of a proprietary nature furnished by an agricultural landowner or operator to the  
238 Department of Conservation and Recreation, the Department of Environmental Quality, the Department  
239 of Agriculture and Consumer Services, or any political subdivision, agency, or board of the  
240 Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part  
241 of a state or federal regulatory enforcement action.

242 26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of  
243 § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the

submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant or loan application, or accompanying a grant or loan application, submitted to the Virginia Research Investment Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study

305 requested by the Virginia Department of Transportation in accordance with law.

306 In order for the records specified in this subdivision to be excluded from the provisions of this  
307 chapter, the private or nongovernmental entity shall make a written request to the Department:

308 a. Invoking such exclusion upon submission of the data or other materials for which protection from  
309 disclosure is sought;

310 b. Identifying with specificity the data or other materials for which protection is sought; and

311 c. Stating the reasons why protection is necessary.

312 The Virginia Department of Transportation shall determine whether the requested exclusion from  
313 disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia  
314 Department of Transportation shall make a written determination of the nature and scope of the  
315 protection to be afforded by it under this subdivision.

316 32. Information related to a grant application, or accompanying a grant application, submitted to the  
317 Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b)  
318 financial information of a grant applicant that is not a public body, including balance sheets and  
319 financial statements, that are not generally available to the public through regulatory disclosure or  
320 otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or  
321 as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly  
322 issues, when such information has not been publicly released, published, copyrighted, or patented, and  
323 (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision  
324 shall only apply to grants administered by the Department, the Director of the Department, or pursuant  
325 to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative  
326 as authorized by the appropriations act.

327 In order for the information submitted by the applicant and specified in this subdivision to be  
328 excluded from the provisions of this chapter, the applicant shall make a written request to the  
329 Department:

330 a. Invoking such exclusion upon submission of the data or other materials for which protection from  
331 disclosure is sought;

332 b. Identifying with specificity the data, information, or other materials for which protection is sought;  
333 and

334 c. Stating the reasons why protection is necessary.

335 The Department shall determine whether the requested exclusion from disclosure is necessary to  
336 protect the trade secrets or confidential proprietary information of the applicant. The Department shall  
337 make a written determination of the nature and scope of the protection to be afforded by it under this  
338 subdivision.

339 33. *Confidential proprietary information or trade secrets, not publicly available, provided to the*  
340 *Virginia Lottery by a manufacturer, distributor, operator, or host of dominant skill video games*  
341 *pursuant to Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1. In order for confidential*  
342 *proprietary information or trade secrets to be excluded from the provisions of this chapter, such entity*  
343 *shall (i) invoke such exclusion upon submission of the information for which protection from disclosure*  
344 *is sought, (ii) identify the information for which protection is sought, and (iii) state the reason why*  
345 *protection is necessary.*

346 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

359 2. Discussion or consideration of admission or disciplinary matters or any other matters that would  
360 involve the disclosure of information contained in a scholastic record concerning any student of any  
361 public institution of higher education in the Commonwealth or any state school system. However, any  
362 such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall  
363 be permitted to be present during the taking of testimony or presentation of evidence at a closed  
364 meeting, if such student, parents, or guardians so request in writing and such request is submitted to the  
365 presiding officer of the appropriate board.

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

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or

428 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the  
429 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders  
430 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

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

439 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or  
440 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of  
441 trustees of a trust established by one or more local public bodies to invest funds for postemployment  
442 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title  
443 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the  
444 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,  
445 holding or disposition of a security or other ownership interest in an entity, where such security or  
446 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that  
447 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of  
448 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia  
449 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or  
450 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such  
451 ownership interest or the future financial performance of the entity, and (ii) would have an adverse  
452 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a  
453 local finance board or board of trustees, the board of visitors of the University of Virginia, or the  
454 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure  
455 of information relating to the identity of any investment held, the amount invested or the present value  
456 of such investment.

457 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
458 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which  
459 individual child death cases are discussed by a regional or local child fatality review team established  
460 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
461 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
462 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
463 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed  
464 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of  
465 meetings in which individual death cases are discussed by overdose fatality review teams established  
466 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are  
467 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

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

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

488 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within  
489 the Department of Health Professions to the extent such discussions identify any practitioner who may



be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

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

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

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

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

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

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

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

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

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

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 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 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

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

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

*52. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a license related to dominant skill video games and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.*

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

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

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

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1

(§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

**§ 11-16.1. Exemption; play of authorized dominant skill video games.**

*This chapter shall not apply to the play of dominant skill video games or related activity that is lawful 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.*

**§ 18.2-334.3. 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 dominant skill video games or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1.

**§ 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

674 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person  
675 with a conviction record would be compatible with the nature of the employment under consideration;

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

683 9. To the extent permitted by federal law or regulation, public service companies as defined in  
684 § 56-1, for the conduct of investigations of applicants for employment when such employment involves  
685 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
686 with the nature of the employment under consideration;

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

689 11. A person requesting a copy of his own criminal history record information as defined in  
690 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
691 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
692 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
693 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
694 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
695 Solvers or Crime Line program as defined in § 15.2-1713.1;

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

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

708 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
709 (§ 58.1-4000 et seq.) and dominant skill video games as set forth in Article 2 (§ 58.1-4030 et seq.) of  
710 Chapter 40 of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of  
711 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

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

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

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

724 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
725 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
726 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

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

734 22. The Department of Behavioral Health and Developmental Services and facilities operated by the  
735 Department for the purpose of determining an individual's fitness for employment pursuant to

departmental instructions;

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

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

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

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

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

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

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

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

797 program administered by the Department of Medical Assistance Services;

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

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

807 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
808 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
809 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
810 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

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

818 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of  
819 a juvenile's household when completing a predispositional or postdispositional report required by §  
820 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

821 45. Other entities as otherwise provided by law.

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

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

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

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

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

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

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

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

857 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal  
858 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

920 may be required to comply with an express requirement of law;

921 9. To the extent permitted by federal law or regulation, public service companies as defined in  
922 § 56-1, for the conduct of investigations of applicants for employment when such employment involves  
923 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
924 with the nature of the employment under consideration;

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

927 11. A person requesting a copy of his own criminal history record information as defined in  
928 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
929 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
930 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
931 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
932 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
933 Solvers or Crime Line program as defined in § 15.2-1713.1;

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

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

946 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
947 (§ 58.1-4000 et seq.) *and dominant skill video games as set forth in Article 2 (§ 58.1-4030 et seq.) of*  
948 *Chapter 40 of Title 58.1*, and the Department of Agriculture and Consumer Services for the conduct of  
949 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

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

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

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

962 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
963 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
964 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

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

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

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

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

981 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,



by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

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

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

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

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

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;

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.

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.

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

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

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

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

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

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

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

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

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

8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to 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.

**CHAPTER 40.**

**VIRGINIA LOTTERY LAW; DOMINANT SKILL VIDEO GAMES.**

**Article 1.**

**Powers and Duties of Virginia Lottery Board; Administration of Tickets and Prizes.**

**§ 58.1-4000. Short title.**

This chapter article shall be known and may be cited as the "Virginia Lottery Law."

**§ 58.1-4002. Definitions.**

For the purposes of this chapter:

"Board" means the Virginia Lottery Board established by this chapter.

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in this chapter article and the regulation of dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.).

"Director" means the Director of the Virginia Lottery.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

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

**§ 58.1-4006. Powers of the Director.**

A. The Director shall supervise and administer the:

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

2. The regulation of dominant skill video games 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 dominant skill video games; 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 dominant skill video games.

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 dominant skill video games*.

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 dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.)*. The regulations governing the establishment and operation of the lottery *and the regulation of dominant skill video games* 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 dominant skill video games* and for the convenience of the purchasers of tickets or shares, ~~and~~ the holders of winning tickets or shares, *and the players of dominant skill video games*. 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.
7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.

8. The method to be used in selling tickets or shares.

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

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

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

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

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

14. *The operation of dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.)*.

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

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

B. The Board shall carry on a continuous study and investigation of the lottery *and dominant skill video games* throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery *or the regulation of dominant skill video games* and any evasions of such provisions.

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

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

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

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

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

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

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

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;

2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;

3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;

4. Failure to file any return or report, to keep records or to pay any fees or other charges required by this chapter;

5. Any act of fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the Commonwealth lottery *or the administration and regulation of dominant skill video games*;

6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs and public convenience is adequately served by other licensees;

7. A material change, since issuance of the license, with respect to any matters required to be considered by the Director under this chapter; ~~or~~

8. *Failure to pay any fees or penalties required by this chapter; or*

9. Other factors established by Department regulation.

#### **§ 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.*

#### *Dominant Skill Video Games.*

#### **§ 58.1-4030. Definitions.**

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

*"Approved game" means game software that has been approved the Director pursuant to*

§ 58.1-4039.

"Distributor" means any person that (i) creates and sells or leases approved game software and terminal collection and control software to manufacturer licensees for assembly by such manufacturer into terminals, (ii) sells or leases dominant skill video games to operator licensees, (iii) maintains the dominant skill video games that the distributor provides to operator licensees, and (iv) sells fills to operator licensees.

"Dominant skill video game" means a game system with game software (i) in which the outcome is based on an individual's use of strategy and skill rather than any inherent element of chance; (ii) that requires the use of skill in each play and throughout the course of a session in order for the player to win a prize; (iii) that enables a player to preview the next game outcome without consideration; (iv) that is such that the general public can learn to score and win prizes; and (v) that, in the event that a player utilizes a perfect play strategy, such player has the ability, on every play, to win more prize money than such player spent to initiate a single game play.

"Fill" means a software license renewal that grants additional game plays and is sold by a distributor to an operator. One fill is capable of generating \$10,000 in gross profits.

"Game system" means the combination of game software and the terminal collection and control system that is assembled into a terminal by a manufacturer.

"Host location" means an establishment at which dominant skill video games are placed and offered to the public for play.

"Individual" means a natural person.

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

"Manufacturer" means any person who (i) purchases or leases approved game software and terminal collection and control systems from a distributor, (ii) creates game systems by assembling terminals and installing such software into the terminals, and (iii) sells or leases such game systems to operator licensees.

"Gross profits" means all revenue generated from the play of dominant skill video games minus prizes paid out to successful players.

"Operator" means a person that (i) purchases or leases dominant skill video games from distributor licensees, (ii) provides dominant skill video games to host location licensees, (iii) maintains such games, (iv) purchases fills from distributor licensees, (v) sells fills to location host licensees, and (vi) is responsible for on-site data collection and accounting.

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

"Player" means an individual who plays a dominant skill video game.

"Quick response code" or "QR code" means a pattern of black and white squares that form a two-dimensional barcode that is embedded with information and that, when scanned by a scanner or smartphone, provides the information in a visual format.

"Single play" means the period beginning when a player activates and pays for the interactive game play function of a dominant skill video game and ending at the time when the game play function or series of free subgames thereunder will not continue without payment by the player of additional consideration.

"Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

"Successful player" means an individual who wins on one or more plays of a dominant skill video game.

"Terminal" means the video game or other computer device that houses the game software.

"Terminal collection and control system" means a combination of hardware and software components that are not directly connected to the Internet, that are provided by a distributor and installed as part of all game systems, and that monitor all gaming activities and report true and accurate records of the information required by § 58.1-4032.

"Ticket redemption terminal" means a terminal where a bearer scrip dispensed by a dominant skill video game may be redeemed for cash. Such terminals shall only dispense cash after the player seeking to redeem the bearer scrip has validated his age by scanning his state-issued driver's license or identification card.

**§ 58.1-4031. Powers and duties of the Director related to dominant skill video games; reporting.**

A. The Director shall have the following additional powers and duties related to the regulation of dominant skill video games:

1. Issue licenses under this article, and supervise all activities licensed under the provisions of this article, including the manufacturing, distributing, operating, hosting, and playing of dominant skill video games.

2. Suspend, revoke, or refuse to renew any license issued pursuant to this article or the rules and

1412 regulations adopted pursuant to this article.

1413 3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of  
1414 any licensee, and compel the production of any books, documents, records, or memoranda of any  
1415 licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied  
1416 with.

1417 4. Order such audits as deemed necessary.

1418 5. Certify monthly to the State Comptroller and the Board a full and complete statement of dominant  
1419 skill video game revenue and expenses for the previous month;

1420 6. Assess and collect civil penalties for violations of this article and Board regulations;

1421 7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate  
1422 Committee on Finance, House Committee on Finance, and House Committee on Appropriations the total  
1423 dominant skill video game revenues and expenses for the previous month and make an annual report,  
1424 which shall include a full and complete statement of dominant skill video game revenues and expenses,  
1425 to the Governor and the General Assembly, including recommendations for changes in this article as the  
1426 Director and Board deem prudent; and

1427 8. Do all acts necessary and advisable to carry out the purposes of this article.

1428 B. The Director may require bond or other surety satisfactory to the Director from license holders in  
1429 such amount as provided in the rules and regulations of the Board adopted under this article;

1430 **§ 58.1-4032. Powers and duties of the Board related to dominant skill video games.**

1431 In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate  
1432 regulations related to dominant skill video games that:

1433 1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient  
1434 for the administration of this article;

1435 2. Provide a schedule of application, license, and renewal fees;

1436 3. Establish requirements for all licensees under this article for the form, content, and retention of  
1437 all records and accounts;

1438 4. Establish a process for the approval or disapproval of dominant skill video games and games  
1439 offered on such machines;

1440 5. Require inspections of all licensees at a frequency determined by the Board; and

1441 6. Establish a program of periodic testing and inspection for all dominant skill video games.

1442 **§ 58.1-4033. Licenses that may be granted by the Director.**

1443 The Director may grant the following licenses:

1444 1. Manufacturer license, which shall authorize the licensee to (i) purchase or lease approved game  
1445 software and terminal collection and control systems from a distributor, (ii) create games systems by  
1446 assembling terminals and installing such software and systems into the terminals, and (iii) sell or lease  
1447 such games systems to operator licensees.

1448 2. Distributor license, which shall authorize the licensee to (i) create and sell or lease approved  
1449 game software and terminal collection and control systems to manufacturer licensees for assembly by  
1450 such manufacturer into terminals, (ii) sell or lease dominant skill video games to operator licensees, (iii)  
1451 maintain the dominant skill video games that the distributor provides to operator licensees, and (iv) sell  
1452 fills to operator licensees.

1453 3. Operator license, which shall authorize the licensee to (i) purchase or lease dominant skill video  
1454 games from distributor licensees, (ii) provide dominant skill video games to host location licensees, (iii)  
1455 maintain such games, (iv) purchase fills from distributor licensees, and (v) sell fills to location host  
1456 licensees.

1457 4. Host location licensee, which shall authorize the licensee to allow the placement and offering for  
1458 play by the public of dominant skill video games at such licensee's establishment. The primary business  
1459 of a host location licensee shall not be the offering for play of dominant skill video games. Host  
1460 locations may use fills provided by an operator licensee.

1461 **§ 58.1-4034. General licensing requirements; penalty.**

1462 A. An applicant for a manufacturer, distributor, operator, or host location license shall submit an  
1463 application to the Director on forms provided by the Director, accompanied by the following fees:

1464 1. \$100,000 for a manufacturer license;

1465 2. \$1 million for a distributor license;

1466 3. \$50,000 for an operator license; or

1467 4. \$250 for a host location license.

1468 B. The chief security officer of the Virginia Lottery shall conduct a background investigation, to  
1469 include a Virginia criminal history records search and fingerprinting, that shall be submitted to the  
1470 Federal Bureau of Investigation if the Director deems a national criminal records search is necessary,  
1471 on applicants for licensure pursuant to this article.

1472 C. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license  
1473 issued pursuant to this article to any person who has been (i) convicted of a crime involving moral



1474 turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud  
 1475 or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in  
 1476 conduct prejudicial to public confidence in the Lottery and dominant skill video games.

1477 D. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license  
 1478 issued pursuant to this article to a partnership or corporation if he determines that any general or  
 1479 limited partner, or officer or director of such partnership or corporation has been (i) convicted of a  
 1480 crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii)  
 1481 found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found  
 1482 to have engaged in conduct prejudicial to public confidence in the Lottery and dominant skill video  
 1483 games.

1484 E. The Director may also refuse to grant a license pursuant to this article if:

1485 1. The Director reasonably believes that the applicant or any general or limited partner, or officer  
 1486 or director of such applicant lacks good character, honesty, or integrity;

1487 2. The Director reasonably believes that the applicant's prior activities, criminal record, reputation,  
 1488 or associations are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of  
 1489 dominant skill video games, or (iii) promote unfair or illegal activities in the conduct of dominant skill  
 1490 video games;

1491 3. The Director reasonably believes that the applicant will be unable to maintain effective security to  
 1492 prevent violations of this article;

1493 4. The applicant or any general or limited partner or any officer or director of such applicant,  
 1494 knowingly makes a false statement of material fact or deliberately fails to disclose information requested  
 1495 by the Director;

1496 5. The applicant or any general or limited partner or any officer or director of such applicant,  
 1497 knowingly fails to comply with the provisions of this article or any requirements of the Director;

1498 6. The applicant's license to manufacture, distribute, operate, or host a dominant skill video game  
 1499 issued by any other jurisdiction has been suspended or revoked;

1500 7. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or

1501 8. The applicant's application is incomplete.

1502 F. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or  
 1503 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any  
 1504 application pursuant to this article is guilty of a Class 1 misdemeanor. The Director shall revoke the  
 1505 license of a licensee if, subsequent to the issuance of the license, the Director determines that the  
 1506 licensee knowingly or recklessly made a false statement of material fact to the Director in applying for  
 1507 the license.

1508 **§ 58.1-4035. Multiple licenses granted to one person permitted; exceptions; transferability of**  
 1509 **licenses.**

1510 A. For purposes of this section, "interest" means an equity ownership interest or a partial equity  
 1511 ownership interest or any other type of financial interest, including but not limited to being an investor  
 1512 or serving in a management position.

1513 B. A person may be issued both a manufacturer license and a distributor license, provided such  
 1514 person meets the requirements for obtaining both licenses and pays all applicable fees associated with  
 1515 each license.

1516 C. A person may be issued both a manufacturer license and an operator license, provided such  
 1517 person meets the requirements for obtaining both licenses and pays all applicable fees associated with  
 1518 each license.

1519 D. No licensee who has been issued a distributor license shall be issued an operator license or host  
 1520 location license, or have any interest in an operator licensee or host location licensee.

1521 E. No licensee who has been issued an operator license shall be issued a host location license, or  
 1522 have any interest in a location operator licensee.

1523 F. Licenses issued pursuant to this article may be sold by the licensee, provided the license is sold to  
 1524 a person permitted to possess such license pursuant to this section and license purchaser otherwise  
 1525 meets all requirements of this article and Board regulations promulgated thereunder.

1526 **§ 58.1-4036. License posting; expiration; renewal.**

1527 A. Each license granted by the Director shall designate the place where the business of the licensee  
 1528 will be carried out.

1529 B. Each license shall be posted in a location conspicuous to the public at the place where the  
 1530 licensee carries out the business for which the license is granted.

1531 C. The privileges conferred by any license granted by the Director shall continue until the last day  
 1532 of the twelfth month next ensuing or the last day of the designated month and year of expiration, except  
 1533 the license may be sooner terminated for any cause for which the Director would be entitled to refuse to  
 1534 grant a license or by operation of law, voluntary surrender, or order of the Director.

1535 D. The Director may grant licenses for one year or for multiple years, not to exceed three years.  
1536 Qualifications for a multiyear license shall be determined on the basis of criteria established by the  
1537 Director. Fees for multiyear licenses shall not be refundable.

1538 E. At least 60 days before the expiration of a license, the license holder may submit a renewal  
1539 application, on forms prescribed by the Director, along with the following renewal fee:

- 1540 1. \$10,000 for a manufacturer license;
- 1541 2. \$100,000 for a distributor license;
- 1542 3. \$5,000 for an operator license; or
- 1543 4. \$250 for a host location license.

1544 The Director may deny a license renewal if he finds grounds for denial as described in § 58.1-4034.

1545 **§ 58.1-4037. Suspension and revocation of licenses; civil penalties; hearing and appeal.**

1546 A. If the Director determines that any provision of this article, or any regulation or condition of the  
1547 Board, has not been complied with or has been violated by a licensee, he may, with at least 15 days'  
1548 notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed  
1549 \$100,000 and (ii) suspend or revoke the license holder's license. If any license or permit is suspended or  
1550 revoked, the Director shall state its reasons for doing so, which shall be entered of record.

1551 B. Any person aggrieved by a refusal of the Director to issue any license or permit, the suspension  
1552 or revocation of a license or permit, the imposition of a fine, or any other action of the Director may  
1553 seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative  
1554 Process Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance  
1555 with Article 5 of the Administrative Process Act.

1556 C. Suspension or revocation of a license or permit by the Director for any violation shall not  
1557 preclude criminal liability for such violation.

1558 **§ 58.1-4038. Requirement for written contract between distributor and associated licensees.**

1559 A. No manufacturer licensee, operator licensee, or host location licensee may do business with a  
1560 distributor licensee unless such manufacturer licensee, operator licensee, or host location licensee has  
1561 entered into a written contract with the distributor licensee setting forth the terms and conditions of  
1562 their business operations together.

1563 B. A copy of the written contract shall be maintained in the business office of both contracting  
1564 licensees and shall be available at all times for inspection by the Director.

1565 C. The written contract between the distributor licensee and its associated manufacturer, operator,  
1566 and host location licensees shall provide for the following allocation of gross profits:

1567 1. A host location licensee shall receive 40 percent of the gross profits received from the play of  
1568 dominant skill video games placed at its establishment;

1569 2. An operator licensee shall receive 40 percent of the gross profits received from the play of  
1570 dominant skill video games that it has placed with a host location; and

1571 3. The distributor licensee and the manufacturer licensee combined shall receive the remaining 20  
1572 percent of the gross profits received from the dominant skill video games that such manufacturer has  
1573 manufactured and such distributor has distributed. The distributor licensee and manufacturer licensee  
1574 shall agree within the written contract as to the allocation of the gross profits among the two licensees.

1575 **§ 58.1-4039. Requirements of game software; approval of game software by the Director.**

1576 A. In addition to meeting the definition of dominant skill video game under this article, game  
1577 software shall also be programmed (i) such that winnings may only be provided by the ejection of a  
1578 bearer scrip, and not cash; (ii) to expire after gross profits from game play exceed \$10,000; (iv) so that  
1579 the maximum price to play an individual game shall not exceed \$5; (v) so that the maximum allowable  
1580 winnings for a single play shall not exceed \$5,000; (vi) so that the version of the software or other  
1581 identifying nomenclature of the software is easily identifiable and accurate; and (vii) meet such other  
1582 requirements that are prescribed by Board regulations.

1583 B. No game software shall be installed into a terminal and subsequently offered for play by the  
1584 public as a dominant skill video game in the Commonwealth unless such game software has first been  
1585 approved by the Director.

1586 C. Before selling, leasing, or otherwise distributing game software to a manufacturer for installation  
1587 into a game system, a distributor shall provide a prototype or production sample of such software to an  
1588 independent testing laboratory, which shall evaluate and certify whether such software meets the  
1589 definition of a dominant skill video game under § 58.1-4030 and the requirements of this section.

1590 The report of the independent testing laboratory shall be submitted by the distributor to the Director.  
1591 The Director shall use the report in evaluating whether the game software shall be approved under this  
1592 article.

1593 If at any time a distributor makes a substantive change to any game software that has previously  
1594 been approved by the Director, such distributor shall resubmit the game software to the Director in a  
1595 manner prescribed by Board regulation.

1596 **§ 58.1-4040. Requirements for terminal collection and control systems.**

A. Each distributor shall develop a terminal collection and control system that monitors all gaming activities and reports true and accurate records of the number of all dominant skill video games placed at host locations in the Commonwealth, the location of all dominant skill video games placed at host locations in the Commonwealth; cash in, payouts, points played, points won, net terminal income, the number of plays of the game, the amounts paid to play the game, the number of fills sold, the amount of revenue derived by fills, all taxes accrued and paid, and any other information required by Board regulations.

B. A terminal collection and control system shall be installed into every dominant skill video game and used by the game's distributor to meet the reporting and tax requirements imposed by this article.

**§ 58.1-4041. Requirements for game systems.**

A. Game systems shall:

1. Be equipped with the ability to accept currency;

2. Distribute winnings by ejection of bearer scrip that shall be redeemable for cash only through a ticket redemption terminal located at the host location where the dominant skill video game is located. Cash shall not be dispensed directly from the game system;

3. Not be connected to directly to the Internet. Game systems may be connected to a local area network (LAN);

4. Have no external data ports or disc drives located outside of a locked area within the terminal, except as may be required by the Director to accommodate inspections by the Director, employees of the Department, or law-enforcement authorities;

5. Be assigned a unique terminal identification number;

6. Have a prominently displayed QR code. Such code shall be capable of being scanned only by the Director, employees of the Department, or law-enforcement authorities, and shall be embedded with the (i) terminal identification number and (ii) name and contact information of the manufacturer, distributor, operator, and assigned location host of the game system;

7. Utilize software fills;

8. Prominently display the rules of play of the game, either on the game system itself or on the game screens; and

9. Be equipped with a terminal collection and control system that meets the requirements of § 58.1-4040.

B. Games systems installed with approved game software shall prominently display the following statement printed in bold print and in a clear and legible fashion: "THIS GAME IS LICENSED BY THE COMMONWEALTH OF VIRGINIA."

**§ 58.1-4042. Inspections.**

The Director, employees of the Department, and law-enforcement authorities shall have the right to inspect at any time any dominant skill video game sold, leased, hosted, or otherwise distributed or possessed by a manufacturer, distributor, operator, or host location licensee for compliance with the provisions of this chapter and Board regulations.

The Director, employees of the Department, or law-enforcement authorities shall be permitted to conduct a field inspection of the game software using instructions provided by the distributor or take possession of the entire dominant skill video game and transport it to a different location to conduct a detailed forensic or laboratory examination.

If the Director, employees of the Department, or law-enforcement authorities determine that such dominant skill video game does not meet the requirements of this chapter or Board regulations, the Director shall have the authority to immediately require that the manufacture, distribution, operation, hosting, and use of such dominant skill video game be immediately discontinued.

**§ 58.1-4043. Requirements of manufacturer licensees.**

A. Manufacturer licensees shall be required to maintain a warehouse facility in the Commonwealth with at least 10,000 square feet of storage space for the storage of dominant skill video games that is secured by an independently monitored security system that is capable of detecting and reporting fires and unauthorized intrusions into the premises.

B. On or before the seventh day of each month, each manufacturer shall submit a report to the distributor with whom it has entered into a written contract detailing:

1. The number of game systems that it has sold or leased to the distributor during the preceding calendar month;

2. The number of game systems in its inventory that have not been sold or licensed by it to a distributor; and

3. Any additional information required by the distributor from manufacturer licensees according to Board regulations.

**§ 58.1-4044. Requirements of distributor licensees.**

A. Distributor licensees shall be responsible for:

1. Monitoring and managing all market activities of the manufacturer, operator, and host location licensees with which it has entered into a written contract, and reporting such information as may be required by the Director or Board regulations on behalf of all such licensees;

2. Collecting and remitting the tax owed by it pursuant to § 58.1-4048, as well as the taxes owed by the manufacturer, operator, and host location licensees with which it has entered into a written contract;

3. Employing an internal compliance team composed of individuals with prior law-enforcement experience. Such compliance team shall (i) monitor compliance with and enforce the provisions of the written contracts in existence between the distributor licensee and its associated licensees, including the code of conduct included in each written contract, and (ii) ensure compliance by the distributor and its affiliated businesses with the provisions of this chapter and Board regulations; and

4. Arranging for a yearly independent audit of its business conducted by an independent auditing firm selected by the Director. The cost of such audit shall not exceed \$250,000.

B. On or before the fifteenth day of each month, each distributor shall submit a report to the Director detailing:

1. All revenues derived by the distributor from the sale of fills to operators;

2. All revenues derived by the distributor and its associated licensees from the play of dominant skill video games;

3. Information concerning game play and hardware statistics;

4. Information on the number and location of all dominant skill video games owned by the distributor and its associated licensees; and

5. Any additional information required by Board regulations.

C. By January 30 of each year, each distributor shall submit an annual report to the Director with the following information:

1. The number and terminal identification numbers of all dominant skill video games purchased by the distributor from a manufacturer licensee;

2. The number and type of dominant skill video games that operators placed at host locations;

3. The number, terminal identification number, and type of dominant skill video games that the distributor and each of its associated licensees had in inventory as of December 31;

4. The number of dominant skill video games in operation in each county; and

5. Any additional information required by Board regulations.

Such monthly report shall also include the monthly reports submitted to the distributor by the manufacturer, operator, and host location licensees that are associated with the distributors.

**§ 58.1-4045. Requirements of operator licensees.**

A. Each distributor licensee shall provide each host location to which it provides dominant skill video games with a video camera security system that has been approved by the distributor of the dominant skill video game and that monitors all dominant skill video games that have been placed at such host location. The purpose of such video camera security system shall be to create a safe environment for the public and to provide a visible deterrent against any criminal activity by the public or employees of the host location. The video camera security system shall (i) record all play of dominant skill video games within such location and retain such recordings for a minimum of at least 60 days; (ii) record remotely to a website; (iii) record in color at a frame rate of at least 30 frames per second, and have infrared support for periods of darkness; and (iv) enable the Director, employees of the Department, law-enforcement authorities, and the distributor's compliance team to remotely retrieve and view such recordings.

B. On or before the seventh day of each month, each operator shall submit a report to the distributor with whom it has entered into a written contract detailing:

1. The number and type of each dominant skill video game that the operator has in its inventory;

2. The number and type of each dominant skill video game that the operator has placed on the premises of host locations;

3. The number of fills that the operator has sold to host locations; and

4. Any additional information required from operator licensees by the distributor or Board regulations.

**§ 58.1-4046. Requirements of host location licensees.**

A. The following locations are eligible to receive a host location license:

1. Establishments licensed to sell alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1;

2. Qualified organizations permitted to conduct charitable gaming pursuant to Chapter 8 (§ 18.2-340.15 et seq.) of Title 18.2; and

3. Truck stops.

As used in this subsection, "truck stop" means an establishment (i) that is equipped with diesel islands used for fueling commercial motor vehicles; (ii) has sold, on average, at least 50,000 gallons of

diesel or biodiesel fuel each month for the previous 12 months, or is projected to sell an average of at least 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months; (iii) has parking spaces dedicated to commercial motor vehicles; (iv) has a convenience store; and (v) is situated on not less than three acres of land that the establishment owns or leases.

B. No more than five dominant skill video games may be located in an establishment listed in subdivision A 1 or 2. No more than 10 dominant skill video games may be located in an establishment listed in subdivision A 3.

C. No host location licensee shall derive more than 50 percent of such location's monthly gross receipts from the play of dominant skill video games.

D. On or before the seventh day of each month, each host location shall submit a report to the distributor with whom it has entered into a written contract detailing:

1. The number and type of each dominant skill video game that the location host is hosting;

2. The number of fills and amount paid for such fills that the location host has purchased from an operator;

3. The gross profits of each dominant skill video game that the location hosts;

4. The overall gross receipts of the business operated by the location host; and

5. Any additional information required from operator licensees by the distributor or Board regulations.

**§ 58.1-4047. Local regulation of dominant skill video games.**

No locality may approve zoning or land use requirements that restrict or prohibit the placement or use of dominant skill video games in any zoning district that allows the sale of alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1, the sale of lottery tickets or shares pursuant to Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1, or pari-mutuel wagering pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1.

**§ 58.1-4048. Tax on gross profits.**

A. In addition to any taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, there shall be imposed a tax of 10 percent on all gross profits generated from the play of dominant skill video games and the sale of fills by distributor licensees to operator licensees.

B. The tax imposed pursuant to this section is due monthly to the Department, and the distributor licensee shall remit it on or before the twentieth day of the next succeeding calendar month. If the distributor licensee's accounting necessitates corrections to a previously remitted tax, such licensee shall document such corrections when remitting the following month's taxes.

**§ 58.1-4049. Distribution of tax revenue.**

A. The Department shall allocate one percent of the tax revenue collected pursuant to § 58.1-4048 to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

B. The Department shall allocate 25 percent of the tax revenue collected pursuant to § 58.1-4048 to the locality in which the revenue was generated. For the purposes of this section, "the locality in which the revenue was generated" means the location of the dominant skill video game at which the revenue subject to tax pursuant to this article was generated.

C. The Department shall allocate 25 percent of the tax revenue collected pursuant to § 58.1-4048 to the Dominant Skill Video Game Education Support Fund established pursuant to § 58.1-4050.

D. The Department shall allocate the remaining 49 percent of the tax revenue collected pursuant to § 58.1-4048 to the general fund. From this amount, a sum sufficient shall be appropriated to fund the operations of the Board related to the administration and regulation of dominant skill video games pursuant to this article.

**§ 58.1-4050. Dominant Skill Video Game Education Support Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Dominant Skill Video Game 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. 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 chairman of the Board.

**§ 58.1-4051. Illegal manufacturing, distributing, owning, or operating; penalty.**

A. No person shall:

1. Purchase or lease approved game software and terminal collection and control systems from a distributor; create game systems by assembling terminals and installing such software and systems into the terminals; or sell or lease such game systems to operator licensees without a manufacturer license

1781 issued by the Director.

1782 2. Create and sell or lease approved game software and terminal collection and control systems to  
1783 manufacturer licensees for assembly by such manufacturer into terminals; sell or lease dominant skill  
1784 video games to operator licensees; maintain the dominant skill video games that the distributor provides  
1785 to operator licensees; or sell fills to operator licensees without a distributor license issued by the  
1786 Director.

1787 3. Purchase or lease dominant skill video games from distributor licensees; provide dominant skill  
1788 video games to host location licensees; maintain such games; purchase fills from distributor licensees;  
1789 or sell fills to location host licensees without an operator license issued by the Director.

1790 4. Allow the placement and offering for play by the public of dominant skill video games at such  
1791 licensee's establishment without a host location licensee issued by the Director.

1792 B. A violation of this section is a Class 6 felony.

1793 **§ 58.1-4052. Underage play prohibited; penalty.**

1794 No person shall play any dominant skill video game unless such person is 18 years of age or older.

1795 A violation of this section is a Class 1 misdemeanor.

1796 **§ 58.1-4053. Prohibited acts by host location licensees; penalty.**

1797 A. No host location licensee shall:

1798 1. Permit any person who is not 18 years of age or older to play a dominant skill video game;

1799 2. Redeem any bearer scrip for a prize from any person who is not 18 years of age or older;

1800 3. Give any prize for the play of dominant skill video games that is not authorized by this article;

1801 4. Give any prize for the play of dominant skill video games that is redeemable at a location other  
1802 than the host location licensee's premises; or

1803 5. Have on its premises more dominant skill video games than permitted by § 58.1-4046.

1804 B. A violation of this section is a Class 1 misdemeanor.

1805 **§ 58.1-4054. Illegal tampering with dominant skill video games; penalty.**

1806 No person other than an operator licensee shall possess or use any key or device designed for the  
1807 purpose of opening, entering, or affecting the operation of a dominant skill video game or otherwise  
1808 tamper with a dominant skill video game. A violation of this section is a Class 6 felony.

1809 **§ 58.1-4055. Conspiracies and attempts to commit violations; penalty.**

1810 A. Any person who conspires, confederates, or combines with another, either within or outside the  
1811 Commonwealth, to commit a felony prohibited by this article is guilty of a Class 6 felony.

1812 B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal  
1813 offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

1814 **§ 58.1-4056. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.**

1815 Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply to  
1816 dominant skill video games under this article. The Board shall promulgate regulations to interpret and  
1817 clarify the applicability of Article 1 to this article.

1818 2. That the Virginia Lottery Board's initial adoption of regulations necessary to implement the  
1819 provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of  
1820 the Code of Virginia), except that the Virginia Lottery Board shall provide an opportunity for  
1821 public comment on the regulations prior to adoption.

1822 3. That the provisions of this act may result in a net increase in periods of imprisonment or  
1823 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
1824 necessary appropriation cannot be determined for periods of imprisonment in state adult  
1825 correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia  
1826 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to  
1827 § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be  
1828 determined for periods of commitment to the custody of the Department of Juvenile Justice.