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**SENATE BILL NO. 792**

Offered January 11, 2023

Prefiled November 29, 2022

A *BILL to amend and reenact §§ 2.2-2901.1, 2.2-3004, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-271.2, 22.1-271.4, 22.1-289.031, 22.1-295.2, 22.1-306, 23.1-800, 32.1-43, 32.1-47, 32.1-47.1, 32.1-48, 44-146.17, as it is currently effective and as it shall become effective, 63.2-603, and 65.2-402.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 1 of Title 32.1 a section numbered 32.1-15.2, by adding in Article 3 of Chapter 2 of Title 32.1 a section numbered 32.1-48.002, by adding in Chapter 2 of Title 37.2 a section numbered 37.2-205, by adding sections numbered 38.2-3100.4 and 40.1-27.5, by adding in Article 4 of Chapter 3 of Title 46.2 a section numbered 46.2-333.2, by adding in Chapter 24 of Title 54.1 a section numbered 54.1-2409.6, and by adding in Article 2 of Chapter 2 of Title 63.2 a section numbered 63.2-221.1, relating to COVID-19 vaccination status; discrimination prohibited; civil penalty.*

Patron—Chase

Referred to Committee on Education and Health

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

1. That §§ 2.2-2901.1, 2.2-3004, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-271.2, 22.1-271.4, 22.1-289.031, 22.1-295.2, 22.1-306, 23.1-800, 32.1-43, 32.1-47, 32.1-47.1, 32.1-48, 44-146.17, as it is currently effective and as it shall become effective, 63.2-603, and 65.2-402.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 1 of Title 32.1 a section numbered 32.1-15.2, by adding in Article 3 of Chapter 2 of Title 32.1 a section numbered 32.1-48.002, by adding in Chapter 2 of Title 37.2 a section numbered 37.2-205, by adding sections numbered 38.2-3100.4 and 40.1-27.5, by adding in Article 4 of Chapter 3 of Title 46.2 a section numbered 46.2-333.2, by adding in Chapter 24 of Title 54.1 a section numbered 54.1-2409.6, and by adding in Article 2 of Chapter 2 of Title 63.2 a section numbered 63.2-221.1 as follows:

**§ 2.2-2901.1. Employment discrimination prohibited.**

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

B. No state agency, institution, board, bureau, commission, council, or instrumentality of the Commonwealth shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or military status, or *COVID-19 vaccination status*.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of (a) sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (b) disability when using the alternative application process provided for in § 2.2-1213 or (ii) providing preference in employment to veterans.

**§ 2.2-3004. Grievances qualifying for a grievance hearing; grievance hearing generally.**

A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee relating to the following adverse employment actions in which the employee is personally involved, including (i) formal disciplinary actions, including suspensions, demotions, transfers and assignments, and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of all written personnel policies, procedures, rules and regulations where it can be shown that policy was misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or military status, or *COVID-19 vaccination status*; (iv) arbitrary or capricious performance evaluations; (v) acts of retaliation as the result of the use of or participation in

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59 the grievance procedure or because the employee has complied with any law of the United States or of  
60 the Commonwealth, has reported any violation of such law to a governmental authority, has sought any  
61 change in law before the Congress of the United States or the General Assembly, or has reported an  
62 incidence of fraud, abuse, or gross mismanagement; and (vi) retaliation for exercising any right  
63 otherwise protected by law.

64 B. Management reserves the exclusive right to manage the affairs and operations of state government.  
65 Management shall exercise its powers with the highest degree of trust. In any employment matter that  
66 management precludes from proceeding to a grievance hearing, management's response, including any  
67 appropriate remedial actions, shall be prompt, complete, and fair.

68 C. Complaints relating solely to the following issues shall not proceed to a hearing: (i) establishment  
69 and revision of wages, salaries, position classifications, or general benefits; (ii) work activity accepted by  
70 the employee as a condition of employment or which may reasonably be expected to be a part of the  
71 job content; (iii) contents of ordinances, statutes or established personnel policies, procedures, and rules  
72 and regulations; (iv) methods, means, and personnel by which work activities are to be carried on; (v)  
73 termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work  
74 force, or job abolition; (vi) hiring, promotion, transfer, assignment, and retention of employees within  
75 the agency; and (vii) relief of employees from duties of the agency in emergencies.

76 D. Except as provided in subsection A of § 2.2-3003, decisions regarding whether a grievance  
77 qualifies for a hearing shall be made in writing by the agency head or his designee within five workdays  
78 of the employee's request for a hearing. A copy of the decision shall be sent to the employee. The  
79 employee may appeal the denial of a hearing by the agency head to the Director of the Department of  
80 Human Resource Management (the Director). Upon receipt of an appeal, the agency shall transmit the  
81 entire grievance record to the Department of Human Resource Management within five workdays. The  
82 Director shall render a decision on whether the employee is entitled to a hearing upon the grievance  
83 record and other probative evidence.

84 E. The hearing pursuant to § 2.2-3005 shall be held in the locality in which the employee is  
85 employed or in any other locality agreed to by the employee, employer, and hearing officer. The  
86 employee and the agency may be represented by legal counsel or a lay advocate, the provisions of §  
87 54.1-3904 notwithstanding. The employee and the agency may call witnesses to present testimony and  
88 be cross-examined.

89 F. For the purposes of this section, "religion" includes any outward expression of religious faith,  
90 including adherence to religious dressing and grooming practices and the carrying or display of religious  
91 items or symbols.

92 **§ 15.2-1500.1. Employment discrimination prohibited; sexual orientation or gender identity.**

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

94 "Age" means being an individual who is at least 40 years of age.

95 "Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.  
96 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a  
97 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except  
98 that the support provided by the service member to the individual shall have been provided 180 days  
99 immediately preceding an alleged action that if proven true would constitute unlawful discrimination  
100 under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.  
101 Chapter 50.

102 "Religion" includes any outward expression of religious faith, including adherence to religious  
103 dressing and grooming practices and the carrying or display of religious items or symbols.

104 B. No department, office, board, commission, agency, or instrumentality of local government shall  
105 discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy,  
106 childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity,  
107 or military status, or *COVID-19 vaccination status*.

108 C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of  
109 sex or age in those instances when sex or age is a bona fide occupational qualification for employment  
110 or (ii) providing preference in employment to veterans.

111 **§ 15.2-1507. Provision of grievance procedure; training programs.**

112 A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to  
113 certify it as provided in this section, the local governing body shall be deemed to have adopted a  
114 grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2  
115 and any regulations adopted pursuant thereto for so long as the locality remains in noncompliance. The  
116 locality shall provide its employees with copies of the applicable grievance procedure upon request. The  
117 term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or  
118 fringe benefits.

119 Each grievance procedure, and each amendment thereto, in order to comply with this section, shall  
120 be certified in writing to be in compliance by the city, town, or county attorney, and the chief

administrative officer of the locality, and such certification filed with the clerk of the circuit court having jurisdiction in the locality in which the procedure is to apply. Local government grievance procedures in effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter, unless certified and filed as provided above within a shorter time period.

Each grievance procedure shall include the following components and features:

1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to his employment, including (i) disciplinary actions, including dismissals, disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules, and regulations, including the application of policies involving matters referred to in clause (iii) of subdivision 2; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, ~~or~~ military status, *or COVID-19 vaccination status*; and (iv) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv), there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

2. Local government responsibilities. Local governments shall retain the exclusive right to manage the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i) establishment and revision of wages or salaries, position classification, or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity that may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations; (iv) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly; (v) the methods, means, and personnel by which work activities are to be carried on; (vi) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment, and retention of employees within the local government; and (viii) the relief of employees from duties of the local government in emergencies. In any grievance brought under the exception to clause (vi), the action shall be upheld upon a showing by the local government that (a) there was a valid business reason for the action and (b) the employee was notified of the reason in writing prior to the effective date of the action.

3. Coverage of personnel.

a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and part-time employees are eligible to file grievances with the following exceptions:

- (1) Appointees of elected groups or individuals;
- (2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
- (3) Deputies and executive assistants to the chief administrative officer of a locality;
- (4) Agency heads or chief executive officers of government operations;
- (5) Employees whose terms of employment are limited by law;
- (6) Temporary, limited term, and seasonal employees;
- (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance is subject to the provisions of Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance; and
- (8) Law-enforcement officers as defined in § 9.1-601 whose grievance is subject to the provisions of § 9.1-601 and relates to a binding disciplinary determination made by a law-enforcement civilian oversight body, except as permitted by subsection F of § 9.1-601.

b. Notwithstanding the exceptions set forth in subdivision a, local governments, at their sole discretion, may voluntarily include employees in any of the excepted categories within the coverage of their grievance procedures.

c. The chief administrative officer of each local government, or his designee, shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4. Grievance procedure availability and coverage for employees of community services boards, redevelopment and housing authorities, and regional housing authorities. Employees of community services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing

182 authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance  
183 procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii)  
184 a grievance procedure established and administered by the department, board, or authority that is  
185 consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations  
186 promulgated pursuant thereto. If a department, board, or authority fails to establish a grievance  
187 procedure pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure that is  
188 consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations  
189 adopted pursuant thereto for so long as it remains in noncompliance.

190 5. General requirements for procedures.

191 a. Each grievance procedure shall include not more than four steps for airing complaints at  
192 successively higher levels of local government management, and a final step providing for a panel  
193 hearing or a hearing before an administrative hearing officer upon the agreement of both parties.

194 b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to  
195 submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

196 c. Nothing contained in this section shall prohibit a local government from granting its employees  
197 rights greater than those contained herein, provided that such grant does not exceed or violate the  
198 general law or public policy of the Commonwealth.

199 6. Time periods.

200 a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability  
201 of the parties to prepare for a fair consideration of the issues of concern.

202 b. The time for submitting an initial complaint shall not be less than 20 calendar days after the event  
203 giving rise to the grievance, but local governments may, at their option, allow a longer time period.

204 c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant  
205 than the time that is allowed for local government response in each comparable situation.

206 d. Time frames may be extended by mutual agreement of the local government and the grievant.

207 7. Compliance.

208 a. After the initial filing of a written grievance, failure of either party to comply with all substantial  
209 procedural requirements of the grievance procedure, including the panel or administrative hearing,  
210 without just cause shall result in a decision in favor of the other party on any grievable issue, provided  
211 the party not in compliance fails to correct the noncompliance within five workdays of receipt of written  
212 notification by the other party of the compliance violation. Such written notification by the grievant shall  
213 be made to the chief administrative officer, or his designee.

214 b. The chief administrative officer, or his designee, at his option, may require a clear written  
215 explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his  
216 designee, shall determine compliance issues. Compliance determinations made by the chief  
217 administrative officer shall be subject to judicial review by filing petition with the circuit court within  
218 30 days of the compliance determination.

219 8. Management steps.

220 a. The first step shall provide for an informal, initial processing of employee complaints by the  
221 immediate supervisor through a nonwritten, discussion format.

222 b. Management steps shall provide for a review with higher levels of local government authority  
223 following the employee's reduction to writing of the grievance and the relief requested on forms  
224 supplied by the local government. Personal face-to-face meetings are required at all of these steps.

225 c. With the exception of the final management step, the only persons who may normally be present  
226 in the management step meetings are the grievant, the appropriate local government official at the level  
227 at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be  
228 present only while actually providing testimony. At the final management step, the grievant, at his  
229 option, may have present a representative of his choice. If the grievant is represented by legal counsel,  
230 local government likewise has the option of being represented by counsel.

231 9. Qualification for panel or administrative hearing.

232 a. Decisions regarding grievability and access to the procedure shall be made by the chief  
233 administrative officer of the local government, or his designee, at any time prior to the panel hearing, at  
234 the request of the local government or grievant, within 10 calendar days of the request. No city, town,  
235 or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of  
236 grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative  
237 officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction  
238 in the locality in which the grievant is employed for a hearing on the issue of whether the grievance  
239 qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or  
240 his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative  
241 officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all  
242 other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall  
243 transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief

administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the chief administrative officer or his designee and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the chief administrative officer or his designee, or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

#### 10. Final hearings.

a. Qualifying grievances shall advance to either a panel hearing or a hearing before an administrative hearing officer, as set forth in the locality's grievance procedure, as described below:

(1) If the grievance procedure adopted by the local governing body provides that the final step shall be an impartial panel hearing, the panel may, with the exception of those local governments covered by subdivision a (2), consist of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member. The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

(2) If the grievance procedure adopted by the local governing body provides for the final step to be an impartial panel hearing, local governments may retain the panel composition method previously approved by the Department of Human Resource Management and in effect as of the enactment of this statute. Modifications to the panel composition method shall be permitted with regard to the size of the panel and the terms of office for panel members, so long as the basic integrity and independence of panels are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized to make final and binding decisions.

(3) When a local government elects to use an administrative hearing officer rather than a three-person panel for the final step in the grievance procedure, the administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative, the local government may request the appointment of an administrative hearing officer from the Department of Human Resource Management. If a local government elects to use an administrative hearing officer, it shall bear the expense of such officer's services.

(4) When the local government uses a panel in the final step of the procedure, there shall be a chairperson of the panel and, when panels are composed of three persons (one each selected by the respective parties and the third from an impartial source), the third member shall be the chairperson.

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel or hearing officer without being in violation of the provisions of § 54.1-3904.

(6) The decision of the panel or hearing officer shall be final and binding and shall be consistent with provisions of law and written policy.

(7) The question of whether the relief granted by a panel or hearing officer is consistent with written policy shall be determined by the chief administrative officer of the local government, or his designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the attorney for the Commonwealth of the jurisdiction in which the grievance is pending.

#### b. Rules for panel and administrative hearings.

Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such hearings. Rules that are promulgated shall include the following provisions:

305 (1) That neither the panels nor the hearing officer have authority to formulate policies or procedures  
306 or to alter existing policies or procedures;

307 (2) That panels and the hearing officer have the discretion to determine the propriety of attendance at  
308 the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the  
309 hearing shall be private;

310 (3) That the local government provide the panel or hearing officer with copies of the grievance  
311 record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel  
312 or hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing,  
313 shall be allowed access to and copies of all relevant files intended to be used in the grievance  
314 proceeding;

315 (4) That panels and hearing officers have the authority to determine the admissibility of evidence  
316 without regard to the burden of proof, or the order of presentation of evidence, so long as a full and  
317 equal opportunity is afforded to all parties for the presentation of their evidence;

318 (5) That all evidence be presented in the presence of the panel or hearing officer and the parties,  
319 except by mutual consent of the parties;

320 (6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing  
321 officer in advance of the hearing;

322 (7) That the majority decision of the panel or the decision of the hearing officer, acting within the  
323 scope of its or his authority, be final, subject to existing policies, procedures and law;

324 (8) That the panel or hearing officer's decision be provided within a specified time to all parties; and

325 (9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that  
326 the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do  
327 not necessarily apply.

328 11. Implementation of final hearing decisions.

329 Either party may petition the circuit court having jurisdiction in the locality in which the grievant is  
330 employed for an order requiring implementation of the hearing decision.

331 B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under  
332 the provisions of this section that would result in the reinstatement of any employee of a sheriff's office  
333 who has been terminated for cause may be reviewed by the circuit court for the locality upon the  
334 petition of the locality. The review of the circuit court shall be limited to the question of whether the  
335 decision of the panel or hearing officer was consistent with provisions of law and written policy.

336 **§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices**  
337 **by certain officers; civil penalty.**

338 A. It shall be an unlawful employment practice for a constitutional officer:

339 1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate  
340 against any individual with respect to his compensation, terms, conditions, or privileges of appointment  
341 or employment, because of such individual's race, color, religion, sex, age, marital status, pregnancy,  
342 childbirth or related medical conditions, sexual orientation, gender identity, national origin, ~~or~~ military  
343 status, *or COVID-19 vaccination status*; or

344 2. To limit, segregate, or classify his appointees, employees, or applicants for appointment or  
345 employment in any way that would deprive or tend to deprive any individual of employment  
346 opportunities or otherwise adversely affect his status as an employee, because of the individual's race,  
347 color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual  
348 orientation, gender identity, national origin, ~~or~~ military status, *or COVID-19 vaccination status*.

349 B. Nothing in this section shall be construed to make it an unlawful employment practice for a  
350 constitutional officer to hire or appoint an individual on the basis of his sex or age in those instances  
351 where sex or age is a bona fide occupational qualification reasonably necessary to the normal operation  
352 of that particular office. The provisions of this section shall not apply to policy-making positions,  
353 confidential or personal staff positions, or undercover positions.

354 C. With regard to notices and advertisements:

355 1. Every constitutional officer shall, prior to hiring any employee, advertise such employment  
356 position in a newspaper having general circulation or a state or local government job placement service  
357 in such constitutional officer's locality except where the vacancy is to be used (i) as a placement  
358 opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for  
359 an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill  
360 positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill  
361 temporary positions, temporary employees being those employees hired to work on special projects that  
362 have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal  
363 staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

364 2. No constitutional officer shall print or publish or cause to be printed or published any notice or  
365 advertisement relating to employment by such constitutional officer indicating any preference, limitation,  
366 specification, or discrimination, based on sex or national origin, except that such notice or advertisement

may indicate a preference, limitation, specification, or discrimination based on sex or age when sex or age is a bona fide occupational qualification for employment.

D. Complaints regarding violations of subsection A may be made to the Office of Civil Rights of the Department of Law. The Office shall have the authority to exercise its powers as provided in Article 4 (§ 2.2-520 et seq.) of Chapter 5 of Title 2.2.

E. Any constitutional officer who willfully violates the provisions of subsection C shall be subject to a civil penalty not to exceed \$2,000.

F. As used in this section:

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

#### **§ 22.1-271.2. Immunization requirements.**

A. No student shall be admitted by a school unless at the time of admission the student or his parent submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C or is a homeless child or youth as defined in subdivision A 7 of § 22.1-3. If a student does not have documentary proof of immunization, the school shall notify the student or his parent (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in subdivision A 7 of § 22.1-3; (iii) that the student may be immunized and receive certification by a licensed physician, licensed nurse practitioner, registered nurse or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Any physician, nurse practitioner, registered nurse or local health department employee performing immunizations shall provide to any person who has been immunized or to his parent, upon request, documentary proof of immunizations conforming with the requirements of this section.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 calendar days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician, licensed nurse practitioner, or local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

However, if a student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 and (a) does not have documentary proof of necessary immunizations or has incomplete immunizations and (b) is not exempted from immunization pursuant to ~~clauses~~ clause (i) or (ii) of this subsection, the school division shall immediately admit such student and shall immediately refer the student to the local school division liaison, as described in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall assist in obtaining the documentary proof of, or completing, immunization and other services required by such Act.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C, including notice that such student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health,

which shall be a part of the mandatory permanent student record. Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within 30 calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted, including those students who are homeless children or youths as defined in subdivision A 7 of § 22.1-3.

F. The requirement for Haemophilus Influenzae Type b immunization as provided in § 32.1-46 shall not apply to any child admitted to any grade level, kindergarten through grade 12.

G. *Notwithstanding any other provision of law, no student shall be required to receive any COVID-19 vaccination.*

H. The Board of Health shall promulgate rules and regulations for the implementation of this section in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in cooperation with the Board of Education.

**§ 22.1-271.4. Health requirements for home-instructed, exempted, and excused children.**

In addition to compliance with the requirements of subsection B, D, or I of § 22.1-254 or § 22.1-254.1, any parent, guardian or other person having control or charge of a child being home instructed, exempted or excused from school attendance shall comply with the immunization requirements provided in § 32.1-46 in the same manner and to the same extent as if the child has been enrolled in and is attending school.

Upon request by the division superintendent, the parent shall submit to such division superintendent documentary proof of immunization in compliance with § 32.1-46.

No proof of immunization shall be required of any child upon submission of (i) an affidavit to the division superintendent stating that the administration of immunizing agents conflicts with the parent's or guardian's religious tenets or practices or (ii) a written certification from a licensed physician, licensed nurse practitioner, or local health department that one or more of the required immunizations may be detrimental to the child's health, indicating the specific nature of the medical condition or circumstance that contraindicates immunization.

*Notwithstanding any other provision of law, no student shall be required to receive any COVID-19 vaccination.*

**§ 22.1-289.031. Child day center operated by religious institution exempt from licensure; annual statement and documentary evidence required; enforcement; injunctive relief.**

A. Notwithstanding any other provisions of this chapter, a child day center, including a child day center operated or conducted under the auspices of a religious institution, shall be exempt from the licensure requirements of this chapter, but shall comply with the provisions of this section unless it chooses to be licensed. If such religious institution chooses not to be licensed, it shall file with the Superintendent, prior to beginning operation of a child day center and thereafter annually, a statement of intent to operate a child day center, certification that the child day center has disclosed in writing to the parents or guardians of the children in the center the fact that it is exempt from licensure and has posted the fact that it is exempt from licensure in a visible location on the premises, the qualifications of the personnel employed therein, and documentary evidence that:

1. Such religious institution has tax exempt status as a nonprofit religious institution in accordance with § 501(c) of the Internal Revenue Code of 1954, as amended, or that the real property owned and exclusively occupied by the religious institution is exempt from local taxation.

2. Within the prior 90 days for the initial exemption and within the prior 180 days for exemptions thereafter, the local health department and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, have inspected the physical facilities of the child day center and have determined that the center is in compliance with applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code.

3. The child day center employs supervisory personnel according to the following ratio of staff to children:

- a. One staff member to four children from ages zero to 16 months.
- b. One staff member to five children from ages 16 months to 24 months.
- c. One staff member to eight children from ages 24 months to 36 months.
- d. One staff member to 10 children from ages 36 months to five years.
- e. One staff member to 20 children from ages five years to nine years.
- f. One staff member to 25 children from ages nine years to 12 years.

Staff shall be counted in the required staff-to-children ratios only when they are directly supervising



children. When a group of children receiving care includes children from different age brackets, the age of the youngest child in the group shall be used to determine the staff-to-children ratio that applies to that group. For each group of children receiving care, at least one adult staff member shall be regularly present. However, during designated daily rest periods and designated sleep periods of evening and overnight care programs, for children ages 16 months to six years, only one staff member shall be required to be present with the children under supervision. In such cases, at least one staff member shall be physically present in the same space as the children under supervision at all times. Other staff members counted for purposes of the staff-to-child ratio need not be physically present in the same space as the resting or sleeping children, but shall be present on the same floor as the resting or sleeping children and shall have no barrier to their immediate access to the resting or sleeping children. The staff member who is physically present in the same space as the sleeping children shall be able to summon additional staff counted in the staff-to-child ratio without leaving the space in which the resting or sleeping children are located.

Staff members shall be at least 16 years of age. Staff members under 18 years of age shall be under the supervision of an adult staff member. Adult staff members shall supervise no more than two staff members under 18 years of age at any given time.

4. Each person in a supervisory position has been certified by a practicing physician or physician assistant to be free from any disability which would prevent him from caring for children under his supervision.

5. The center is in compliance with the requirements of:

- a. This section.
- b. Section 22.1-289.039 relating to background checks.
- c. Section 63.2-1509 relating to the reporting of suspected cases of child abuse and neglect.
- d. Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 regarding a valid Virginia driver's license or commercial driver's license; Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of Title 46.2, regarding vehicle inspections; ensuring that any vehicle used to transport children is an insured motor vehicle as defined in § 46.2-705; and Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of Title 46.2, regarding child restraint devices.

6. The following aspects of the child day center's operations are described in a written statement provided to the parents or guardians of the children in the center and made available to the general public: physical facilities, enrollment capacity, food services, health requirements for the staff, and public liability insurance.

7. The individual seeking to operate the child day center is not currently ineligible to operate another child day program due to a suspension or revocation of his license or license exemption for reasons involving child safety or any criminal conviction, including fraud, related to such child day program.

8. A person trained and certified in first aid and cardiopulmonary resuscitation (CPR) will be present at the child day center whenever children are present or at any other location in which children attending the child day center are present.

9. The child day center is in compliance with all safe sleep guidelines recommended by the American Academy of Pediatrics.

B. The center shall establish and implement procedures for:

1. Hand washing by staff and children before eating and after toileting and diapering.
2. Appropriate supervision of all children in care, including daily intake and dismissal procedures to ensure safety of children.
3. A daily simple health screening and exclusion of sick children by a person trained to perform such screenings.

4. Ensuring that all children in the center are in compliance with the provisions of § 32.1-46 regarding the immunization of children against certain diseases, *except that no child shall be required to receive any COVID-19 vaccination.*

5. Ensuring that all areas of the premises accessible to children are free of obvious injury hazards, including providing and maintaining sand or other cushioning material under playground equipment.

6. Ensuring that all staff are able to recognize the signs of child abuse and neglect.

7. Ensuring that all incidents involving serious physical injury to or death of children attending the child day center are reported to the Superintendent. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred.

C. The Superintendent may perform on-site inspections of religious institutions to confirm compliance with the provisions of this section and to investigate complaints that the religious institution is not in compliance with the provisions of this section. The Superintendent may revoke the exemption for any child day center in serious or persistent violation of the requirements of this section. If a

religious institution operates a child day center and does not file the statement and documentary evidence required by this section, the Superintendent shall give reasonable notice to such religious institution of the nature of its noncompliance and may thereafter take such action as he determines appropriate, including a suit to enjoin the operation of the child day center.

D. Any person who has reason to believe that a child day center falling within the provisions of this section is not in compliance with the requirements of this section may report the same to the Department, the local health department, or the local fire marshal, each of which may inspect the child day center for noncompliance, give reasonable notice to the religious institution, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the child day center.

E. Nothing in this section shall prohibit a child day center operated by or conducted under the auspices of a religious institution from obtaining a license pursuant to this chapter.

**§ 22.1-295.2. Employment discrimination prohibited.**

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

B. No school board or any agent or employee thereof shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, ~~or~~ military status, *or COVID-19 vaccination status*.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (ii) providing preference in employment to veterans.

**§ 22.1-306. Definitions.**

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

"Business day" means any day that the relevant school board office is open.

"Day" means calendar days unless a different meaning is clearly expressed in this article. Whenever the last day for performing an act required by this article falls on a Saturday, Sunday, or legal holiday, the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday.

"Dismissal" means the dismissal of any teacher during the term of such teacher's contract.

"Grievance" means a complaint or dispute by a teacher relating to his employment, including (i) disciplinary action including dismissal; (ii) the application or interpretation of (a) personnel policies, (b) procedures, (c) rules and regulations, (d) ordinances, and (e) statutes; (iii) acts of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step, meeting, or hearing relating to a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of discrimination on the basis of race, color, creed, religion, political affiliation, disability, age, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, ~~or~~ military status, *or COVID-19 vaccination status*. Each school board shall have the exclusive right to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall not include a complaint or dispute by a teacher relating to (a) establishment and revision of wages or salaries, position classifications, or general benefits; (b) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved continuing contract status; (c) the establishment or contents of ordinances, statutes, or personnel policies, procedures, rules, and regulations; (d) failure to promote; (e) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject, or insufficient funding; (f) hiring, transfer, assignment, and retention of teachers within the school division; (g) suspension from duties in emergencies; (h) the methods, means, and personnel by which the school division's operations are to be carried on; or (i) coaching or extracurricular activity sponsorship.

While these management rights are reserved to the school board, failure to apply, where applicable, the rules, regulations, policies, or procedures as written or established by the school board is grievable.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination

under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

**§ 23.1-800. Health histories and immunizations required; exemptions.**

A. No full-time student who enrolls for the first time in any baccalaureate public institution of higher education is eligible to register for his second semester or quarter unless he (i) has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors that includes documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the date on which the immunization was administered, and any further immunizations indicated or (ii) objects to such health history requirement on religious grounds, in which case he is exempt from such requirement.

B. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each student shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.

C. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each full-time student shall be vaccinated against meningococcal disease and hepatitis B unless the student or, if the student is a minor, the student's parent or legal guardian signs a written waiver stating that he has received and reviewed detailed information on the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.

D. Any student is exempt from the immunization requirements set forth in subsections B and C who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices; ~~unless the Board of Health has declared an emergency or epidemic of disease~~; or (ii) presents a statement from a licensed physician that states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.

F. The Council shall, in cooperation with the Board and Commissioner of Health, encourage private institutions of higher education to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

**§ 32.1-15.2. Board not authorized to require COVID-19 vaccination.**

*Notwithstanding any other provision of law, the Board shall not require any person, including any child, to receive any COVID-19 vaccination.*

**§ 32.1-43. Authority of State Health Commissioner to require quarantine, etc.**

The State Health Commissioner shall have the authority to require quarantine, isolation, immunization, decontamination, or treatment of any individual or group of individuals when he determines any such measure to be necessary to control the spread of any disease of public health importance and the authority to issue orders of isolation pursuant to Article 3.01 (§ 32.1-48.01 et seq.) ~~of this chapter~~ and orders of quarantine and orders of isolation under exceptional circumstances involving any communicable disease of public health threat pursuant to Article 3.02 (§ 32.1-48.05 et seq.) ~~of this chapter~~, *except that the Commissioner shall not have the authority to require immunization of any person, including any child, against COVID-19.*

**§ 32.1-47. Exclusion from school of children not immunized.**

Upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in a public or private school, the Commissioner shall have the authority to require the exclusion from such school of all children who are not immunized against that disease, *except that the Commissioner shall not have the authority to exclude from such school children who are not immunized against COVID-19.*

**§ 32.1-47.1. Vaccination of children; plan enhancements.**

A. The Department shall include in its vaccination plans procedures to ensure the prompt vaccination of all persons of school age in the Commonwealth, without preference regarding the manner of compliance with the compulsory school attendance law set forth in § 22.1-254, upon declaration of a public health emergency involving a vaccine-preventable disease and consent of the parent or guardian of the person of school age if such person is a minor or, if the person of school age is not a minor, of the person. Vaccination plans developed pursuant to this section shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention, and shall be subject to the same review and update requirements, process, and schedule as the State Emergency Operations Plan

developed by the Department of Emergency Management pursuant to § 44-146.18.

*B. Notwithstanding the provisions of subsection A or any other provision of law, no person or child shall be required to receive any COVID-19 vaccination.*

**§ 32.1-48. Powers of Commissioner in epidemic.**

A. Nothing in this article shall preclude the Commissioner from requiring immediate immunization of all persons in case of an epidemic of any disease of public health importance for which a vaccine exists other than a person to whose health the administration of a vaccine would be detrimental as certified in writing by a physician licensed to practice medicine in this Commonwealth.

~~B. In addition, the~~ The State Health Commissioner shall hold the powers conferred pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter to issue orders of quarantine or prepare orders of isolation for a communicable disease of public health threat.

*B. Notwithstanding any other provision of law, the Commissioner shall not hold the power to require any person or child to receive any immunization against COVID-19.*

**§ 32.1-48.002. Immunizations not required.**

Notwithstanding any other provision of law, no person or child shall be required to receive any immunization against COVID-19 and no person or child shall be (i) discriminated against with regard to the provision of any disposition, service, financial benefit, eligibility, admission, enrollment, participation, membership, or other benefit, (ii) subjected to segregation or separate treatment, or (iii) restricted in any way in the enjoyment of any advantage or privilege enjoyed by any other person receiving any disposition, service, financial benefit, eligibility, admission, enrollment, participation, membership, or other benefit because of his vaccination status.

**§ 37.2-205. Board not authorized to require vaccinations.**

A. Notwithstanding any other provision of law, the Board shall not require any person or child to be immunized against COVID-19.

B. No person licensed by the Department shall deny any person or child services solely because such person has not been immunized against COVID-19.

**§ 38.2-3100.4. Prohibited discrimination based on vaccination status.**

No insurer issuing an individual or group life insurance policy in the Commonwealth shall refuse to insure an applicant or limit the amount, extent, or kind of coverage for an applicant solely on the basis of the applicant's COVID-19 vaccination status.

**§ 40.1-27.5. Discrimination based on COVID-19 vaccination status prohibited; civil penalty.**

A. Notwithstanding any other provision of law, no employer shall require an employee to receive any immunization against COVID-19.

B. Any employer who knowingly violates this section shall be subject to a civil penalty not to exceed \$10,000 for each violation by an employer with fewer than 100 employees or \$50,000 for each violation by an employer with 100 or more employees. The Commissioner shall notify any employer that the Commissioner alleges has violated this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties that are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

**§ 44-146.17. (Effective until July 1, 2023) Powers and duties of Governor.**

The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments

and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law and the violation thereof shall be punishable as a civil penalty of not more than \$500 or as a Class 1 misdemeanor in every case where the executive order declares that its violation shall have such force and effect. Where an executive order declares a violation shall be punishable as a civil penalty, such violation shall be charged by summons and may be executed by a law-enforcement officer when such violation is observed by the officer. The summons used by a law-enforcement officer pursuant to this section shall be, in form, the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. The proceeds of such civil penalties collected pursuant to this section shall be paid and collected only in lawful money of the United States and paid into the state treasury to the credit of the Literary Fund.

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

No rule, regulation, or order issued under this section shall have any effect beyond 45 days after the date of issuance. Unless the General Assembly takes action on the rule, regulation, or order within the 45 days during which the rule, regulation, or order is effective, the Governor shall thereafter be prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency.

*No rule, regulation, or order issued under this subdivision shall require any person, including any child, to receive any immunization against COVID-19;*

(2) To appoint a State Coordinator of Emergency Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in his discretion, any and all persons serving hereunder;

(3) To procure supplies and equipment, to institute training and public information programs relative to emergency management and to take other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces in time of need;

(4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;

(5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency is declared in another state and the Governor receives a written request for assistance from the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations;

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, to direct the Comptroller of the Commonwealth to issue warrants not to exceed \$2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship; and

(11) During a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to subdivision (7), to establish a program through which the

797 Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such  
798 private, nongovernmental entities. If federal funding is available to establish and fund the program, the  
799 Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled  
800 to seek reimbursement for such purchases from the private, nongovernmental entities and may establish  
801 and charge fees to recover the cost of administering the program, including the cost of procuring and  
802 distributing the PPE. However, if federal funding is not available to establish and fund the program, the  
803 Governor shall, prior to making such purchases, receive a contract for payment for purchase from the  
804 private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall  
805 include any amortized costs of administering the program. Any purchase made by the Governor pursuant  
806 to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§  
807 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310  
808 when possible. The Governor shall also provide for competition where practicable and include a written  
809 statement regarding the basis for awarding any contract. Prior to implementing such a program, the  
810 Department of Emergency Management shall consult with and survey private, nongovernmental entities  
811 in order to assess demand for participation in the program as well as the quantity and types of personal  
812 protective equipment such entities would like to procure.

813 As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies  
814 worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses  
815 and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators,  
816 coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease  
817 of public health threat.

818 **§ 44-146.17. (Effective July 1, 2023) Powers and duties of Governor.**

819 The Governor shall be Director of Emergency Management. He shall take such action from time to  
820 time as is necessary for the adequate promotion and coordination of state and local emergency services  
821 activities relating to the safety and welfare of the Commonwealth in time of disasters.

822 The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the  
823 following powers and duties:

824 (1) To proclaim and publish such rules and regulations and to issue such orders as may, in his  
825 judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such  
826 measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production  
827 and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources  
828 under any state or federal emergency services programs.

829 He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which  
830 provides for state-level emergency operations in response to any type of disaster or large-scale  
831 emergency affecting Virginia and that provides the needed framework within which more detailed  
832 emergency plans and procedures can be developed and maintained by state agencies, local governments  
833 and other organizations.

834 He may direct and compel evacuation of all or part of the populace from any stricken or threatened  
835 area if this action is deemed necessary for the preservation of life, implement emergency mitigation,  
836 preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in  
837 connection with evacuation; and control ingress and egress at an emergency area, including the  
838 movement of persons within the area and the occupancy of premises therein.

839 Executive orders, to include those declaring a state of emergency and directing evacuation, shall have  
840 the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in  
841 every case where the executive order declares that its violation shall have such force and effect.

842 Such executive orders declaring a state of emergency may address exceptional circumstances that  
843 exist relating to an order of quarantine or an order of isolation concerning a communicable disease of  
844 public health threat that is issued by the State Health Commissioner for an affected area of the  
845 Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

846 No rule, regulation, or order issued under this section shall have any effect beyond 45 days after the  
847 date of issuance. Unless the General Assembly takes action on the rule, regulation, or order within the  
848 45 days during which the rule, regulation, or order is effective, the Governor shall thereafter be  
849 prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency.

850 *No rule, regulation, or order issued under this subdivision shall require any person, including any*  
851 *child, to receive any immunization against COVID-19;*

852 (2) To appoint a State Coordinator of Emergency Management and authorize the appointment or  
853 employment of other personnel as is necessary to carry out the provisions of this chapter, and to  
854 remove, in his discretion, any and all persons serving hereunder;

855 (3) To procure supplies and equipment, to institute training and public information programs relative  
856 to emergency management and to take other preparatory steps including the partial or full mobilization  
857 of emergency management organizations in advance of actual disaster, to insure the furnishing of  
858 adequately trained and equipped forces in time of need;

(4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;

(5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency is declared in another state and the Governor receives a written request for assistance from the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations;

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, to direct the Comptroller of the Commonwealth to issue warrants not to exceed \$2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship; and

(11) During a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to subdivision (7), to establish a program through which the Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such private, nongovernmental entities. If federal funding is available to establish and fund the program, the Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled to seek reimbursement for such purchases from the private, nongovernmental entities and may establish and charge fees to recover the cost of administering the program, including the cost of procuring and distributing the PPE. However, if federal funding is not available to establish and fund the program, the Governor shall, prior to making such purchases, receive a contract for payment for purchase from the private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall include any amortized costs of administering the program. Any purchase made by the Governor pursuant to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310 when possible. The Governor shall also provide for competition where practicable and include a written statement regarding the basis for awarding any contract. Prior to implementing such a program, the Department of Emergency Management shall consult with and survey private, nongovernmental entities in order to assess demand for participation in the program as well as the quantity and types of personal protective equipment such entities would like to procure.

As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health threat.

**§ 46.2-333.2. Discrimination based on COVID-19 status prohibited.**

A. The Department shall not deny the issuance of a driver's license or other document issued under this chapter to any individual solely because of such individual's COVID-19 vaccination status.

B. The provisions of this section shall not apply to the issuance of a commercial driver's license by the Department.

**§ 54.1-2409.6. Boards not authorized to require vaccinations.**

A. Notwithstanding any other provision of law, neither the Board nor any health regulatory board included in the Department shall require any person to be immunized against COVID-19.

B. No person shall be denied a license, registration, certification, multisite licensure privilege, or other privilege solely because of his COVID-19 vaccination status.

C. No person licensed by any health regulatory board included in the Department shall deny any person services solely because of his COVID-19 vaccination status.

**§ 63.2-221.1. Board not authorized to require vaccination.**

A. Notwithstanding any other provision of law, the Board shall not require any person, including any child, to be immunized against COVID-19.

B. No person licensed by the Department shall deny any person services solely because of his COVID-19 vaccination status.

**§ 63.2-603. Eligibility for TANF; childhood immunizations.**

An applicant for TANF shall provide verification that all eligible children not enrolled in school, a licensed family day home as defined in § 22.1-289.02, or a licensed child day center as defined in § 22.1-289.02, have received immunizations in accordance with § 32.1-46, *except that no child shall be required to have received any COVID-19 immunization*. However, if an eligible child has not received immunizations in accordance with § 32.1-46, verification shall be provided at the next scheduled redetermination of eligibility for TANF after initial eligibility is granted that the child has received at least one dose of each of the immunizations required by § 32.1-46 as appropriate for the child's age and that the child's physician or the local health department has developed a plan for completing the immunizations. Verification of compliance with the plan for completing the immunizations shall be presented at subsequent redeterminations of eligibility for TANF.

If necessary, the local department shall provide assistance to the TANF recipient in obtaining verification from immunization providers. No sanction may be imposed until the reason for the failure to comply with the immunization requirement has been identified and any barriers to accessing immunizations have been removed.

Failure by the recipient to provide the required verification of immunizations shall result in a reduction in the amount of monthly assistance received from the TANF program until the required verification is provided. The reduction shall be \$50 for the first child and \$25 for each additional child for whom verification is not provided.

Any person who becomes ineligible for TANF payments as a result of this provision shall nonetheless be considered a TANF recipient for all other purposes.

**§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers' Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xii) officer of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority; (xv) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education; (xvi) correctional officer as defined in § 53.1-1; or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this subsection, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this subsection gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment, as described in subdivision E 2.



2. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment.

C. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

D. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

2. The presumptions described in subdivision B 1 shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization shall disqualify the person from the presumptions described in subdivision B 1.

F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions; (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons; (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

2. The presumptions described in subdivision B 1 shall apply to any person entitled to invoke them for any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2022, and;

a. Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after either (i) a presumptive positive test or a laboratory-confirmed test for COVID-19 and presenting with signs and symptoms of COVID-19 that

1043 required medical treatment, or (ii) presenting with signs and symptoms of COVID-19 that required  
1044 medical treatment absent a presumptive positive test or a laboratory-confirmed test for COVID-19; or

1045 b. On or after July 1, 2020, and prior to December 31, 2022, the claimant received a positive  
1046 diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after a  
1047 presumptive positive test or a laboratory-confirmed test for COVID-19 and presented with signs and  
1048 symptoms of COVID-19 that required medical treatment.

1049 3. The presumptions described in subdivision B 2 shall apply to any person entitled to invoke them  
1050 for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19  
1051 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to  
1052 December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after  
1053 either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs  
1054 and symptoms of COVID-19 that required medical treatment.

1055 G. F. Persons making claims under this title who rely on such presumption shall, upon the request of  
1056 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)  
1057 conducted by physicians selected by such appointing authorities or governing bodies or their  
1058 representatives and (ii) consisting of such tests and studies as may reasonably be required by such  
1059 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the  
1060 election of such claimant, be present at such examination.