

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 38.2-5008.1 and to amend the*  
3 *second enactment of Chapter 919 of the Acts of Assembly of 2006 by adding a section numbered 2,*  
4 *relating to the Virginia Birth-Related Neurological Injury Compensation Act; right to confront and*  
5 *cross-examine witnesses.*

6 [S 212]

7 Approved

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That the Code of Virginia is amended by adding a section numbered 38.2-5008.1 as follows:**10 *§ 38.2-5008.1. Right to confront and cross-examine witnesses.*11 *Upon a timely motion, all parties to a claim under this chapter shall have the right to confront and*  
12 *cross-examine witnesses. In pursuing that right, a party shall not be precluded from conducting*  
13 *depositions by oral examination or cross-examination at a hearing of any witnesses from whom evidence*  
14 *is elicited.*15 **2. That the second enactment of Chapter 919 of the Acts of Assembly of 2006 is amended by**  
16 **adding a section numbered 2 as follows:**17 *§ 2. Right to confront and cross-examine witnesses; right to de novo review.*18 *Notwithstanding any other provision of law, any claimant who timely filed a claim and after timely*  
19 *seeking and being denied an opportunity to conduct depositions by oral examination or otherwise being*  
20 *denied the opportunity to confront or cross-examine witnesses and was denied an award of benefits,*  
21 *shall have the right to have the determination against that claim vacated and the claim redetermined de*  
22 *novo by filing a petition with the Commission seeking to have the determination against that claim*  
23 *vacated. Such petition shall be filed on or before July 1, 2009, and may be filed regardless of whether*  
24 *or not the party has filed for review of the denied claim. Upon receipt of such a petition, the*  
25 *Commission shall vacate the order denying benefits previously entered, place the matter on the hearing*  
26 *docket, administer the claim and make a determination on the merits of the claim de novo, as if no*  
27 *previous filing, hearing, determination, review or dismissal of that claim had occurred, except that the*  
28 *Commission shall not be required to request the panel of physicians set forth in subsection B of*  
29 *§ 38.2-5008 to issue a new report.*