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HOUSE BILL NO. 1172

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on January 25, 2018)

(Patron Prior to Substitute—Delegate Pillion)

A *BILL to amend and reenact §§ 2.2-3705.5 and 2.2-3711 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 32.1-283.7 and 32.1-283.8, relating to overdose fatality review teams.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.5 and 2.2-3711 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 32.1-283.7 and 32.1-283.8 as follows:

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health 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 health 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. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, 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, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-141 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. 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; 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 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the

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60 records of completed investigations in a form that does not reveal the identity of complainants, persons
61 supplying information, or other individuals involved in the investigation.

62 5. Information collected for the designation and verification of trauma centers and other specialty
63 care centers within the Statewide Emergency Medical Services System and Services pursuant to Article
64 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

65 6. Reports and court documents relating to involuntary admission required to be kept confidential
66 pursuant to § 37.2-818.

67 7. Information acquired (i) during a review of any child death conducted by the State Child Fatality
68 Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to
69 the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death
70 conducted by a family violence fatality review team to the extent that such information is made
71 confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted by the Adult Fatality
72 Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality
73 review team to the extent that such information is made confidential by § 32.1-283.6; *or (iv) during a*
74 *review of any overdose death conducted by the State Overdose Fatality Review Team to the extent made*
75 *confidential by § 32.1-283.7 or by a local or regional overdose fatality review team to the extent that*
76 *such information is made confidential by § 32.1-283.8.*

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

80 9. Information relating to a grant application, or accompanying a grant application, submitted to the
81 Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of
82 Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data
83 identifying individual patients or (b) proprietary business or research-related information produced or
84 collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative,
85 scientific, technical, or scholarly issues, when such information has not been publicly released,
86 published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

87 10. Any information copied, recorded, or received by the Commissioner of Health in the course of an
88 examination, investigation, or review of a managed care health insurance plan licensee pursuant to
89 §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or
90 all computer or other recordings.

91 11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be
92 kept confidential pursuant to § 38.2-5002.2.

93 12. Information held by the State Health Commissioner relating to the health of any person subject to
94 an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter
95 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of
96 statistical summaries, abstracts, or other information in aggregate form.

97 13. The names and addresses or other contact information of persons receiving transportation services
98 from a state or local public body or its designee under Title II of the Americans with Disabilities Act,
99 (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created
100 under § 63.2-600.

101 14. Information held by certain health care committees and entities that may be withheld from
102 discovery as privileged communications pursuant to § 8.01-581.17.

103 15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16
104 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

105 16. (For contingent effective date, see Editor's note.) Records of and information held by the
106 Emergency Department Care Coordination Program required to be kept confidential pursuant to
107 § 32.1-372.

108 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

121 2. Discussion or consideration of admission or disciplinary matters or any other matters that would

122 involve the disclosure of information contained in a scholastic record concerning any student of any
123 public institution of higher education in the Commonwealth or any state school system. However, any
124 such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall
125 be permitted to be present during the taking of testimony or presentation of evidence at a closed
126 meeting, if such student, parents, or guardians so request in writing and such request is submitted to the
127 presiding officer of the appropriate board.

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

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

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

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

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

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

149 9. Discussion or consideration by governing boards of public institutions of higher education of
150 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
151 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
152 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
153 accepted by a public institution of higher education in the Commonwealth shall be subject to public
154 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
155 (i) "foreign government" means any government other than the United States government or the
156 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
157 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
158 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
159 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
160 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
161 citizen or national of the United States or a trust territory or protectorate thereof.

162 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
163 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of
164 Virginia of matters relating to specific gifts, bequests, and grants from private sources.

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

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

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

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

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

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

182 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to

183 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
184 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
185 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
186 and subdivision 11 of § 2.2-3705.7.

187 18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
188 of, or information tending to identify, any prisoner who (i) provides information about crimes or
189 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
190 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
191 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

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

200 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
201 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
202 trustees of a trust established by one or more local public bodies to invest funds for postemployment
203 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
204 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
205 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
206 holding or disposition of a security or other ownership interest in an entity, where such security or
207 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
208 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
209 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
210 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
211 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
212 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
213 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
214 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
215 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
216 of information relating to the identity of any investment held, the amount invested or the present value
217 of such investment.

218 21. Those portions of meetings in which individual child death cases are discussed by the State Child
219 Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which
220 individual child death cases are discussed by a regional or local child fatality review team established
221 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
222 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
223 which individual adult death cases are discussed by the state Adult Fatality Review Team established
224 pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are
225 discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, *those*
226 *portions of meetings in which individual death cases are discussed by the State Overdose Fatality*
227 *Review Team established pursuant to § 32.1-283.7, and those portions of meetings in which individual*
228 *death cases are discussed by local or regional overdose fatality review teams established pursuant to*
229 *§ 32.1-283.8.*

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

241 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
242 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
243 disposition by the Authority of real property, equipment, or technology software or hardware and related
244 goods or services, where disclosure would adversely affect the bargaining position or negotiating

245 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
246 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
247 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
248 affect the competitive position of the Authority; and members of the Authority's medical and teaching
249 staffs and qualifications for appointments thereto.

250 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
251 the Department of Health Professions to the extent such discussions identify any practitioner who may
252 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

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

258 26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created
259 pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et
260 seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless
261 E-911 service.

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

268 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
269 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
270 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
271 responsible public entity concerning such records.

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

276 30. Discussion or consideration of grant or loan application information subject to the exclusion in
277 subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation
278 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory
279 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

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

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

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

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

293 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
294 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative
295 files subject to the exclusion in subdivision A 2 a of § 2.2-3706.

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

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

304 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
305 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,

306 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
307 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment
308 Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in
309 subdivision 24 of § 2.2-3705.7.

310 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
311 § 2.2-3705.6 related to economic development.

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

314 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created
315 by executive order for the purpose of studying and making recommendations regarding preventing
316 closure or realignment of federal military and national security installations and facilities located in
317 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
318 appointed by a local governing body, during which there is discussion of information subject to the
319 exclusion in subdivision 8 of § 2.2-3705.2.

320 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
321 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
322 information of donors.

323 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
324 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information
325 contained in grant applications.

326 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
327 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
328 charges for the use of projects of, the sale of products of, or services rendered by the Authority and
329 certain proprietary information of a private entity provided to the Authority.

330 45. Discussion or consideration of personal and proprietary information related to the resource
331 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
332 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records
333 that contain information that has been certified for release by the person who is the subject of the
334 information or transformed into a statistical or aggregate form that does not allow identification of the
335 person who supplied, or is the subject of, the information.

336 46. (Effective January 15, 2018) Discussion or consideration by the Board of Directors of the
337 Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1
338 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and
339 permittees.

340 47. Discussion or consideration of grant or loan application records subject to the exclusion in
341 subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the
342 Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title
343 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of
344 § 23.1-3133 or by the Virginia Research Investment Committee.

345 48. Discussion or development of grant proposals by a regional council established pursuant to
346 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth
347 and Opportunity Board.

348 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team
349 established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses
350 involving a child by a child abuse team established pursuant to § 15.2-1627.5.

351 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
352 Authority, or any subcommittee thereof, of the portions of the strategic plan, marketing plan, or
353 operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

354 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
355 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
356 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
357 § 60.2-114.

358 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
359 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
360 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
361 motion that shall have its substance reasonably identified in the open meeting.

362 C. Public officers improperly selected due to the failure of the public body to comply with the other
363 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
364 obtain notice of the legal defect in their election.

365 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
366 more public bodies, or their representatives, but these conferences shall be subject to the same
367 procedures for holding closed meetings as are applicable to any other public body.

368 E. This section shall not be construed to (i) require the disclosure of any contract between the
 369 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
 370 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
 371 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
 372 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
 373 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
 374 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
 375 of such bonds.

376 **§ 32.1-283.7. State Overdose Fatality Review Team established; members; access to information.**

377 A. There is hereby created the State Overdose Fatality Review Team (the Team), which shall develop
 378 and implement processes to ensure that overdose deaths occurring in the Commonwealth are reviewed
 379 in a systematic way. The Team shall review the death of any person of any age whose death involved an
 380 overdose and came under the jurisdiction of or was investigated by the Office of the Chief Medical
 381 Examiner pursuant to § 32.1-283. The Team shall not initiate an overdose fatality review until the
 382 conclusion of any law-enforcement investigation or criminal prosecution. The Team shall (i) develop and
 383 revise operating procedures for the review of overdose deaths, including identification of cases to be
 384 reviewed and procedures for coordination among the agencies and professionals involved; (ii) improve
 385 the recordkeeping of the causes of overdose; (iii) recommend components for prevention and education
 386 programs; (iv) recommend training to improve the investigation of overdose deaths; and (v) provide
 387 technical assistance, upon request, to any local or regional overdose fatality review teams that may be
 388 established. The operating procedures for the review of overdose deaths shall be exempt from the
 389 Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.

390 B. The Team shall be chaired by the Chief Medical Examiner and shall be composed of the
 391 following persons or their designees: the Commissioner of Behavioral Health and Developmental
 392 Services; the Commissioner of Social Services; the Director of the Department of Criminal Justice
 393 Services; the Directors of the Department of Health's Office of Family Health Services' Divisions of
 394 Prevention and Health Promotion; a representative of the Virginia Hospital and Healthcare Association;
 395 the Director of Injury and Violence Prevention Advocates; and the State Registrar of Vital Records. In
 396 addition, the chair may appoint the following additional members to participate in investigations:
 397 representatives of local human services agencies; experts in forensic medicine and pathology;
 398 representatives of local public education agencies, local fire departments, local emergency medical
 399 services agencies, community services boards, local funeral services providers, the local bar, local
 400 law-enforcement agencies, local departments of social services, and the Medical Society of Virginia; and
 401 attorneys for the Commonwealth.

402 C. Upon the request of the Chief Medical Examiner in his capacity as chair of the Team, made after
 403 the conclusion of any law-enforcement investigation or prosecution, information and records regarding
 404 an overdose death being reviewed by the Team may be inspected and copied by the Chief Medical
 405 Examiner or his designee, including any report of the circumstances of the event maintained by any
 406 state or local law-enforcement agency or medical examiner and information or records maintained on
 407 such person by any school, social services agency, or court. Information, records, or reports maintained
 408 by any attorney for the Commonwealth shall be made available for inspection and copying by the Chief
 409 Medical Examiner pursuant to procedures that shall be developed by the Chief Medical Examiner and
 410 the Commonwealth's Attorneys' Services Council established by § 2.2-2617. In addition, a health care
 411 provider shall provide the Team, upon request, with access to the health and mental health records of
 412 (i) the person whose overdose death is subject to review, without authorization; (ii) any relative of the
 413 deceased, with authorization of such person; and (iii) any minor child of the deceased, with the
 414 authorization of the minor's parent or guardian.

415 D. The Office of the Chief Medical Examiner may inspect and copy from any Virginia health care
 416 provider, on behalf of the Team, without obtaining consent, the health and mental health records of the
 417 deceased and those medical records of the deceased. All information obtained or generated by the Team
 418 regarding a review shall be confidential and shall be excluded from the Virginia Freedom of
 419 Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 7 of § 2.2-3705.5. Upon the conclusion of
 420 the overdose fatality review, all information and records shall not be subject to subpoena or discovery
 421 or be admissible in any criminal or civil proceeding. If available from other sources, however, such
 422 information and records shall not be immune from subpoena, discovery, or introduction into evidence
 423 when obtained through such other sources solely because the information and records were presented to
 424 the Team during an overdose fatality review. The findings of the Team may be disclosed or published in
 425 a statistical or other form that shall not identify individuals. The portions of meetings in which
 426 individual overdose death cases are discussed by the Team shall be closed pursuant to subdivision A 21
 427 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all team members, persons attending closed
 428 team meetings, and persons presenting information and records on specific overdose deaths to the Team

429 during closed meetings shall execute a sworn statement to honor the confidentiality of the information,
430 records, discussions, and opinions disclosed during any closed meeting to review a specific overdose
431 death. Violations of this subsection are punishable as a Class 3 misdemeanor.

432 E. Upon notification of an overdose death, any state or local government agency that maintains
433 records and that provided services to the deceased or maintained records on the deceased shall retain
434 such records for the longer of 12 months or until such time as the Team has completed its review of the
435 case.

436 F. The Team shall compile annual data that shall be made available to the Governor and the
437 General Assembly when published. These statistical data compilations shall not contain any personally
438 identifying information and shall be public records.

439 **§ 32.1-283.8. Local and regional overdose fatality review teams established; members; access to**
440 **information.**

441 A. Upon the initiative of any local or regional law-enforcement agency, fire department, or
442 emergency medical services agency, any attorney for the Commonwealth's office, or any community
443 services board, local or regional overdose fatality review teams may be established for the purpose of
444 conducting contemporaneous reviews of local overdose deaths in order to develop interventions and
445 strategies for prevention specific to the locality or region. Each team shall establish rules and
446 procedures to govern the review process. Agencies may share information but shall be bound by
447 confidentiality and execute a sworn statement to honor the confidentiality of the information they share.
448 The State Overdose Fatality Review Team shall provide technical assistance and direction as provided
449 for in subsection A of § 32.1-283.7.

450 B. Local and regional overdose fatality review teams may be composed of the following persons from
451 the localities represented on a particular board or their designees: a medical examiner appointed
452 pursuant to § 32.1-282, a local social services official, a local judge, a director of injury and violence
453 prevention advocates, a director of the relevant local or district health department, the attorney for the
454 Commonwealth, a local emergency medical services agency chief, an executive director of the local
455 community services board or other local mental health agency, a chief law-enforcement officer, and
456 such additional persons as may be appointed to serve by the chair of the local or regional team. The
457 chairperson shall be elected from among the designated membership. The chair may appoint additional
458 members, including representatives of local human services agencies, experts in forensic medicine and
459 pathology, local public education agencies, local funeral services providers, and the local bar.

460 C. Each local or regional overdose fatality review team shall establish operating procedures to
461 govern the review process prior to conducting the first overdose fatality review. The review of an
462 overdose death shall be delayed until any criminal investigations connected with the death are complete.

463 D. All information and records obtained or created regarding a review of a death shall be
464 confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)
465 pursuant to subdivision 7 of § 2.2-3705.5. All such information and records shall be used by the team
466 only in the exercise of its proper purpose and function and shall not be disclosed. Such information and
467 records shall not be subject to subpoena, subpoena duces tecum, discovery, or introduction into
468 evidence when obtained through such other sources solely because the information and records were
469 presented to the team during the fatality review. No member of the team shall be required to make any
470 statement as to what transpired during the review or what information was collected during the review.
471 Upon the conclusion of the review, all information and records concerning the victim and family shall
472 be destroyed. However, the findings of the team may be disclosed or published in a statistical or other
473 form that does not identify any individuals. All team members and persons attending closed team
474 meetings shall execute a sworn statement to honor the confidentiality of the information, records,
475 discussions, and opinions disclosed during any closed meeting to review a specific death.

476 E. Members of local or regional overdose fatality review teams, as well as their agents and
477 employees and any organization, institution, or person furnishing information, data, testimony, reports,
478 or records to local or regional overdose fatality review teams, shall be immune from civil liability for
479 any act or omission made in connection with participation in the review of an overdose death by a local
480 or regional overdose fatality review team.