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## SENATE BILL NO. 720

Offered January 8, 1997

A BILL to amend and reenact §§ 2.1-341 and 2.1-342 of the Code of Virginia, relating to the Freedom of Information Act; scholastic records exemption.

Patron—Barry

Referred to the Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That §§ 2.1-341 and 2.1-342 of the Code of Virginia are amended and reenacted as follows:****§ 2.1-341. Definitions.**

The following terms, whenever used or referred to in this chapter, shall have the following meanings, unless a different meaning clearly appears from the context:

"Criminal incident information" means a general description of the criminal activity reported, the date and general location the alleged crime was committed, the identity of the investigating officer, and a general description of any injuries suffered or property damaged or stolen; however, the identity of any victim, witness, undercover officer, or investigative techniques or procedures need not but may be disclosed unless disclosure is prohibited or restricted under § 19.2-11.2. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

"Executive meeting" or "closed meeting" means a meeting from which the public is excluded.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.1-343.1, as a body or entity, or as an informal assemblage of (i) as many as three members, or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body, including any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties; municipal councils, governing bodies of counties, school boards and planning commissions; boards of visitors of state institutions of higher education; and other organizations, corporations or agencies in the Commonwealth, supported wholly or principally by public funds. The notice provisions of this chapter shall not apply to the said informal meetings or gatherings of the members of the General Assembly. Nothing in this chapter shall be construed to make unlawful the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body or (ii) at a public meeting whose purpose is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting. The gathering of employees of a public body shall not be deemed a "meeting" subject to the provisions of this chapter.

No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in § 2.1-343.1 or as may specifically be provided in Title 54.1 for the summary suspension of professional licenses.

"Official records" means all written or printed books, papers, letters, documents, maps and tapes, photographs, films, sound recordings, reports or other material, regardless of physical form or characteristics, prepared, owned, or in the possession of a public body or any employee or officer of a public body in the transaction of public business.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any of the groups, agencies or organizations enumerated in the definition of "meeting" as provided in this section, including any committees or subcommittees of the public body created to perform delegated functions of the public body or to advise the public body. Corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries also are "public bodies" for purposes of this chapter.

"Scholastic records" means those records, files, documents, and other materials containing information about a student and maintained by a public body which is an educational agency or institution or by a person acting for such agency or institution, but, for the purpose of access by a student, does not include (i) financial records of a parent or guardian nor (ii) records of instructional,

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60 supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the  
61 sole possession of the maker thereof and which are not accessible or revealed to any other person except  
62 a substitute.

63 § 2.1-342. Official records to be open to inspection; procedure for requesting records and responding  
64 to request; charges; exceptions to application of chapter.

65 A. Except as otherwise specifically provided by law, all official records shall be open to inspection  
66 and copying by any citizens of the Commonwealth during the regular office hours of the custodian of  
67 such records. Access to such records shall not be denied to citizens of the Commonwealth, and representatives  
68 of radio and television stations broadcasting in or into the Commonwealth. The custodian of such  
69 records shall take all necessary precautions for their preservation and safekeeping. Any public body  
70 covered under the provisions of this chapter shall make an initial response to citizens requesting records  
71 open to inspection within five work days after the receipt of the request by the public body which is the  
72 custodian of the requested records. Such citizen request shall designate the requested records with  
73 reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall  
74 not be necessary to invoke the provisions of this chapter and the time limits for response by the public  
75 body. The response by the public body within such five work days shall be one of the following  
76 responses:  
77

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

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

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

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

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

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

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

116 Official records maintained by a public body on a computer or other electronic data processing  
117 system which are available to the public under the provisions of this chapter shall be made reasonably  
118 accessible to the public at reasonable cost. Beginning July 1, 1997, every public body of state  
119 government shall compile, and annually update, an index of computer databases which contains at a  
120 minimum those databases created by them on or after July 1, 1997. "Computer database" means a  
121 structured collection of data or documents residing in a computer. Such index shall be an official record

and shall include, at a minimum, the following information with respect to each database listed therein: a list of data fields, a description of the format or record layout, the date last updated, a list of any data fields to which public access is restricted, a description of each format in which the database can be copied or reproduced using the public body's computer facilities, and a schedule of fees for the production of copies in each available form. The form, context, language, and guidelines for the indices 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

183 noncustodial parent, unless such parent's parental rights have been terminated or a court of competent  
184 jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof  
185 is an emancipated minor or a student in a state-supported institution of higher education, such right of  
186 access may be asserted by the subject person.

187 4. Memoranda, working papers and correspondence (i) held by or requested from members of the  
188 General Assembly or the Division of Legislative Services or (ii) held or requested by the Office of the  
189 Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any  
190 political subdivision of the Commonwealth or the president or other chief executive officer of any  
191 state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or  
192 other papers held or requested by the mayor or other chief executive officer of any political subdivision  
193 which are specifically concerned with the evaluation of performance of the duties and functions of any  
194 locally elected official and were prepared after June 30, 1992 nor shall this exclusion apply to agenda  
195 packets prepared and distributed to public bodies for use at a meeting.

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

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

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

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

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

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

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

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

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

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

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

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

235 14. Proprietary information gathered by or for the Virginia Port Authority as provided in  
236 § 62.1-132.4 or § 62.1-134.1.

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

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

243 17. Data, records or information of a proprietary nature produced or collected by or for faculty or  
244 staff of state institutions of higher learning, other than the institutions' 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 institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

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

429 of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the  
430 Department not release such information.

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

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

437 b. Surveillance techniques;

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

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

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

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

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

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

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

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

450 (ii) Surveillance techniques;

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

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

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

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

456 a. Number of employees present during each shift;

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

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

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

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

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

465 60. Investigative notes, correspondence, documentation and information provided to or produced by  
466 or for the committee or the auditor with respect to an investigation or audit conducted pursuant to  
467 § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of  
468 completed investigations or audits in a form that does not reveal the identity of complainants or persons  
469 supplying information.

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

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

486 63. Records of law-enforcement agencies, to the extent that such records contain specific tactical  
487 plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or  
488 the general public; engineering plans, architectural drawings, or operational specifications of  
489 governmental law-enforcement facilities, including but not limited to courthouses, jails, and detention  
490 facilities, to the extent that disclosure could jeopardize the safety or security of law-enforcement offices;



however, general descriptions shall be provided to the public upon request.

64. All records of the University of Virginia or the University of Virginia Medical Center which contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia 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.

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.