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SENATE BILL NO. 1132**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee for Courts of Justice)

(Patron Prior to Substitute—Senator Couric)

Senate Amendments in [] — February 4, 1997

A BILL to amend and reenact §§ 2.1-1.6, 2.1-342, 9-6.14:4.1 and 14.1-123 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 2 of Title 32.1 an article numbered 12, consisting of sections numbered 32.1-73.1 through 32.1-73.4, relating to the Commonwealth Neurotrauma Initiative.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6, 2.1-342, 9-6.14:4.1 and 14.1-123 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 2 of Title 32.1 an article numbered 12, consisting of sections numbered 32.1-73.1 through 32.1-73.4, as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for

Aging, Advisory Board on the

Agriculture and Consumer Services, Board of

Air Pollution, State Advisory Board on

Alcoholic Beverage Control Board, Virginia

Apple Board, Virginia State

Appomattox State Scenic River Advisory Board

Aquaculture Advisory Board

Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for

Art and Architectural Review Board

Athletic Board, Virginia

Auctioneers Board

Audiology and Speech-Language Pathology, Board of

Aviation Board, Virginia

Barbers, Board for

Branch Pilots, Board for

Bright Flue-Cured Tobacco Board, Virginia

Building Code Technical Review Board, State

Catoctin Creek State Scenic River Advisory Board

Cattle Industry Board, Virginia

Cave Board

Certified Seed Board, State

Chesapeake Bay Local Assistance Board

Chickahominy State Scenic River Advisory Board

Child Abuse and Neglect, Advisory Board on

Chippokes Plantation Farm Foundation, Board of Trustees

Clinch Scenic River Advisory Board

Coal Mining Examiners, Board of

Coal Research and Development Advisory Board, Virginia

Coal Surface Mining Reclamation Fund Advisory Board

Coastal Land Management Advisory Council, Virginia

Conservation and Development of Public Beaches, Board on

Conservation and Recreation, Board of

Contractors, Board for

Corn Board, Virginia

Correctional Education, Board of

Corrections, State Board of

Cosmetology, Board for

Criminal Justice Services Board

Dark-Fired Tobacco Board, Virginia

Deaf and Hard-of-Hearing, Advisory Board for the Department for the

Dentistry, Board of

Design-Build/Construction Management Review Board

ENGROSSED

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60 Education, State Board of
61 Egg Board, Virginia
62 Emergency Medical Services Advisory Board
63 Farmers Market Board, Virginia
64 Film Office Advisory Board
65 Fire Services Board, Virginia
66 Forensic Science Advisory Board
67 Forestry, Board of
68 Funeral Directors and Embalmers, Board of
69 Game and Inland Fisheries, Board of
70 Geology, Board for
71 Goose Creek Scenic River Advisory Board
72 Health Planning Board, Virginia
73 Health Professions, Board of
74 Health, State Board of
75 Hearing Aid Specialists, Board for
76 Hemophilia Advisory Board
77 Historic Resources, Board of
78 Housing and Community Development, Board of
79 Industrial Development Services Advisory Board
80 Irish Potato Board, Virginia
81 Juvenile Justice, State Board of
82 Litter Control and Recycling Fund Advisory Board
83 Marine Products Board, Virginia
84 Medical Advisory Board, Department of Motor Vehicles
85 Medical Board of the Virginia Retirement System
86 Medicare and Medicaid, Advisory Board on
87 Medicine, Board of
88 Mental Health, Mental Retardation and Substance Abuse Services Board, State
89 Migrant and Seasonal Farmworkers Board
90 Military Affairs, Board of
91 Mineral Mining Examiners, Board of
92 Minority Business Enterprise, Interdepartmental Board of the Department of
93 Networking Users Advisory Board, State
94 *Neurotrauma Initiative Advisory Board, Commonwealth*
95 Nottoway State Scenic River Advisory Board
96 Nursing, Board of
97 Nursing Home Administrators, Board of
98 Occupational Therapy, Advisory Board on
99 Oil and Gas Conservation Board, Virginia
100 Opticians, Board for
101 Optometry, Board of
102 Peanut Board, Virginia
103 Personnel Advisory Board
104 Pesticide Control Board
105 Pharmacy, Board of
106 Physical Therapy to the Board of Medicine, Advisory Board on
107 Plant Pollination Advisory Board
108 Polygraph Examiners Advisory Board
109 Pork Industry Board, Virginia
110 Poultry Products Board, Virginia
111 Private College Advisory Board
112 Private Security Services Advisory Board
113 Professional and Occupational Regulation, Board for
114 Professional Counselors, Board of
115 Professional Soil Scientists, Board for
116 Psychiatric Advisory Board
117 Psychology, Board of
118 Public Buildings Board, Virginia
119 Public Telecommunications Board, Virginia
120 Radiation Advisory Board
121 Real Estate Appraiser Board

- 122 Real Estate Board
- 123 Reciprocity Board, Department of Motor Vehicles
- 124 Recreational Fishing Advisory Board, Virginia
- 125 Recreation Specialists, Board of
- 126 Reforestation Board
- 127 Rehabilitation Providers, Advisory Board on
- 128 Rehabilitative Services, Board of
- 129 Respiratory Therapy, Advisory Board on
- 130 Retirement System Review Board
- 131 Rockfish State Scenic River Advisory Board
- 132 Safety and Health Codes Board
- 133 Seed Potato Board
- 134 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 135 Shenandoah State Scenic River Advisory Board
- 136 Small Business Advisory Board
- 137 Small Business Environmental Compliance Advisory Board
- 138 Small Grains Board, Virginia
- 139 Social Services, Board of
- 140 Social Work, Board of
- 141 Soil and Water Conservation Board, Virginia
- 142 Soybean Board, Virginia
- 143 State Air Pollution Control Board
- 144 Substance Abuse Certification Board
- 145 Surface Mining Review, Board of
- 146 Sweet Potato Board, Virginia
- 147 T & M Vehicle Dealers' Advisory Board
- 148 Teacher Education and Licensure, Advisory Board on
- 149 Tourism and Travel Services Advisory Board
- 150 Transportation Board, Commonwealth
- 151 Transportation Safety, Board of
- 152 Treasury Board, The, Department of the Treasury
- 153 Veterans' Affairs, Board on
- 154 Veterinary Medicine, Board of
- 155 Virginia Board for Asbestos Licensing
- 156 Virginia Coal Mine Safety Board
- 157 Virginia Correctional Enterprises Advisory Board
- 158 Virginia Employment Commission, State Advisory Board for the
- 159 Virginia Higher Education Tuition Trust Fund, Board of the
- 160 Virginia Horse Industry Board
- 161 Virginia Manufactured Housing Board
- 162 Virginia Retirement System, Board of Trustees
- 163 Virginia Sheep Industry Board
- 164 Virginia Veterans Cemetery Board
- 165 Virginia Waste Management Board
- 166 Visually Handicapped, Virginia Board for the
- 167 Voluntary Formulary Board, Virginia
- 168 War Memorial Foundation, Virginia, Board of Trustees
- 169 Waste Management Facility Operators, Board for
- 170 Water Resources Research Center Statewide Advisory Board, Virginia
- 171 Waterworks and Wastewater Works Operators, Board for
- 172 Well Review Board, Virginia.
- 173 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 174 referred to as boards:
- 175 Compensation Board
- 176 State Board of Elections
- 177 State Water Control Board
- 178 Virginia Parole Board
- 179 Virginia Veterans Care Center Board of Trustees.
- 180 § 2.1-342. Official records to be open to inspection; procedure for requesting records and responding
- 181 to request; charges; exceptions to application of chapter.
- 182 A. Except as otherwise specifically provided by law, all official records shall be open to inspection

183 and copying by any citizens of the Commonwealth during the regular office hours of the custodian of
184 such records. Access to such records shall not be denied to citizens of the Commonwealth,
185 representatives of newspapers and magazines with circulation in the Commonwealth, and representatives
186 of radio and television stations broadcasting in or into the Commonwealth. The custodian of such
187 records shall take all necessary precautions for their preservation and safekeeping. Any public body
188 covered under the provisions of this chapter shall make an initial response to citizens requesting records
189 open to inspection within five work days after the receipt of the request by the public body which is the
190 custodian of the requested records. Such citizen request shall designate the requested records with
191 reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall
192 not be necessary to invoke the provisions of this chapter and the time limits for response by the public
193 body. The response by the public body within such five work days shall be one of the following
194 responses:

195 1. The requested records shall be provided to the requesting citizen.

196 2. If the public body determines that an exemption applies to all of the requested records, it may
197 refuse to release such records and provide to the requesting citizen a written explanation as to why the
198 records are not available with the explanation making specific reference to the applicable Code sections
199 which make the requested records exempt.

200 3. If the public body determines that an exemption applies to a portion of the requested records, it
201 may delete or excise that portion of the records to which an exemption applies, but shall disclose the
202 remainder of the requested records and provide to the requesting citizen a written explanation as to why
203 these portions of the record are not available to the requesting citizen with the explanation making
204 specific reference to the applicable Code sections which make that portion of the requested records
205 exempt. Any reasonably segregatable portion of an official record shall be provided to any person
206 requesting the record after the deletion of the exempt portion.

207 4. If the public body determines that it is practically impossible to provide the requested records or
208 to determine whether they are available within the five-work-day period, the public body shall so inform
209 the requesting citizen and shall have an additional seven work days in which to provide one of the three
210 preceding responses.

211 Nothing in this section shall prohibit any public body from petitioning the appropriate court for
212 additional time to respond to a request for records when the request is for an extraordinary volume of
213 records and a response by the public body within the time required by this chapter will prevent the
214 public body from meeting its operational responsibilities. Before proceeding with this petition, however,
215 the public body shall make reasonable efforts to reach an agreement with the requester concerning the
216 production of the records requested.

217 The public body may make reasonable charges for the copying, search time and computer time
218 expended in the supplying of such records. The public body may also make a reasonable charge for
219 preparing documents produced from a geographic information system at the request of anyone other than
220 the owner of the land that is the subject of the request. However, such charges shall not exceed the
221 actual cost to the public body in supplying such records or documents, except that the public body may
222 charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public
223 body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres.
224 Such charges for the supplying of requested records shall be estimated in advance at the request of the
225 citizen. The public body may require the advance payment of charges which are subject to advance
226 determination.

227 In any case where a public body determines in advance that search and copying charges for
228 producing the requested documents are likely to exceed \$200, the public body may, before continuing to
229 process the request, require the citizen requesting the information to agree to payment of an amount not
230 to exceed the advance determination by five percent. The period within which the public body must
231 respond under this section shall be tolled for the amount of time that elapses between notice of the
232 advance determination and the response of the citizen requesting the information.

233 Official records maintained by a public body on a computer or other electronic data processing
234 system which are available to the public under the provisions of this chapter shall be made reasonably
235 accessible to the public at reasonable cost. Beginning July 1, 1997, every public body of state
236 government shall compile, and annually update, an index of computer databases which contains at a
237 minimum those databases created by them on or after July 1, 1997. "Computer database" means a
238 structured collection of data or documents residing in a computer. Such index shall be an official record
239 and shall include, at a minimum, the following information with respect to each database listed therein:
240 a list of data fields, a description of the format or record layout, the date last updated, a list of any data
241 fields to which public access is restricted, a description of each format in which the database can be
242 copied or reproduced using the public body's computer facilities, and a schedule of fees for the
243 production of copies in each available form. The form, context, language, and guidelines for the indices
244 and the databases to be indexed shall be developed by the Director of the Department of Information

Technology in consultation with the State Librarian and the State Archivist. The public body shall not be required to disclose its software security, including passwords.

Public bodies shall not be required to create or prepare a particular requested record if it does not already exist. Public bodies may, but shall not be required to, abstract or summarize information from official records or convert an official record available in one form into another form at the request of the citizen. The public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

Failure to make any response to a request for records shall be a violation of this chapter and deemed a denial of the request.

B. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such departments under a promise of confidentiality; and all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions of this chapter.

- Criminal incident information relating to felony offenses shall not be excluded from the provisions of this chapter; however, where the release of criminal incident information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information.

2. Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

3. State income, business, and estate tax returns, personal property tax returns, scholastic records and personnel records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; however, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being.

Where the person who is the subject of medical records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall be reviewed only and shall not be copied by such administrator or chief medical officer. The information in the medical records of a person so confined shall continue to be confidential and shall not be disclosed to any person except the subject by the administrator or chief medical officer of the facility or except as provided by law.

For the purposes of this chapter such statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in subsection A of this section. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education, such right of access may be asserted by the subject person.

4. Memoranda, working papers and correspondence (i) held by or requested from members of the General Assembly or the Division of Legislative Services or (ii) held or requested by the Office of the

306 Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any
307 political subdivision of the Commonwealth or the president or other chief executive officer of any
308 state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or
309 other papers held or requested by the mayor or other chief executive officer of any political subdivision
310 which are specifically concerned with the evaluation of performance of the duties and functions of any
311 locally elected official and were prepared after June 30, 1992 nor shall this exclusion apply to agenda
312 packets prepared and distributed to public bodies for use at a meeting.

313 Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of
314 the General Assembly held by the Division of Legislative Services shall not be released by the Division
315 without the prior consent of the member.

316 5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the
317 Commonwealth and any other writing protected by the attorney-client privilege.

318 6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of
319 an active administrative investigation concerning a matter which is properly the subject of an executive
320 or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

321 7. Confidential letters and statements of recommendation placed in the records of educational
322 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an
323 application for employment, or (iii) receipt of an honor or honorary recognition.

324 8. Library records which can be used to identify both (i) any library patron who has borrowed
325 material from a library and (ii) the material such patron borrowed.

326 9. Any test or examination used, administered or prepared by any public body for purposes of
327 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's
328 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license
329 or certificate issued by any public body.

330 As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such
331 test or examination, and (ii) any other document which would jeopardize the security of such test or
332 examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as
333 provided by law, or limit access to individual records as is provided by law. However, the subject of
334 such employment tests shall be entitled to review and inspect all documents relative to his performance
335 on such employment tests.

336 When, in the reasonable opinion of such public body, any such test or examination no longer has any
337 potential for future use, and the security of future tests or examinations will not be jeopardized, such test
338 or examination shall be made available to the public. However, minimum competency tests administered
339 to public school children shall be made available to the public contemporaneously with statewide release
340 of the scores of those taking such tests, but in no event shall such tests be made available to the public
341 later than six months after the administration of such tests.

342 10. Applications for admission to examinations or for licensure and scoring records maintained by
343 the Department of Health Professions or any board in that department on individual licensees or
344 applicants. However, such material may be made available during normal working hours for copying, at
345 the requester's expense, by the individual who is the subject thereof, in the offices of the Department of
346 Health Professions or in the offices of any health regulatory board, whichever may possess the material.

347 11. Records of active investigations being conducted by the Department of Health Professions or by
348 any health regulatory board in the Commonwealth.

349 12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for
350 executive or closed meetings lawfully held pursuant to § 2.1-344.

351 13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

352 14. Proprietary information gathered by or for the Virginia Port Authority as provided in
353 § 62.1-132.4 or § 62.1-134.1.

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

357 16. Vendor proprietary information software which may be in the official records of a public body.
358 For the purpose of this section, "vendor proprietary software" means computer programs acquired from a
359 vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

360 17. Data, records or information of a proprietary nature produced or collected by or for faculty or
361 staff of state institutions of higher learning, other than the institutions' financial or administrative
362 records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly
363 issues, whether sponsored by the institution alone or in conjunction with a governmental body or a
364 private concern, where such data, records or information has not been publicly released, published,
365 copyrighted or patented.

366 18. Financial statements not publicly available filed with applications for industrial development
367 financings.

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

20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

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

22. Documents as specified in § 58.1-3.

23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

24. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

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

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

28. Documents and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

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

30. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

31. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or any institution thereof to the extent, as determined by the Director of the Department of Corrections or his designee or of the Virginia Board of Juvenile Justice, the Virginia Department of Juvenile Justice or any facility thereof to the extent as determined by the Director of the Department of Juvenile Justice, or his designee, that disclosure or public dissemination of such materials would jeopardize the security of any correctional or juvenile facility or institution, as follows:

(i) Security manuals, including emergency plans that are a part thereof;

(ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;

(iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;

(iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they

specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;

(v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;

(vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;

(vii) Logs or other documents containing information on movement of inmates, juvenile clients or employees; and

(viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

Notwithstanding the provisions of this subdivision, reports and information regarding the general operations of the Departments, including notice that an escape has occurred, shall be open to inspection and copying as provided in this section.

33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.

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

35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

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

37. Official records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the building code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee; however, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. [Repealed.]

41. Records concerning reserves established in specific claims administered by the Department of General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et

seq.) of Chapter 32 of this title, or by any county, city, or town.

42. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Care System pursuant to § 32.1-112.

43. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

44. [Repealed.]

45. Investigative notes; correspondence and information furnished in confidence with respect to an investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission; or investigative notes, correspondence, documentation and information furnished and provided to or produced by or for the Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this chapter shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information or other individuals involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of information from the records of completed investigations shall include, but is not limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. In the event an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

46. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

47. Documentation or other information which describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

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

49. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

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

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

52. [Repealed.]

53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to data provided in confidence to the Interstate Commerce Commission and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

55. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination of such materials would jeopardize the security of the Museum or any warehouse controlled by the Museum, as follows:

552 a. Operational, procedural or tactical planning documents, including any training manuals to the
553 extent they discuss security measures;

554 b. Surveillance techniques;

555 c. Installation, operation, or utilization of any alarm technology;

556 d. Engineering and architectural drawings of the Museum or any warehouse;

557 e. Transportation of the Museum's collections, including routes and schedules; or

558 f. Operation of the Museum or any warehouse used by the Museum involving the:

559 (1) Number of employees, including security guards, present at any time; or

560 (2) Busiest hours, with the maximum number of visitors in the Museum.

561 56. Reports, documents, memoranda or other information or materials which describe any aspect of
562 security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or
563 public dissemination of such materials would jeopardize the security of any government store as defined
564 in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

565 (i) Operational, procedural or tactical planning documents, including any training manuals to the
566 extent they discuss security measures;

567 (ii) Surveillance techniques;

568 (iii) The installation, operation, or utilization of any alarm technology;

569 (iv) Engineering and architectural drawings of such government stores or warehouses;

570 (v) The transportation of merchandise, including routes and schedules; and

571 (vi) The operation of any government store or the central warehouse used by the Department of
572 Alcoholic Beverage Control involving the:

573 a. Number of employees present during each shift;

574 b. Busiest hours, with the maximum number of customers in such government store; and

575 c. Banking system used, including time and place of deposits.

576 57. Information required to be provided pursuant to § 54.1-2506.1.

577 58. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or
578 proprietary information by any person who has submitted to a public body an application for
579 prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

580 59. All information and records acquired during a review of any child death by the State Child
581 Fatality Review Team established pursuant to § 32.1-283.1.

582 60. Investigative notes, correspondence, documentation and information provided to or produced by
583 or for the committee or the auditor with respect to an investigation or audit conducted pursuant to
584 § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of
585 completed investigations or audits in a form that does not reveal the identity of complainants or persons
586 supplying information.

587 61. Financial, medical, rehabilitative and other personal information concerning applicants for or
588 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
589 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

590 62. Confidential proprietary records which are voluntarily provided by a private entity pursuant to a
591 proposal filed with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et
592 seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible
593 public entity for purposes related to the development of a qualifying transportation facility; and
594 memoranda, working papers or other records related to proposals filed under the Public-Private
595 Transportation Act of 1995, where, if such records were made public, the financial interest of the public
596 or private entity involved with such proposal or the process of competition or bargaining would be
597 adversely affected. In order for confidential proprietary information to be excluded from the provisions
598 of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other
599 materials for which protection from disclosure is sought, (ii) identify the data or other materials for
600 which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of
601 this subdivision, the terms public entity and private entity shall be defined as they are defined in the
602 Public-Private Transportation Act of 1995.

603 63. Records of law-enforcement agencies, to the extent that such records contain specific tactical
604 plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or
605 the general public; engineering plans, architectural drawings, or operational specifications of
606 governmental law-enforcement facilities, including but not limited to courthouses, jails, and detention
607 facilities, to the extent that disclosure could jeopardize the safety or security of law-enforcement offices;
608 however, general descriptions shall be provided to the public upon request.

609 64. All records of the University of Virginia or the University of Virginia Medical Center which
610 contain proprietary, business-related information pertaining to the operations of the University of
611 Virginia Medical Center, including its business development or marketing strategies and its activities
612 with existing or future joint venturers, partners, or other parties with whom the University of Virginia
613 Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of

such information would be harmful to the competitive position of the Medical Center.

65. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

66. Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following: (i) an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and (ii) data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly released, published, copyrighted or patented.

67. *Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1, to the extent such records contain: (i) medical or mental records, or other data identifying individual patients, or (ii) proprietary business or research related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published, copyrighted or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.*

C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 3 of subsection B of this section, or to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to, any public officer, official or employee at any level of state, local or regional government in the Commonwealth or to the compensation or benefits paid by any corporation organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, to their officers or employees. The provisions of this subsection, however, shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

§ 9-6.14:4.1. Exemptions and exclusions.

A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the following agencies are exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

1. The General Assembly.

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

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

4. The Virginia Housing Development Authority.

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

6. Educational institutions operated by the Commonwealth provided that, with respect to § 9-6.14:22, such educational institutions shall be exempt from the publication requirements only with respect to regulations which pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.

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

8. The Virginia Resources Authority.

- 675 9. Agencies expressly exempted by any other provision of this Code.
676 10. The Virginia Voluntary Formulary Board in formulating recommendations regarding amendments
677 to the Formulary pursuant to § 32.1-81.
678 11. The Council on Information Management.
679 12. The Department of General Services in promulgating standards for the inspection of buildings for
680 asbestos pursuant to § 2.1-526.14.
681 13, 14. [Repealed.]
682 15. The State Council of Higher Education for Virginia, in developing, issuing, and revising
683 guidelines pursuant to § 23-9.6:2.
684 16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to
685 subsection B of § 3.1-726.
686 17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and
687 Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4,
688 subsection B of § 3.1-126.12:1, § 3.1-271.1, § 3.1-398, subsections B and C of § 3.1-828.4, and
689 subsection A of § 3.1-884.21:1.
690 18. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,
691 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of
692 optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
693 19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating
694 amendments to the Physician's Assistant Formulary established pursuant to § 54.1-2952.1.
695 20. The Boards of Medicine and Nursing in promulgating amendments to the Nurse Practitioner
696 Formulary established pursuant to § 54.1-2957.01.
697 21. The Virginia War Memorial Foundation.
698 22. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to
699 the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage
700 pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
701 23. The State Board of Education, in developing, issuing, and revising guidelines pursuant to
702 § 22.1-280.3.
703 24. The Virginia Student Assistance Authorities.
704 25. The Virginia Racing Commission, when acting by and through its duly appointed stewards or in
705 matters related to any specific race meeting.
706 26. The Virginia Small Business Financing Authority.
707 27. The Virginia Economic Development Partnership Authority.
708 28. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations
709 pursuant to clause A (ii) of § 59.1-156.
710 B. Agency action relating to the following subjects is exempted from the provisions of this chapter:
711 1. Money or damage claims against the Commonwealth or agencies thereof.
712 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
713 3. The location, design, specifications or construction of public buildings or other facilities.
714 4. Grants of state or federal funds or property.
715 5. The chartering of corporations.
716 6. Customary military, naval or police functions.
717 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of
718 the Commonwealth.
719 8. The conduct of elections or eligibility to vote.
720 9. Inmates of prisons or other such facilities or parolees therefrom.
721 10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as
722 well as the treatment, supervision, or discharge of such persons.
723 11. Traffic signs, markers or control devices.
724 12. Instructions for application or renewal of a license, certificate, or registration required by law.
725 13. Content of, or rules for the conduct of, any examination required by law.
726 14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter
727 14 of Title 2.1.
728 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent
729 with duly adopted regulations of the State Lottery Board, and provided that such regulations are
730 published and posted.
731 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
732 finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
733 17. Any operating procedures for review of child deaths developed by the State Child Fatality
734 Review Team pursuant to § 32.1-283.1.
735 18. *The process of reviewing and ranking grant applications submitted to the Commonwealth*
736 *Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title*

32.1.

C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

1. Agency orders or regulations fixing rates or prices.

2. Regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations which consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations which:

(a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

(b) Are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

(c) Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than thirty days prior to the effective date thereof.

5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act or the effective date of the federal regulation, and the regulation is not exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt such regulations. Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. Such regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be published within sixty days of the effective date of the emergency regulation, and the proposed replacement regulation shall be published within 180 days after the effective date of the emergency regulation.

6. [Repealed.]

7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

9. Regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 which are limited to reducing fees charged to regulants and applicants.

10. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to § 45.1-161.82.

11. General permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.), of Title 10.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

12. General permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the

798 publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed
799 of relevant stakeholders, including potentially affected citizens groups, to assist in the development of
800 the general permit, (iii) provides notice and receives oral and written comment as provided in subsection
801 F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

802 Whenever regulations are adopted under this subsection C, the agency shall state as part thereof that
803 it will receive, consider and respond to petitions by any interested person at any time with respect to
804 reconsideration or revision. The effective date of regulations adopted under this subsection shall be in
805 accordance with the provisions of § 9-6.14:9.3, except in the case of emergency regulations, which shall
806 become effective as provided in subsection A of § 9-6.14:9.

807 D. The following agency actions otherwise subject to this chapter are excluded from the operation of
808 Article 3 (§ 9-6.14:11 et seq.) of this chapter:

809 1. The assessment of taxes or penalties and other rulings in individual cases in connection with the
810 administration of the tax laws.

811 2. The award or denial of claims for workers' compensation.

812 3. The grant or denial of public assistance.

813 4. Temporary injunctive or summary orders authorized by law.

814 5. The determination of claims for unemployment compensation or special unemployment.

815 6. The suspension of any license, certificate, registration or authority granted any person by the
816 Department of Health Professions or the Department of Professional and Occupational Regulation for the
817 dishonor, by a bank or financial institution named, of any check, money draft or similar instrument used
818 in payment of a fee required by statute or regulation.

819 E. Appeals from decisions of the Governor's Employment and Training Department otherwise subject
820 to this chapter are excluded from the operation of Article 4 (§ 9-6.14:15 et seq.) of this chapter.

821 F. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia
822 Register Act, is excluded from the operation of subsection C of this section and of Article 2
823 (§ 9-6.14:7.1 et seq.) of this chapter; however, the authorization for any general permit or guidelines for
824 activity undertaken pursuant to Title 28.2 by the Marine Resources Commission shall be in accordance
825 with the provisions of this chapter.

826 G. A regulation for which an exemption is claimed under this section and which is placed before a
827 board or commission for consideration shall be provided at least two days in advance of the board or
828 commission meeting to members of the public that request a copy of that regulation. A copy of that
829 regulation shall be made available to the public attending such meeting.

830 H. The Joint Legislative Audit and Review Commission shall conduct a review periodically of
831 exemptions and exclusions authorized by this section. The purpose of this review shall be to assess
832 whether there are any exemptions or exclusions which should be discontinued or modified.

833 I. Minor changes to regulations being published in the Virginia Administrative Code under the
834 Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code
835 Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.

836 [§ 14.1-123. Fees for services performed by judges or clerks of district courts in criminal or traffic
837 cases.

838 A. Fees for services performed by the judges or clerks of district courts in criminal or traffic actions
839 and proceedings shall be as follows and such fees shall be included in the taxed costs:

840 1. For processing a case of a misdemeanor or a traffic violation, including a case in which there has
841 been written appearance and waiver of court hearing, and including swearing witnesses and taxing costs,
842 twenty-seven dollars.

843 Assessment of this fee shall be based on:

844 (i) An appearance for court hearing in which there has been a finding of guilty;

845 (ii) A written appearance with waiver of court hearing and entry of guilty plea;

846 (iii) For a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty.

847 In addition to any other fee prescribed by this subsection, a fee of ten dollars shall be taxed as costs
848 whenever a defendant, fails to appear, unless, after a hearing requested by such person, good cause is
849 shown for such failure to appear. No defendant with multiple charges arising from a single incident shall
850 be taxed the fee provided in this subsection more than once for a single appearance or trial in absence
851 related to that incident. A defendant with charges which arise from separate incidents shall be taxed a
852 fee for each incident even if the charges from the multiple incidents are disposed of in a single
853 appearance or trial in absence; or

854 (iv) An appearance for court hearing in which the court requires that the defendant successfully
855 complete traffic school or a driver improvement clinic, in lieu of a finding of guilty.

856 2. For processing any check tendered in a case of traffic violation that has been returned unpaid by
857 any banking institution, such fee as is determined pursuant to § 19.2-353.3.

858 B. Three dollars of the amount collected hereunder in subsection A 1 and 2 shall be collected for the
859 benefit of and paid to the Virginia Crime Victim-Witness Fund as provided for in § 19.2-11.3

irrespective of whether the defendant's case was processed as a violation of the Code of Virginia or as a violation of a local ordinance.

C. As provided in § 32.1-73.2, and regardless of whether the defendant's case was processed as a violation of the Code of Virginia or of a local ordinance, the following amounts shall be collected for the benefit of and paid into the Commonwealth Neurotrauma Initiative Trust Fund: (i) twelve dollars and fifty cents for each conviction of an offense for speeding pursuant to Article 8 (§ 46.2-870 et seq.) of Chapter 8 of Title 46.2, or any similar or equivalent local ordinance, and (ii) twenty-five dollars for each conviction for driving while intoxicated pursuant to Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, or for reckless driving pursuant to Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2, or any similar or equivalent local ordinance.]

Article 12.

The Commonwealth Neurotrauma Initiative.

§ 32.1-73.1. Definitions.

As used in this article:

"Advisory Board" means the Commonwealth Neurotrauma Initiative Advisory Board.

"Board" means the Board of Health.

"Fund" means the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to § 32.1-73.2.

"Neurotrauma" means an injury to the central nervous system, i.e., a traumatic spinal cord or brain injury which results in loss of physical and cognitive functions.

§ 32.1-73.2. Commonwealth Neurotrauma Initiative Trust Fund established.

A. For the purpose of preventing traumatic spinal cord or brain injuries and improving the treatment and care of Virginians with traumatic spinal cord or brain injuries, there is hereby created in the state treasury a special nonreverting fund to be known as the Commonwealth Neurotrauma Initiative Trust Fund, hereinafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller as a revolving fund and shall be administered by the Commonwealth Neurotrauma Initiative Advisory Board, in cooperation with the Commissioner of Health. The Fund shall consist of grants, donations and bequests from public and private sources. Such moneys shall be deposited into the state treasury to the credit of the Fund and shall be used for the purposes of this article.

B. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be distributed according to the grant procedures established pursuant to § 32.1-73.4. Moneys in the Fund shall be used solely to support grants for Virginia-based organizations, institutions, and researchers for education on prevention of traumatic spinal cord or brain injuries, basic science and clinical research on the mechanisms and treatment of neurotrauma, and community-based rehabilitative services for individuals with traumatic spinal cord or brain injuries. No more than ten percent of such Fund may be used for administration.

§ 32.1-73.3. Commonwealth Neurotrauma Initiative Advisory Board established; membership; terms; duties and responsibilities.

For the purpose of administering, in coordination with the Commissioner of Health, the Commonwealth Neurotrauma Initiative Trust Fund, there is hereby established the Commonwealth Neurotrauma Initiative Advisory Board, hereinafter referred to as the Advisory Board.

The Advisory Board shall consist of seven members as follows: one person licensed to practice medicine in Virginia experienced with brain or spinal cord injury; one person licensed by a health regulatory board within the Department of Health Professions with experience in brain or spinal cord injury rehabilitative programs or services; one Virginian with traumatic spinal cord injury or a caretaker thereof; one Virginian with traumatic brain injury or a caretaker thereof; one citizen-at-large who shall not be an elected or appointed public official; the State Health Commissioner; and the Commissioner of Rehabilitative Services. The State Health Commissioner and the Commissioner of Rehabilitative Services may appoint designees to serve on the Advisory Board. Board members shall be appointed by the Governor. Nominations for appointments may be submitted, at the discretion of the Governor, from relevant organizations.

B. Of the initial members appointed in 1997, the Governor shall appoint two members for terms of two years, two members for terms of three years, and three members for terms of four years. Thereafter, all members shall be appointed by the Governor for terms of four years. No member shall serve more than two successive terms of four years. The chairman shall be elected from the membership of the Advisory Board for a term of one year and shall be eligible for reelection. The Advisory Board shall meet at the call of the chairman or the Commissioner.

C. The Advisory Board shall:

1. Administer, in cooperation with the Commissioner of Health, the Commonwealth Neurotrauma Initiative Trust Fund, in accordance with such regulations of the Board of Health as shall be

921 *established for the Fund;*

922 *2. Recommend to the Board of Health policies and procedures for the administration of the Fund,*
923 *including criteria for reviewing and ranking grant applications, distribution of funds, and areas of*
924 *research need in accordance with the provisions of subsection B of § 32.1-73.2;*

925 *3. Review and rank or arrange for reviewers and technical advisers to review and rank grant*
926 *applications for education, basic science and clinical research, and rehabilitative research and*
927 *community-based rehabilitative services;*

928 *4. Report annually on October 1, to the Governor and the General Assembly, aggregate data on the*
929 *operations and funding of the Commonwealth Neurotrauma Initiative Trust Fund.*

930 *D. The Advisory Board may appoint grant reviewers and other technical advisers to assist it in its*
931 *duties. Such reviewers and technical advisers shall be appointed in such manner as to provide equal*
932 *representation from Virginia's three medical schools. Whenever reviewers or technical advisers sit as a*
933 *committee, the chairman of the Advisory Board or his designee shall serve as chairman.*

934 *§ 32.1-73.4. Procedures for grant applications.*

935 *The Board of Health shall promulgate regulations establishing procedures and policies for soliciting*
936 *and receiving grant applications and criteria for reviewing and ranking such applications, including, but*
937 *not limited to, goals, timelines, forms, eligibility, and mechanisms to ensure avoidance of any conflicts*
938 *of interest or appearances thereof. The Board shall receive the recommendations of the Advisory Board*
939 *prior to promulgating or revising any such regulations.*