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## HOUSE BILL NO. 2004

Offered January 13, 2021

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*A BILL to amend and reenact §§ 2.2-3706, 2.2-3711, 19.2-174.1, and 19.2-368.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-3706.1, relating to the Virginia Freedom of Information Act; law-enforcement criminal incident information; criminal investigative files.*

Patrons—Hurst, Convirs-Fowler, Mullin, Roem, Carter, Cole, M.L., Helmer, Hope, Kory, Murphy, Price, Rasoul, Samirah, Simon and Simonds

Referred to Committee on General Laws

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

**1. That §§ 2.2-3706, 2.2-3711, 19.2-174.1, and 19.2-368.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-3706.1 as follows:**

**§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations.**

A. Records required to be released. All public bodies engaged in criminal law-enforcement activities shall provide the following records when requested in accordance with the provisions of this chapter:

1. Criminal incident information relating to felony offenses, which shall include:

a. A general description of the criminal activity reported;

b. The date the alleged crime was committed;

c. The general location where the alleged crime was committed;

d. The identity of the investigating officer or other point of contact; and

e. A general description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of subdivision 1.

~~Where the release of criminal incident information, however, is likely to jeopardize an ongoing investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in subdivision 1 shall be construed to authorize the withholding of those portions of such information that are not likely to cause the above-referenced damage;~~

~~2. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;~~

~~3. 2. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; and~~

~~4. 3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.~~

B. Discretionary releases. The following records are 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:

1. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution, ~~other than criminal incident information subject to release in accordance with subdivision A 1 not required to be disclosed in accordance with § 2.2-3706.1;~~

2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;

3. Records of local law-enforcement agencies relating to neighborhood watch programs that include

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58 the names, addresses, and operating schedules of individual participants in the program that are provided  
59 to such agencies under a promise of anonymity;

60 4. All records of persons imprisoned in penal institutions in the Commonwealth provided such  
61 records relate to the imprisonment;

62 5. Records of law-enforcement agencies, to the extent that such records contain specific tactical  
63 plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or  
64 the general public;

65 6. All records of adult persons under (i) investigation or supervision by a local pretrial services  
66 agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation,  
67 probation supervision, or monitoring by a local community-based probation services agency in  
68 accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or  
69 supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of  
70 Chapter 4 of Title 53.1;

71 7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for  
72 cellular telephones, pagers, or comparable portable communication devices provided to its personnel for  
73 use in the performance of their official duties;

74 8. Those portions of any records containing information related to undercover operations or  
75 protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations  
76 or protective details. Nothing in this subdivision shall operate to allow the withholding of information  
77 concerning the overall costs or expenses associated with undercover operations or protective details;

78 9. Records of (i) background investigations of applicants for law-enforcement agency employment,  
79 (ii) administrative investigations relating to allegations of wrongdoing by employees of a  
80 law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement  
81 agencies that are made confidential by law;

82 10. The identity of any victim, witness, or undercover officer, or investigative techniques or  
83 procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited  
84 or restricted under § 19.2-11.2; and

85 11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department  
86 of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained  
87 from state, local, and regional officials, except to the extent that information is required to be posted on  
88 the Internet pursuant to § 9.1-913.

89 C. Prohibited releases. The identity of any individual providing information about a crime or criminal  
90 activity under a promise of anonymity shall not be disclosed.

91 D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire  
92 protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing  
93 calls for service or other communications to an emergency 911 system or any other equivalent reporting  
94 system may withhold those portions of noncriminal incident or other noncriminal investigative reports or  
95 materials that contain identifying information of a personal, medical, or financial nature where the  
96 release of such information would jeopardize the safety or privacy of any person. Access to personnel  
97 records of persons employed by a law-enforcement agency shall be governed by the provisions of  
98 subdivision B 9 of this section and subdivision 1 of § 2.2-3705.1, as applicable.

99 E. Records of any call for service or other communication to an emergency 911 system or  
100 communicated with any other equivalent reporting system shall be subject to the provisions of this  
101 chapter.

102 F. Conflict resolution. In the event of conflict between this section as it relates to requests made  
103 under this section and other provisions of law, this section shall control.

104 **§ 2.2-3706.1. Disclosure of law-enforcement records; criminal incident information and certain**  
105 **criminal investigative files; limitations.**

106 A. For purposes of this section:

107 "Immediate family" means the decedent's personal representative or, if no personal representative  
108 has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

109 "Ongoing" refers to a case in which the prosecution has not been finally adjudicated, the  
110 investigation continues to gather evidence for a possible future criminal case, and such case would be  
111 jeopardized by the premature release of evidence.

112 B. All public bodies engaged in criminal law-enforcement activities shall provide the following  
113 records and information when requested in accordance with the provisions of this chapter:

114 1. Criminal incident information relating to felony offenses contained in any report, notes, electronic  
115 communication, or other document, including filings through an incident-based reporting system, which  
116 shall include:

117 a. A general description of the criminal activity reported;

118 b. The date and time the alleged crime was committed;

119 c. The general location where the alleged crime was committed;

d. The identity of the investigating officer or other point of contact;  
 e. A description of any injuries suffered or property damaged or stolen; and  
 f. Any diagrams related to the alleged crime or the location where the alleged crime was committed, except that any diagrams described in subdivision 14 of § 2.2-3705.2 and information therein shall be excluded from mandatory disclosure, but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of this subdivision 1; and

2. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, initial incident reports, filings through any incident-based reporting system, diagrams, maps, photographs, correspondence, reports, witness statements, or evidence, relating to a criminal investigation or proceeding that is not ongoing.

C. The provisions of subsection B shall not apply if a court in the locality wherein the public body is located finds by a preponderance of the evidence that the release of such information:

1. Would interfere with a particular ongoing criminal investigation or proceeding in a particularly identifiable manner;

2. Would deprive a person of a right to a fair trial or an impartial adjudication;

3. Would constitute an unwarranted invasion of personal privacy;

4. Would disclose (i) the identity of a confidential source or (ii) in the case of a record compiled by a law-enforcement agency in the course of a criminal investigation, information furnished only by a confidential source;

5. Would disclose law-enforcement investigative techniques and procedures, if such disclosure could reasonably be expected to risk circumvention of the law; or

6. Would endanger the life or physical safety of any individual.

Nothing in this subsection shall be construed to authorize the withholding of those portions of such information that are unlikely to cause any effect listed herein.

D. Nothing in this section shall prohibit the disclosure of current anonymized, aggregate location and demographic data collected pursuant to § 52-30.2 or similar data documenting law-enforcement officer encounters with members of the public.

No photographic, audio, video, or other record depicting a victim or allowing for a victim to be readily identified, except for transcripts of recorded interviews between a victim and law-enforcement, shall be released to anyone except (i) the victim; (ii) members of the immediate family of the victim, if the victim is deceased; or (iii) the parent or guardian of the victim, if the victim is a minor.

E. In the event of a conflict between this section as it relates to requests made under this section and other provisions of law, this section controls except to the extent that the other provision of law provides for more protections for a juvenile, victim, witness, undercover officer, or confidential source or family members of such juvenile, victim, witness, undercover officer, or confidential source.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

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

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

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

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

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

310 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee  
311 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §  
312 56-484.12, related to the provision of wireless E-911 service.

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

319 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of  
320 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are  
321 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the  
322 responsible public entity concerning such records.

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

327 30. Discussion or consideration of grant or loan application information subject to the exclusion in  
328 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

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

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

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

340 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting  
341 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

342 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee  
343 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative  
344 files ~~subject to the exclusion in subdivision B 1 of § 2.2-3706.~~

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

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

353 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
354 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,  
355 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
356 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment  
357 Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in  
358 subdivision 24 of § 2.2-3705.7.

359 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of  
360 § 2.2-3705.6 related to economic development.

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

363 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created  
364 by executive order for the purpose of studying and making recommendations regarding preventing  
365 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, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

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. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration, or review of matters related to investigations exempt from disclosure under subdivision 1 of § 2.2-3705.3.

54. 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 permit related to sports betting 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

427 procedures for holding closed meetings as are applicable to any other public body.

428 E. This section shall not be construed to (i) require the disclosure of any contract between the  
429 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1  
430 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant  
431 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body  
432 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry  
433 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of  
434 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance  
435 of such bonds.

436 **§ 19.2-174.1. Information required prior to admission to a mental health facility.**

437 Prior to any person being placed into the custody of the Commissioner for evaluation or treatment  
438 pursuant to §§ 19.2-169.2, 19.2-169.3, 19.2-169.6, 19.2-182.2, and 19.2-182.3, and Chapter 9 (§ 37.2-900  
439 et seq.) of Title 37.2, the court or special justice shall provide the Commissioner with the following, if  
440 available: (i) the commitment order, (ii) the names and addresses for the attorney for the  
441 Commonwealth, the attorney for the person and the judge holding jurisdiction over the person, (iii) a  
442 copy of the warrant or indictment, and (iv) a copy of the criminal incident information as defined in §  
443 ~~2.2-3706~~ 2.2-3706.1 or a copy of the arrest report or a summary of the facts relating to the crime. The  
444 party requesting the placement into the Commissioner's custody or, in the case of admissions pursuant to  
445 §§ 19.2-169.3 and 19.2-169.6, and Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the person having  
446 custody over the defendant or inmate shall gather the above information for submission to the court at  
447 the hearing. If the information is not available at the hearing, it shall be provided by the party  
448 requesting placement or the person having custody directly to the Commissioner within 96 hours of the  
449 person being placed into the Commissioner's custody. If the 96-hour period expires on a Saturday,  
450 Sunday or legal holiday, the 96 hours shall be extended to the next day that is not a Saturday, Sunday  
451 or legal holiday.

452 **§ 19.2-368.3. Powers and duties of Commission.**

453 The Commission shall have the following powers and duties in the administration of the provisions  
454 of this chapter:

455 1. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions  
456 and purposes of this chapter, to include a distinct policy (i) for the payment of physical evidence  
457 recovery kit examinations and (ii) to require each health care provider as defined in § 8.01-581.1 that  
458 provides services under this chapter to negotiate with the Commission or its designee to establish  
459 prospective agreements relating to rates for payment of claims for such services allowed under  
460 § 19.2-368.11:1, such rates to discharge the obligation to the provider in full except where the provider  
461 is an agency of the Commonwealth and the claimant receives a third party recovery in addition to the  
462 payment from the Fund.

463 2. Notwithstanding the provisions of § §§ 2.2-3706 and 2.2-3706.1, to acquire from the attorneys for  
464 the Commonwealth, State Police, local police departments, sheriffs' departments, and the Chief Medical  
465 Examiner such investigative results, information and data as will enable the Commission to determine if,  
466 in fact, a crime was committed or attempted, and the extent, if any, to which the victim or claimant was  
467 responsible for his own injury. These data shall include prior adult arrest records and juvenile court  
468 disposition records of the offender. For such purposes and in accordance with § 16.1-305, the  
469 Commission may also acquire from the juvenile and domestic relations district courts a copy of the  
470 order of disposition relating to the crime. The use of any information received by the Commission  
471 pursuant to this subdivision shall be limited to carrying out the purposes set forth in this section, and  
472 this information shall be confidential and shall not be disseminated further. The agency from which the  
473 information is requested may submit original reports, portions thereof, summaries, or such other  
474 configurations of information as will comply with the requirements of this section.

475 3. To hear and determine all claims for awards filed with the Commission pursuant to this chapter,  
476 and to reinvestigate or reopen cases as the Commission deems necessary.

477 4. To require and direct medical examination of victims.

478 5. To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation  
479 and to issue summonses requiring the attendance and giving of testimony of witnesses and require the  
480 production of any books, papers, documentary or other evidence. The powers provided in this subsection  
481 may be delegated by the Commission to any member or employee thereof.

482 6. To take or cause to be taken affidavits or depositions within or without the Commonwealth.

483 7. To render each year to the Governor and to the General Assembly a written report of its activities.  
484 This report shall include a detailed section on all unclaimed restitution collected and disbursed to the  
485 victim from the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1.

486 8. To accept from the government of the United States grants of federal moneys for disbursement  
487 under the provisions of this chapter.

488 9. To collect and disburse unclaimed restitution pursuant to subsection I of § 19.2-305.1 and develop,



in consultation with circuit court clerks and the Office of the Executive Secretary of the Supreme Court of Virginia, policies and procedures for the receipt, collection, and disbursement of unclaimed restitution to victims of crime.

10. To identify and locate victims of crime for whom restitution owed to such victims has been deposited into the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1. Notwithstanding the provisions of § §§ 2.2-3706 *and* 2.2-3706.1, the Commission may acquire from the attorneys for the Commonwealth, State Police, local police departments, and sheriffs' departments such information as will enable the Commission to identify and locate such victims. The use of any information received by the Commission pursuant to this subdivision shall be limited to carrying out the purposes set forth in this section, and this information shall be confidential and shall not be disseminated further.

**INTRODUCED**

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