

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-3705.4 of the Code of Virginia, relating to the Virginia Freedom of*
 3 *Information Act; public institutions of higher education; information related to pledges and*
 4 *donations.*

5 [S 140]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 2.2-3705.4 of the Code of Virginia is amended and reenacted as follows:**9 **§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of**
10 **educational institutions.**11 A. The following information contained in a public record is excluded from the mandatory disclosure
12 provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in
13 subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded
14 under this section from a public record shall be conducted in accordance with § 2.2-3704.01.15 1. Scholastic records containing information concerning identifiable individuals, except that such
16 access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the
17 student. However, no student shall have access to (i) financial records of a parent or guardian or (ii)
18 records of instructional, supervisory, and administrative personnel and educational personnel ancillary
19 thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to
20 any other person except a substitute.21 The parent or legal guardian of a student may prohibit, by written request, the release of any
22 individual information regarding that student until the student reaches the age of 18 years. For scholastic
23 records of students under the age of 18 years, the right of access may be asserted only by his legal
24 guardian or parent, including a noncustodial parent, unless such parent's parental rights have been
25 terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic
26 records of students who are emancipated or attending a public institution of higher education in the
27 Commonwealth, the right of access may be asserted by the student.28 Any person who is the subject of any scholastic record and who is 18 years of age or older may
29 waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such
30 records shall be disclosed.31 2. Confidential letters and statements of recommendation placed in the records of educational
32 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an
33 application for employment or promotion, or (iii) receipt of an honor or honorary recognition.34 3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal
35 personally identifiable information, including scholarship applications, personal financial information, and
36 confidential correspondence and letters of recommendation.37 4. Information of a proprietary nature produced or collected by or for faculty or staff of public
38 institutions of higher education, other than the institutions' financial or administrative records, in the
39 conduct of or as a result of study or research on medical, scientific, technical or scholarly issues,
40 whether sponsored by the institution alone or in conjunction with a governmental body or a private
41 concern, where such information has not been publicly released, published, copyrighted or patented.42 5. Information held by the University of Virginia or the University of Virginia Medical Center or
43 Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related
44 information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia
45 Medical School, as the case may be, including business development or marketing strategies and
46 activities with existing or future joint venturers, partners, or other parties with whom the University of
47 Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms,
48 any arrangement for the delivery of health care, if disclosure of such information would be harmful to
49 the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical
50 School, as the case may be.51 6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College
52 Savings Plan or its employees by or on behalf of individuals who have requested information about,
53 applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to
54 Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified
55 beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized
56 individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of

57 information in a statistical or other form that does not identify individuals or provide personal
58 information. Individuals shall be provided access to their own personal information.

59 For purposes of this subdivision:

60 "Authorized individual" means an individual who may be named by the account owner to receive
61 information regarding the account but who does not have any control or authority over the account.

62 "Designated survivor" means the person who will assume account ownership in the event of the
63 account owner's death.

64 7. Information maintained in connection with fundraising activities by or for a public institution of
65 higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or
66 prospective donors or (ii) wealth assessments; estate, financial, or tax planning information;
67 health-related information; employment, familial, or marital status information; electronic mail addresses,
68 facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or
69 prospective donors. ~~Nothing in this subdivision, however, shall be construed to prevent the disclosure of~~
70 ~~information relating to the amount, date, purpose, and terms of the pledge or donation, or the identity of~~
71 ~~the donor unless the donor has requested anonymity in connection with or as a condition of making a~~
72 ~~pledge or donation.~~ The exclusion provided by this subdivision shall not apply to protect from disclosure
73 ~~(i) (a) information relating to the amount, date, purpose, and terms of the pledge or donation or the~~
74 ~~identity of the donor or (b) the identities of sponsors providing grants to or contracting with the~~
75 ~~institution for the performance of research services or other work or (ii) the terms and conditions of~~
76 ~~such grants or contracts. For purposes of clause (a), the identity of the donor may be withheld if (1) the~~
77 ~~donor has requested anonymity in connection with or as a condition of making a pledge or donation~~
78 ~~and (2) the pledge or donation does not impose terms or conditions directing academic decision-making.~~

79 8. Information held by a threat assessment team established by a local school board pursuant to
80 § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the
81 assessment or intervention with a specific individual. However, in the event an individual who has been
82 under assessment commits an act, or is prosecuted for the commission of an act that has caused the
83 death of, or caused serious bodily injury, including any felony sexual assault, to another person, such
84 information of the threat assessment team concerning the individual under assessment shall be made
85 available as provided by this chapter, with the exception of any criminal history records obtained
86 pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic
87 records as defined in § 22.1-289. The public body providing such information shall remove personally
88 identifying information of any person who provided information to the threat assessment team under a
89 promise of confidentiality.

90 9. Records provided to the Governor or the designated reviewers by a qualified institution, as those
91 terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed
92 amendments to a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et
93 seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be
94 subject to public disclosure after it is agreed to and signed by the Governor.

95 B. The custodian of a scholastic record shall not release the address, phone number, or email address
96 of a student in response to a request made under this chapter without written consent. For any student
97 who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an
98 institution of higher education, written consent of the student shall be required. For any other student,
99 written consent of the parent or legal guardian of such student shall be required.