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HOUSE BILL NO. 2210

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend and reenact §§ 2.2-3711, 18.2-334.3, 19.2-389, 37.2-304, 58.1-4002, 58.1-4007, 58.1-4008, 59.1-364, and 59.1-569 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Title 58.1 a section numbered 58.1-4015.1 and a chapter numbered 41, consisting of sections numbered 58.1-4100 through 58.1-4132; and to repeal § 58.1-4007.2, relating to sports betting; Virginia Sports Betting Department created; consumer protections; penalties.*

Patrons—Simon, Bagby and Kory

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, 18.2-334.3, 19.2-389, 37.2-304, 58.1-4002, 58.1-4007, 58.1-4008, 59.1-364, and 59.1-569 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Title 58.1 a section numbered 58.1-4015.1 and a chapter numbered 41, consisting of sections numbered 58.1-4100 through 58.1-4132, as follows:

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

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

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

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

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

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

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

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

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

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

63 9. Discussion or consideration by governing boards of public institutions of higher education of
64 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
65 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
66 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
67 accepted by a public institution of higher education in the Commonwealth shall be subject to public
68 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
69 (i) "foreign government" means any government other than the United States government or the
70 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
71 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
72 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
73 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
74 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
75 citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

96 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
97 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
98 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
99 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
100 and subdivision 11 of § 2.2-3705.7.

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

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

114 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
115 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
116 trustees of a trust established by one or more local public bodies to invest funds for postemployment
117 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
118 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
119 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
120 holding or disposition of a security or other ownership interest in an entity, where such security or

ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

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

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

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

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

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

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

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are

defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

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

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

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

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

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

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

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

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

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

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

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

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

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

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

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

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

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)

subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

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

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

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

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

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

52. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial, revocation, or suspension of or refusal to renew a permit related to sports betting, and any discussion, consideration, or review by the Virginia Lottery Board of matters related to investigations exempted from disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

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

§ 11-16.1. Exemption; authorized sports betting.

This chapter shall not apply to any sports betting or related activity that is lawful under the Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.).

§ 18.2-334.3. Exemptions to article; state lottery and sports betting.

Nothing in this article shall apply to any:

1. Any lottery conducted by the Commonwealth of Virginia pursuant to ~~Chapter 40 of Title 58.1~~ the Virginia Lottery Law (§ 58.1-4000 et seq.); or

2. Any sports betting or related activity that is lawful under the Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.).

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for

purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and the Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance

428 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

429 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
430 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
431 name, address, demographics and social security number of the data subject shall be released;

432 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
433 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
434 purpose of determining if any applicant who accepts employment in any direct care position or requests
435 approval as a sponsored residential service provider or permission to enter into a shared living
436 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
437 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
438 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
439 37.2-607;

440 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
441 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
442 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

443 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
444 for the purpose of determining if any person being considered for election to any judgeship has been
445 convicted of a crime;

446 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
447 determining an individual's fitness for employment in positions designated as sensitive under Department
448 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

449 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
450 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
451 Violent Predators Act (§ 37.2-900 et seq.);

452 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
453 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
454 companies, for the conduct of investigations of applications for employment or for access to facilities,
455 by contractors, leased laborers, and other visitors;

456 35. Any employer of individuals whose employment requires that they enter the homes of others, for
457 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

458 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
459 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
460 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
461 subject to the restriction that the data shall not be further disseminated by the agency to any party other
462 than a federal or state authority or court as may be required to comply with an express requirement of
463 law for such further dissemination, subject to limitations set out in subsection G;

464 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
465 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
466 or have accepted a position related to the provision of transportation services to enrollees in the
467 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
468 program administered by the Department of Medical Assistance Services;

469 38. The State Corporation Commission for the purpose of investigating individuals who are current
470 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
471 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
472 other provision of law, if an application is denied based in whole or in part on information obtained
473 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
474 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
475 its designee;

476 39. The Department of Professional and Occupational Regulation for the purpose of investigating
477 individuals for initial licensure pursuant to § 54.1-2106.1;

478 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
479 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
480 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
481 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

482 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

483 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
484 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

485 43. The Department of Social Services and directors of local departments of social services for the
486 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
487 or a local department of social services for the provision of child care services for which child care
488 subsidy payments may be provided;

489 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of

a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

45. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 37.2-304. Duties of Commissioner.

The Commissioner shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its state facilities.
2. To employ the personnel required to carry out the purposes of this title.
3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the

551 approval of the Governor. To these ends, the Commissioner shall have the power to comply with
552 conditions and execute agreements that may be necessary, convenient, or desirable, consistent with
553 policies and regulations of the Board.

554 5. To accept, execute, and administer any trust in which the Department may have an interest, under
555 the terms of the instruments creating the trust, subject to the approval of the Governor.

556 6. To transfer between state hospitals and training centers school-age individuals who have been
557 identified as appropriate to be placed in public school programs and to negotiate with other school
558 divisions for placements in order to ameliorate the impact on those school divisions located in a
559 jurisdiction in which a state hospital or training center is located.

560 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,
561 established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical
562 incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities
563 and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to
564 § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the
565 Department within 15 working days of the critical incident, serious injury, or death.

566 8. To work with the appropriate state and federal entities to ensure that any individual who has
567 received services in a state facility for more than one year has possession of or receives prior to
568 discharge any of the following documents, when they are needed to obtain the services contained in his
569 discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days
570 from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a
571 social security card from the Social Security Administration. State facility directors, as part of their
572 responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

573 9. To work with the Department of Veterans Services and the Department for Aging and
574 Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia
575 veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces
576 Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

577 10. To establish and maintain a pharmaceutical and therapeutics committee composed of
578 representatives of the Department of Medical Assistance Services, state facilities operated by the
579 Department, community services boards, at least one health insurance plan, and at least one individual
580 receiving services to develop a drug formulary for use at all community services boards, state facilities
581 operated by the Department, and providers licensed by the Department.

582 11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to
583 § 37.2-312.2.

584 12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and
585 the Chairmen of the House Appropriations and Senate Finances Committees that provides information
586 on the operation of Virginia's publicly funded behavioral health and developmental services system. The
587 report shall include a brief narrative and data on the number of individuals receiving state facility
588 services or community services board services, including purchased inpatient psychiatric services; the
589 types and amounts of services received by these individuals; and state facility and community services
590 board service capacities, staffing, revenues, and expenditures. The annual report shall describe major
591 new initiatives implemented during the past year and shall provide information on the accomplishment
592 of systemic outcome and performance measures during the year.

593 13. To administer the Problem Gambling Treatment and Support Fund established pursuant to §
594 37.2-314.1.

595 Unless specifically authorized by the Governor to accept or undertake activities for compensation, the
596 Commissioner shall devote his entire time to his duties.

597 **§ 37.2-314.1. Problem Gambling Treatment and Support Fund.**

598 *There is hereby created in the state treasury a special nonreverting fund to be known as the Problem*
599 *Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be*
600 *established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant*
601 *to subsection B of § 58.1-4112 shall be paid into the state treasury and credited to the Fund. Interest*
602 *earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in*
603 *the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund*
604 *but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing*
605 *counseling and other support services for compulsive and problem gamblers, (ii) developing and*
606 *implementing problem gambling treatment and prevention programs, and (iii) providing grants to*
607 *supporting organizations that provide assistance to compulsive gamblers. Expenditures and*
608 *disbursements from the Fund shall be made by the State Treasurer on warrants issued by the*
609 *Comptroller upon written request signed by the Commissioner.*

610 **§ 58.1-4002. Definitions.**

611 ~~For the purposes of~~ As used in this chapter, unless the context requires a different meaning:

612 "Board" means the Virginia Lottery Board established by this chapter.

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in this chapter *article and electronic sports betting pursuant to the Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.)*.

"Director" means the Director of the Virginia Lottery.

"Electronic sports betting" means an electronic sports betting program established and operated by the Board under the Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.).

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

"Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1 that allows individuals to voluntarily exclude themselves from buying lottery tickets or shares and participating in electronic sports betting by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery and electronic sports betting. The regulations governing the establishment and operation of the lottery and electronic sports betting shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery and electronic sports betting and for the convenience of the purchasers of tickets or shares, and the holders of winning tickets or shares, and participants in electronic sports betting. The regulations, which may be amended, repealed, or supplemented as necessary, shall include, but not be limited to, the following:

1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.
2. The price or prices of tickets or shares in the lottery.
3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.
4. The manner of selecting the winning tickets or shares.
5. The manner of payment of prizes to the holders of winning tickets or shares.
6. The frequency of the drawings or selections of winning tickets or shares without limitation.
7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.
8. The method to be used in selling tickets or shares, *including the sale of tickets or shares over the Internet*.

9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at the agent's place of business so long as the employee is supervised in the selling or vending of tickets by the manager or supervisor in charge at the location where the tickets are being sold. Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to approve temporary bonus or incentive programs for payments to licensed sales agents.

12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 of this chapter.

13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

14. *The operation of electronic sports betting.*

15. *The administration of a voluntary exclusion program as provided in § 58.1-4015.1.*

The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2; however, the Board shall promulgate regulations, after consultation with the Director, relative to departmental procurement which include standards of ethics for procurement consistent with the provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and which ensure that departmental procurement will be based on competitive principles.

674 The Board shall have the power to advise and recommend, but shall have no power to veto or
675 modify administrative decisions of the Director. However, the Board shall have the power to accept,
676 modify, or reject any revenue projections before such projections are forwarded to the Governor.

677 B. The Board shall carry on a continuous study and investigation of the lottery *and electronic sports*
678 *betting* throughout the Commonwealth to:

679 1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the
680 administration and operation of the lottery *and electronic sports betting* and any evasions of such
681 provisions.

682 2. Formulate, with the Director, recommendations for changes in this chapter and the regulations
683 promulgated hereunder to prevent such abuses and evasions.

684 3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge
685 for organized crime and illegal gambling.

686 4. Ensure that this law and the regulations of the Board are in such form and are so administered as
687 to serve the true purpose of this chapter.

688 C. The Board shall make a continuous study and investigation of (i) the operation and the
689 administration of similar laws ~~which that~~ may be in effect in other states or countries, (ii) any literature
690 on the subject ~~which that~~ may be published or available, (iii) any federal laws ~~which that~~ may affect the
691 operation of the lottery *and electronic sports betting*, and (iv) the reaction of Virginia citizens to the
692 potential features of the lottery *and electronic sports betting* with a view to recommending or effecting
693 changes that will serve the purpose of this chapter.

694 D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or
695 revocation of a license of a lottery agent pursuant to subdivision A 10 of ~~subsection A~~ of this section
696 and subdivision B 5 of ~~subsection B~~ of § 58.1-4006 of this chapter. *The Board shall hear and decide an*
697 *appeal of any penalty, denial of a permit or renewal, or suspension or revocation of a permit imposed*
698 *by the Director pursuant to the Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.).*

699 E. The Board shall have the authority to initiate procedures for the planning, acquisition, and
700 construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3
701 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

702 **§ 58.1-4008. Employees of the Department; background investigations of employees.**

703 All persons employed by the Department shall be fingerprinted before, and as a condition of,
704 employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a National
705 Criminal Records search and to the Department of State Police for a Virginia Criminal History Records
706 search. All board members, officers and employees of any vendor to the Department of lottery on-line
707 or instant ticket goods or services working directly on a contract with the Department for such goods or
708 services shall be fingerprinted, and such fingerprints shall be submitted to the Federal Bureau of
709 Investigation for a National Criminal Records search conducted by the chief security officer of the
710 Virginia Lottery. A background investigation shall be conducted by the chief security officer of the
711 Virginia Lottery on every applicant prior to employment by the Department. However, all division
712 directors of the Virginia Lottery and employees of the Virginia Lottery Department performing duties
713 primarily related to security matters shall be subject to a background investigation report conducted by
714 the Department of State Police prior to employment by the Department. The Department of State Police
715 shall be reimbursed by the Virginia Lottery Department for the cost of investigations conducted pursuant
716 to this section or § 58.1-4005. No person who has been convicted of a felony, bookmaking or other
717 forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the Department
718 or on contracts with vendors described in this section.

719 **§ 58.1-4015.1. Voluntary exclusion program.**

720 A. The Board shall adopt regulations to establish and implement a voluntary exclusion program.

721 B. The regulations shall include the following provisions:

722 1. Except as provided by regulation of the Board, an individual who participates in the voluntary
723 exclusion program agrees to refrain from buying lottery tickets or shares and from participating in
724 electronic sports betting.

725 2. Except as provided by regulation of the Board, a person who participates in the voluntary
726 exclusion program may not petition the Board for removal from the program.

727 3. The name of a person participating in the program shall be included on a list of excluded
728 persons. The list of persons entering the voluntary exclusion program and the personal information of
729 the participants shall be confidential, with dissemination by the Board limited to sales agents and permit
730 holders as defined in § 58.1-4100, for purposes of enforcement. The Board shall disseminate the list to
731 other parties upon request by the participant and agreement by the Board.

732 4. Sales agents and permit holders shall make all reasonable attempts as determined by the Board to
733 cease all direct marketing efforts to a person participating in the program. The voluntary exclusion
734 program shall not preclude sales agents and permit holders from seeking the payment of a debt incurred
735 by a person before entering the program.

CHAPTER 41.
VIRGINIA ELECTRONIC SPORTS BETTING LAW.
Article 1.
General Provisions.

§ 58.1-4100. Definitions.

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

"Adjusted gross revenue" means gross revenue minus:

1. All cash and the cash value of merchandise, including bonuses or promotions, paid out as winnings to bettors; and

2. Uncollectible gaming receivables. Uncollectible gaming receivables shall not exceed two percent, or a different percentage as determined by the Board pursuant to subsection B of § 58.1-4102, of gross revenue minus all cash paid out as winnings to bettors.

"Amateur sporting event" means any sporting event in which participants engage largely or entirely without remuneration. Amateur sporting events include college and youth sports.

"At-risk or problem bettor" means any individual who engages in a range of behaviors, such as persistently betting more than planned, spending more time gambling than intended, chasing losses, and borrowing money to gamble, that place him at a greater risk of experiencing gambling problems.

"Board" means the Virginia Lottery Board established pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.).

"College sports" means an athletic event in which at least one participant is a team from an institution of higher education, regardless of where such institution of higher education is located.

"Contractor" means any person or corporate entity that works pursuant to an independent contract with a permit holder and that has regular access to (i) nonpublic portions of the permit holder's office, (ii) information on the permit holder's computer network that is not publicly available, or (iii) the permit holder's proprietary information that may affect sports betting.

"Department" means the independent agency responsible for the administration of the Virginia Lottery and electronic sports betting established pursuant to this chapter.

"Director" means the Director of the Virginia Lottery.

"Electronic sports betting" means an electronic sports betting program established and operated by the Board under the Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.).

"Employment services organization" mean the terms as defined in § 2.2-4310.

"Gross revenue" means the total of all cash, property, or any other form of remuneration, whether collected or not, received by a permit holder from its sports betting operations.

"Minor" means a person under 21 years of age.

"Minority-owned business" means the terms as defined in § 2.2-4310.

"Permit holder" means a person to whom the Director issues a permit pursuant to § 58.1-4105 or 58.1-4106.

"Platform" means any website, smartphone application, or other platform accessible via the Internet or mobile, wireless, or similar communications technology providing access to sports betting.

"Prize" means anything of monetary value, including money, credits, or merchandise in which a prize may be awarded.

"Procurement plan" means a plan (i) to ensure the fair participation and consideration of small, women-owned, minority-owned, and service disabled veteran businesses and employment services organizations in efforts by a permit holder towards the obtaining of any goods, services, or construction, including the description of requirements, selection and solicitation of sources, preparation and awarding of contracts, and all phases of contract administration and (ii) submitted to the Director by an applicant for a sports betting permit pursuant to § 58.1-4105 or a permit holder pursuant to 58.1-4106.

"Professional sports" means an athletic event involving at least two human competitors who receive compensation, in excess of their expenses, for participating in such event. "Professional sports" does not include charitable gaming as defined in § 18.2-340.16, horse racing as defined in § 59.1-365, or fantasy contests as defined in § 59.1-556.

"Prominently publish" means to place, directly or via a link, on one or more dashboards or on similar visualization tools that are properly labeled and clearly accessible from the home page of each of a permit holder's platforms.

"Segregated account" means a financial account that segregates funds that are owned by sports bettors and that, by its terms, is restricted to funds owned by sports bettors, such that the permit holder's operational funds are not commingled.

"Service disabled veteran business" mean the terms as defined in § 2.2-4310.

"Small business" means the terms as defined in § 2.2-4310.

"Sports betting" means placing wagers on professional sports. "Sports betting" does not include participating in charitable gaming authorized by Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of

797 Title 18.2, wagering on horse racing authorized by Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, or
798 participating in fantasy contests authorized by Chapter 51 (§ 59.1-556 et seq.) of Title 59.1.

799 "Sports betting program" means the program established by the Board to allow sports betting as
800 provided in this chapter.

801 "Sports bettor" means a person physically located in Virginia who participates in sports betting.

802 "User account" means a personal account on a permit holder's platform that provides the holder of
803 the account access to sports betting.

804 "Voluntary exclusion program" means a program established by the Board pursuant to §
805 58.1-4015.1 that allows individuals to voluntarily exclude themselves from participating in sports betting
806 by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

807 "Women-owned business" means the terms as defined in § 2.2-4310.

808 "Youth sports" means an athletic event in which the majority of sports bettors are persons younger
809 than 18 years of age and in which no sports bettor receives compensation in connection with his
810 participation.

811 **§ 58.1-4101. Additional powers of the Director related to sports betting; reporting.**

812 A. The Director shall:

813 1. Supervise and administer the operation of the sports betting program in accordance with the
814 provisions of this chapter and with the regulations of the Board governing the establishment and
815 operation of the sports betting program.

816 2. Employ such deputy directors, professional, technical, and clerical assistants, and other employees
817 as may be required to carry out the functions and duties of the Department;

818 3. Require bond or other surety satisfactory to the Director from permit holders as provided in
819 § 58.1-4105 in such amount as provided in the rules and regulations of the Board;

820 4. Confer regularly, but not less than four times each year, with the Board on the regulation of
821 sports betting; make available for inspection by the Board, upon request, all books, records, files, and
822 other information and documents of the Department; and advise the Board and recommend such matters
823 as he deems necessary and advisable to improve the regulation of sports betting;

824 5. Certify monthly to the State Comptroller and the Board a full and complete statement of sports
825 betting revenues and expenses for the preceding month;

826 6. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate
827 Committee on Finance, House Committee on Finance, and House Committee on Appropriations the total
828 sports betting revenues and expenses for the preceding month and make an annual report, which shall
829 include a full and complete statement of sports betting revenues and expenses, to the Governor and the
830 General Assembly. The report shall include any recommendations to the Governor and the General
831 Assembly for changes in this chapter, as the Director and Board deem necessary or desirable;

832 7. Report immediately to the Governor and the General Assembly any matters that require immediate
833 changes in the laws of the Commonwealth in order to prevent abuses and evasions of this chapter or
834 the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the
835 administration or operation of the sports betting program; and

836 8. Provide for the withholding of the applicable amount of state and federal income tax from the
837 winnings of sports bettors.

838 B. The Director may:

839 1. Suspend, revoke, or refuse to renew any permit issued pursuant to this article or the rules and
840 regulations adopted under this article;

841 2. Enter into contracts for the operation of the sports betting program, and enter into contracts with
842 other states related to sports betting, provided that a contract awarded or entered into by the Director
843 shall not be assigned by the holder thereof except by specific approval of the Director; and

844 3. Require bond from employees as he deems necessary.

845 C. The Director and the chief security officer or investigators appointed by the Director shall be
846 vested with the authority and power of a sheriff and sworn to enforce the statutes and regulations
847 pertaining to the Department and to investigate violations of the statutes and regulations that the
848 Director is required to enforce.

849 **§ 58.1-4102. Additional powers of the Board related to sports betting.**

850 A. The Board shall promulgate standards for procurement plans and the evaluation of efforts to
851 implement such plans. Such standards shall be modeled on current law related to the participation of
852 small, women-owned, minority-owned, and service disabled veteran businesses and employment services
853 organizations in public procurement transactions and shall take into account relevant factors specific to
854 the electronic sports betting industry.

855 B. The Board may:

856 1. Establish a program, to be directed by the Director, under which the Department operates a
857 sports betting platform. Any revenue received from such platform shall be distributed as provided in
858 § 58.1-4112;

2. Adjust the percentage of uncollectible gaming receivables allowed to be subtracted from adjusted gross revenue if it determines that a different percentage is reasonable and customary in the sports betting industry; or

3. Promulgate regulations authorizing permit holders to offset loss and manage risk, directly or with a third party approved by the Department, through the use of a liquidity pool in Virginia or another jurisdiction so long as such permit holder, or an affiliate of such permit holder, is licensed by such jurisdiction to operate a sports betting business.

§ 58.1-4103. Certain provisions in the Virginia Lottery Law (§ 58.1-4000 et seq.) to apply, mutatis mutandis.

Except as provided in this chapter, the provisions of the Virginia Lottery Law (§ 58.1-4000 et seq.) shall apply to sports betting under this article. The Board shall promulgate regulations to interpret and clarify the applicability of the Virginia Lottery Law to this article.

§ 58.1-4104. Sports Betting Operations Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Sports Betting Operations Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues allocated by the Department under § 58.1-4112 for deposit into the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used by the Department to fund its operations as it relates to the administration and regulation of sports betting pursuant to this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Board.

Article 2.

Administration of Sports Betting Program.

§ 58.1-4105. Applications for sports betting permits; penalty.

A. An applicant for a sports betting permit shall:

1. Submit an application to the Director, on forms prescribed by the Director, containing the information prescribed in subsection B; and

2. Pay to the Department a fee of \$5,000 to be deposited into the Sports Betting Operations Fund established pursuant to § 58.1-4104.

B. An application for a sports betting permit shall include the following information:

1. The applicant's background in sports betting;

2. The applicant's experience in wagering activities in other jurisdictions, including the applicant's history and reputation of integrity and compliance;

3. The applicant's proposed internal controls, including controls to ensure compliance with the provisions of Article 3 (§ 58.1-4117 et seq.);

4. The applicant's history of working to prevent compulsive gambling, including training programs for its employees;

5. A procurement plan; and

6. Any other information the Director deems necessary.

C. The chief security officer of the Department shall conduct a background investigation on the applicant and its directors. The background investigation shall include a credit history check, a tax record check, and a criminal history records check.

D. The Director shall approve an application and grant a permit within 60 days of receipt; however, the Director shall deny an application if he finds grounds for denial as described in subsection E. The Director's action may be appealed in accordance with § 58.1-4007.

E. The following shall be grounds for denial of a permit, denial of renewal of a permit, or revocation of a permit:

1. The Director reasonably believes the applicant will be unable to satisfy the duties of a permit holder described in Article 3 (§ 58.1-4117 et seq.);

2. The Director reasonably believes that the applicant or its directors lack good character, honesty, or integrity;

3. The Director reasonably believes that the applicant's prior activities, criminal record, reputation, or associations are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of sports betting, or (iii) promote unfair or illegal activities in the conduct of sports betting.

4. The applicant knowingly makes a false statement of material fact or deliberately fails to disclose information requested by the Director;

5. The applicant or one of its directors knowingly fails to comply with the provisions of this chapter or any requirements of the Director;

6. The applicant or one of its directors was convicted of a felony, a crime of moral turpitude, or any

920 criminal offense involving dishonesty or breach of trust within the 10 years prior to the submission date
921 of the permit application;

922 7. The applicant had a license, registration, or permit to conduct a sports betting operation
923 suspended or revoked in any other state;

924 8. The applicant defaults in payment of any obligation or debt due to the Commonwealth;

925 9. The applicant's procurement plan does not comply with Board standards;

926 10. The Director reasonably believes that the applicant's repeated failure to comply with the terms of
927 its procurement plan demonstrates the absence of a good faith effort to implement such plan,

928 11. The applicant's application is incomplete.

929 F. Prior to issuance of a permit, every permit holder shall either (i) be bonded by a surety company
930 entitled to do business in the Commonwealth in such amount and penalty as may be prescribed by the
931 regulations of the Board or (ii) provide other surety as may be satisfactory to the Director, payable to
932 the Department, and conditioned on performance of its duties under this article. Such surety shall be
933 prescribed by Board regulations and shall not exceed a reasonable amount.

934 G. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or
935 knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any
936 application pursuant to this article is guilty of a Class 1 misdemeanor.

937 **§ 58.1-4106. Renewals of permits.**

938 A. A permit issued pursuant to § 58.1-4105 shall be valid for one year after the date of issuance.

939 B. At least 60 days before the expiration of a permit, the permit holder shall submit a renewal
940 application, on forms prescribed by the Director, including a renewal fee of \$1,000 to be deposited into
941 the Sports Betting Operations Fund established pursuant to § 58.1-4104.

942 C. The Director may deny a renewal application if he finds grounds for denial as described in
943 subsection E of § 58.1-4105. The Director's action shall be final unless appealed in accordance with
944 § 58.1-4007.

945 **§ 58.1-4107. Discrimination prohibited; participation of small, women-owned, minority-owned, and**
946 **service disabled veteran businesses and employment services organizations.**

947 A. In the solicitation or awarding of contracts, no permit holder shall discriminate against a bidder
948 or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age,
949 disability, status as a service disabled veteran, or any other basis prohibited by state law relating to
950 discrimination in employment. Whenever solicitations are made, each permit holder shall include
951 businesses selected from a list made available by the Department of Small Business and Supplier
952 Diversity, which list shall include all companies and organizations certified by the Department.

953 B. A permit holder shall keep a procurement plan on file with the Director. The procurement plan
954 shall comply with the standards set by the Board and include specific plans to achieve any goals
955 established therein. Permit holders may update their procurement plan from time to time, subject to the
956 approval of the Director.

957 C. As part of its annual renewal application, a permit holder shall certify compliance with the terms
958 of its procurement plan. If there are any variances between the permit holder's procurement plan and
959 his actual conduct, the permit holder shall provide a written explanation. The written explanation shall
960 be kept with the procurement plan on file.

961 **§ 58.1-4108. Employment discrimination by contractor prohibited; required contract provisions.**

962 All permit holders shall include in every contract of more than \$10,000 the following provisions:

963 1. During the performance of this contract, the contractor agrees as follows:

964 a. The contractor will not discriminate against any employee or applicant for employment because of
965 race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, or other
966 basis prohibited by state law relating to discrimination in employment, except where there is a bona fide
967 occupational qualification reasonably necessary to the normal operation of the contractor. The
968 contractor agrees to post in conspicuous places, available to employees and applicants for employment,
969 notices setting forth the provisions of this nondiscrimination clause.

970 b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the
971 contractor, will state that such contractor is an equal opportunity employer.

972 c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or
973 regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

974 2. The contractor will include the provisions of subdivisions 1 a, b, and c in every subcontract or
975 purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or
976 vendor.

977 **§ 58.1-4109. Independent audit required; submission to Department.**

978 A registered operator shall annually contract (i) with a certified public accountant to conduct an
979 independent financial audit, consistent with the standards accepted by the Board of Accountancy, and
980 produce a report of such audit and (ii) with a testing laboratory recognized by the Department to verify
981 compliance with the provisions of Article 3 (§ 58.1-4117 et seq.) and produce a report of such testing

and verification. Copies of the reports required by this section, signed by the contractor, shall be submitted to the Department.

§ 58.1-4110. Suspension and revocation of permits; civil penalties.

If the Director determines that a permit holder has violated this chapter, he may, with at least 15 days' notice and following a hearing, (i) suspend or revoke the permit holder's permit and (ii) impose a monetary penalty of not more than \$1,000 for each violation of this chapter, to be deposited into the Literary Fund. The Director's action shall be final unless appealed in accordance with § 58.1-4007.

§ 58.1-4111. Tax on adjusted gross revenue.

A. There shall be imposed a tax of 10 percent on a permit holder's adjusted gross revenue.

B. The tax imposed pursuant to this section is due monthly to the Department, and the permit holder shall remit it on or before the twentieth day of the next succeeding calendar month. If the permit holder's accounting necessitates corrections to a previously remitted tax, it shall document such corrections when it pays the following month's taxes.

§ 58.1-4112. Distribution of tax revenue.

A. The Department shall allocate three percent of the revenue collected pursuant to § 58.1-4111 to the Sports Betting Operations Fund established pursuant to § 58.1-4104.

B. The Department shall allocate 97 percent of the revenue collected pursuant to § 58.1-4111 to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

§ 58.1-4113. Exemption of sports betting prizes from state and local taxation.

Except as provided in this chapter and Chapter 3 (§ 58.1-300 et seq.), no state or local taxes of any type whatsoever shall be imposed upon any winnings awarded to a sports bettor pursuant to the sports betting program.

§ 58.1-4114. Judicial review.

The action of the Board in hearing and deciding an appeal of any penalty, denial of a permit or renewal, or suspension or revocation of a permit under the provisions of this chapter shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

§ 58.1-4115. Intermediate routing of electronic data.

All sports betting shall be initiated and received within Virginia unless otherwise permitted by federal law. Consistent with the intent of the United States Congress as expressed in the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. § 5361 et seq., the intermediate routing of electronic data relating to lawful intrastate sports betting authorized under this article shall not determine the location in which such bet is initiated and received.

§ 58.1-4116. Operation and advertising of unpermitted sports betting prohibited; penalty.

A. No person, except for a permit holder authorized pursuant to the provisions of this article, shall provide a platform or physical location for placing wagers on sports betting or advertise that a platform or physical location under his control may be used for such purpose.

B. The Director may impose a monetary penalty for each violation of this section. For a person determined to have made a platform or physical location available for placing wagers on sports betting, the penalty shall not exceed \$1,000 per day per individual who places a wager. For a person determined to have advertised that his premises may be used for such purpose, the penalty shall not exceed \$10,000 per violation.

Article 3.

Permit Holder Duties and Sports Bettors Rights.

§ 58.1-4117. Prohibition on out-of-state betting.

A permit holder shall ensure that only people physically located in Virginia are able to place bets through its platform.

§ 58.1-4118. Prohibition of underage betting; penalty.

A. No person shall knowingly accept or redeem a sports bet placed by, or knowingly offer to accept or redeem a sports bet placed on behalf of, a minor. Any person convicted of violating this subsection is guilty of a Class 1 misdemeanor.

B. A permit holder shall make reasonable efforts, taking into account available technology, to implement procedures for verifying that no sports bet is placed by or on behalf of a minor. Procedures for verifying a person's age that satisfy this requirement include:

1. Providing a verification form to be signed by the person and returned to the permit holder by postal mail, facsimile, or electronic scan;

2. Requiring the person, in connection with a monetary transaction, to use a credit card, debit card, or other online payment system that provides notification of each discrete transaction to the primary account holder;

1043 3. Having the person call a toll-free telephone number staffed by trained personnel;
1044 4. Having the person contact trained personnel via video conferencing technology; or
1045 5. Checking a form of government-issued identification provided by the person against databases of
1046 such information, provided that the person's identification is deleted from the permit holder's records
1047 promptly after the verification procedure is complete.

1048 C. A permit holder shall promptly refund any money wagered by or on behalf of a minor. A permit
1049 holder may refuse to award a prize to a minor upon a good faith determination, following reasonable
1050 investigation, that the minor misrepresented his age in order to place a sports bet, provided, however,
1051 that such prize shall then be appropriately redistributed to any other winners.

1052 D. A permit holder shall make available, prominently publish, and facilitate parental control
1053 procedures to allow parents or guardians to exclude minors from access to any sports betting platform.

1054 **§ 58.1-4119. Events on which betting is prohibited; penalty.**
1055 No person shall place or accept a bet on amateur sports. Any person convicted of violating this
1056 section is guilty of a Class 1 misdemeanor.

1057 **§ 58.1-4120. Right to process not to be waived.**
1058 A permit holder shall not, as a condition of use of the permit holder's platform, placement of a
1059 wager, or any other activity related to sports betting require any player to waive any right, forum, or
1060 procedure including the right to pursue legal action or to file a complaint with, or otherwise notify, any
1061 instrument of the state or federal government, including public prosecutors, law enforcement, courts,
1062 and state and federal agencies, of any alleged violation of this chapter or any other applicable law,
1063 regulation, or administrative policy.

1064 **§ 58.1-4121. Protection of consumer funds on deposit and compliance with data security**
1065 **requirements.**

1066 A. A permit holder shall comply with all applicable state and federal requirements for data security.
1067 B. A permit holder shall not share information that could be used to personally identify a sports
1068 bettor with any third party other than law enforcement with a warrant or subpoena or a credit-reporting
1069 agency. Information that could be used to personally identify a sports bettor includes gaming habits.

1070 C. Funds in a sports bettor's user account shall be held either (i) in trust for the sports bettor in a
1071 segregated account or (ii) in a special-purpose segregated account that is maintained and controlled by
1072 a properly constituted corporate entity that is not the permit holder and whose governing board includes
1073 one or more corporate directors who are independent of the permit holder and of any corporation
1074 related to or controlled by the permit holder. A corporate entity that maintains a special purpose
1075 segregated account shall:

1076 1. Require a unanimous vote of all corporate directors to file bankruptcy and have articles of
1077 incorporation that prohibit commingling of funds with those of the permit holder except as necessary to
1078 reconcile the accounts of sports bettors with sums owed by those sports bettors to the permit holder;
1079 2. Be restricted from incurring debt other than to sports bettors pursuant to the rules that govern
1080 their user accounts;
1081 3. Be restricted from taking on obligations of the permit holder other than obligations to sports
1082 bettors pursuant to the rules that govern their user accounts; and
1083 4. Be prohibited from dissolving, merging, or consolidating with another company, other than a
1084 special-purpose corporate entity established by another permit holder that meets the requirements of this
1085 section, while there are unsatisfied obligations to sports bettors.

1086 D. A permit holder shall maintain a reserve in the form of cash, cash equivalents, an irrevocable
1087 letter of credit, a bond, or a combination thereof in an amount sufficient to pay all prizes and awards
1088 offered to a winning sports bettor. A permit holder's use of a liquidity pool authorized pursuant to the
1089 Board's authority under subdivision B 3 of § 58.1-4102 shall not eliminate its duty to ensure that it has
1090 sufficient funds available to pay bettors.

1091 E. A permit holder shall implement and prominently publish the following on its platform:
1092 1. Policies that prevent unauthorized withdrawals from a sports bettor's account by a permit holder
1093 or others;
1094 2. Notices that make clear that the funds in the segregated account do not belong to the permit
1095 holder and are not available to creditors other than the sports bettor whose funds are being held;
1096 3. Policies that prevent commingling of funds in the segregated account with other funds, including
1097 funds of the permit holder;
1098 4. Consistent with the provisions of § 58.1-4131, procedures for responding to and reporting on
1099 complaints by sports bettors that their accounts have been misallocated, compromised, or otherwise
1100 mishandled;
1101 5. Procedures that allow a sports bettor to request withdrawal of funds from his user account,
1102 whether such account is open or closed. The permit holder shall honor any sports bettor's request to
1103 withdraw funds by the later of five business days after receipt of the request or 10 business days after
1104 submission of any tax reporting paperwork required by law, unless the permit holder believes in good

faith that the sports bettor has engaged in either fraudulent conduct or other conduct that would put the permit holder in violation of this chapter, in which case the permit holder may decline to honor the request for withdrawal for a reasonable investigatory period until its investigation is resolved if it provides notice of the nature of the investigation to the sports bettor. For the purposes of this subdivision, a request for withdrawal shall be considered honored if it is processed by the permit holder but delayed by a payment processor, a credit card issuer, or the custodian of a segregated account; and

6. Procedures that allow a sports bettor to permanently close a user account at any time and for any reason. The procedures shall allow for cancellation by any means, including by a sports bettor on any platform used by that sports bettor to make deposits into a segregated account.

F. If a prize is awarded to a sports bettor with a closed account, that prize, to the extent that it consists of funds, shall be distributed by the permit holder within five business days, provided, however, that if an account is closed on the basis of the permit holder's good faith belief, after investigation, that the sports bettor has engaged in fraud or has attempted to engage in behavior that would put the permit holder in violation of this chapter, such prize may be withheld, provided that the prize is redistributed in a manner that reflects the outcome that would have resulted had that sports bettor not participated.

G. If a sports bettor's segregated account remains unclaimed for five years after the balances are payable or deliverable to the sports bettor, the permit holder shall presume the account to be abandoned. The permit holder shall report and remit all segregated accounts presumed abandoned to the State Treasurer or his designee pursuant to § 55-210.12.

H. A permit holder shall prominently publish all contractual terms and conditions and rules of general applicability that affect a sports bettor's segregated account. Presentation of such terms, conditions, and rules at the time a sports bettor initially acquires a segregated account shall not be deemed sufficient to satisfy the provisions of this subsection.

§ 58.1-4122. Limitation to one account per sports bettor.

A. A permit holder shall not allow a sports bettor to establish more than one username or more than one user account.

B. A permit holder shall take commercially and technologically reasonable measures to verify a sports bettor's identity and address and shall use such information to enforce the provisions of this section.

C. A permit holder shall implement and prominently publish procedures to terminate all accounts of any sports bettor who establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as proxy. Such procedures may allow a sports bettor who establishes or seeks to establish more than one username or more than one account to retain one account, provided that the permit holder investigates and makes a good faith determination that the sports bettor's conduct was not intended to commit fraud or otherwise evade the requirements of this chapter or regulations thereof.

D. A permit holder shall not allow a sports bettor to use a proxy server for the purpose of misrepresenting his location in order to engage in sports betting.

E. A permit holder shall take commercially and technologically reasonable measures to prevent one sports bettor from acting as a proxy for another. Such measures shall include, without limitation, use of geolocation technologies to prevent simultaneous logins to a single account from geographically inconsistent locations.

§ 58.1-4123. Protections for at-risk or problem bettors.

A. Sports bettors have the right to self-exclude from and to self-impose restrictions on their participation in sports betting in the Commonwealth. Sports bettors may self-exclude through the voluntary exclusion program as provided in § 58.1-4015.1 or directly with a permit holder. In addition to participation in the voluntary exclusion program as provided in § 58.1-4015.1, a permit holder shall honor requests from a sports bettor to self-exclude from all sports betting activities, to set deposit limits, to set limits on the sports bettor's total betting activity, or to limit participation to bets below an established limit on a platform owned by the permit holder.

B. A permit holder shall institute and prominently publish procedures for sports bettors to implement the restrictions provided in subsection A. Such procedures shall include, at a minimum, (i) opportunities to self-exclude from or to set self-imposed limits on any sports betting platform used by that sports bettor to make deposits into a segregated account, (ii) options to set pop-up warnings concerning excessive sports betting activity, and (iii) options to implement permit holder-enforced timeouts. Sports bettors shall have the option to adjust self-imposed limits to make them more restrictive as often as they like but shall not have the option to make limits less restrictive within 90 days of setting such limits.

C. A permit holder shall not market sports betting by mail, phone, email, or social media or by knowingly directing any form of individually targeted advertisement or marketing material to a sports bettor if the sports bettor is self-excluded or otherwise barred from participating in sports betting.

D. A permit holder shall prominently publish a description of opportunities for at-risk or problem

1166 bettors to receive assistance or that direct sports bettors to a reputable source, accessible in the
1167 Commonwealth, of such information.

1168 E. A permit holder shall train employees on at-risk or problem betting. Such training shall include
1169 training on policies and best practices for identifying and assisting sports bettors who may be at-risk or
1170 problem sports bettors.

1171 F. A permit holder shall develop and prominently publish procedures for honoring requests made by
1172 third parties to exclude or set limits for sports bettors. Such procedures shall:

1173 1. Include provisions for honoring requests to exclude sports bettors for whom the requester provides
1174 documentary evidence of sole or joint financial responsibility for the source of any funds wagered on
1175 sports betting on a platform owned by the permit holder, including (i) proof that the requester is jointly
1176 obligated on the credit or debit card associated with the sports bettor's wagers, (ii) proof of legal
1177 dependency of the sports bettor on the requester under state or federal law, and (iii) proof of the
1178 existence of a court order that makes the requester wholly or partially obligated for the debts of the
1179 person for whom exclusion is requested; and

1180 2. Provide for exclusion in situations in which the requester establishes the existence of a court
1181 order requiring the sports bettor to pay unmet child support obligations.

1182 G. A permit holder shall not allow a sports bettor to wager more than \$1,000 in any calendar
1183 month; however, a permit holder may establish and prominently publish procedures for temporarily or
1184 permanently increasing a sports bettor's wager limit, at the request of the sports bettor, above \$1,000
1185 per calendar month. If established by a permit holder, such procedures shall include evaluation of
1186 information, including income, asset, and liability information, sufficient to establish that the sports
1187 bettor can afford losses that might result from wagers at the limit level requested. When a temporary or
1188 permanent wager limit level increase is approved, the permit holder's procedures shall provide for
1189 annual evaluation of information, including income, asset, and liability information, sufficient to
1190 establish a sports bettor's financial ability to afford losses at the wager limit level in place. Absent such
1191 evaluation, the temporary or permanent wager limit level increase shall not be extended.

1192 **§ 58.1-4124. Prohibition on the extension of credit.**

1193 A permit holder shall not extend credit to a sports bettor.

1194 **§ 58.1-4125. Requirements for fair and truthful advertising.**

1195 A. An advertisement for sports betting shall disclose the identity of the permit holder.

1196 B. An advertisement for sports betting shall not depict (i) minors, other than professional athletes
1197 who may be minors; (ii) students; (iii) schools or colleges; or (iv) school or college settings. Incidental
1198 depiction of nonfeatured minors shall not be deemed a violation of this subsection.

1199 C. An advertisement for sports betting shall not state or imply endorsement by (i) minors, other than
1200 professional athletes who may be minors; (ii) collegiate athletes; (iii) schools or colleges; or (iv) school
1201 or college athletic associations.

1202 D. An operator shall not intentionally use characteristics of at-risk or problem bettors to target
1203 potential at-risk or problem bettors with advertisements.

1204 E. An advertisement for sports betting in published media shall (i) include information concerning
1205 assistance available to at-risk or problem bettors or (ii) direct consumers to a reputable source for such
1206 information. If an advertisement is not of sufficient size or duration to reasonably permit inclusion of
1207 such information, that advertisement shall refer to a website or application that does prominently
1208 include such information.

1209 F. Any representation concerning winnings shall be accurate, not misleading, and capable of
1210 substantiation at the time the representation is made. An advertisement is misleading if it makes
1211 representations about average winnings without representing with equal prominence the average net
1212 winnings of all sports bettors.

1213 **§ 58.1-4126. Restrictions on advertising to minors or at schools or school sporting events.**

1214 A. An advertisement for sports betting published, disseminated, circulated, broadcast, or placed
1215 before the public in the Commonwealth shall not be aimed exclusively or primarily at minors.

1216 B. A permit holder shall not advertise or run promotional activities at elementary or secondary
1217 schools or on college campuses in the Commonwealth.

1218 **§ 58.1-4127. Promotional offers.**

1219 A permit holder shall fully and accurately disclose the material terms of all promotional offers
1220 involving sports betting at the time any such offer is advertised and provide full disclosure of the terms
1221 of and limitations on the offer before the sports bettor provides anything of value in exchange for the
1222 offer. If the material terms of a promotional offer cannot be fully and accurately disclosed within the
1223 constraints of a particular advertising medium, such as on a billboard, the promotional offer may not be
1224 advertised in that medium.

1225 B. No promotional offer available to a sports bettor who sets up a new user account may contain
1226 terms that delay full implementation of the offer by the permit holder for a period of longer than 90
1227 days, regardless of the number or amount of wagers in that period by the sports bettor.

§ 58.1-4128. Transparency of sports betting.

A sports bettor has the right to total and equal access to the necessary information for bet-making. With regard to any sports bet, the permit holder shall prominently publish, at a minimum, (i) the handle of the bet, (ii) the odds of winning the bet and the information used to calculate those odds, and (iii) the payout amounts and a schedule of payouts.

§ 58.1-4129. Fairness of sports betting.

A. A permit holder shall establish procedures to detect suspicious or illegal betting activity, including measures to immediately report such activity to the Department.

B. No Board member, officer, or employee of the Department, nor any officer or employee of any entity working directly on a contract with the Department related to sports betting, shall make a wager on any sports betting platform of any permit holder, nor shall such person make a wager through another person as a proxy.

C. An employee, principal, officer, director, contractor, or person living in the household of a permit holder shall not make a wager on any sports betting platform of any permit holder, nor shall such person make a wager through another person as a proxy.

D. An employee, principal, officer, director, or contractor of a permit holder shall not disclose proprietary or nonpublic information that may affect sports betting or the outcome of sports betting to any person permitted to participate in sports betting. Permit holders shall make these restrictions known to all affected individuals and corporate entities.

E. An athlete, sports agent, team official, team representative, team employee, referee, or league official shall not engage in sports betting in the sport in which such individual participates, nor shall such individual place a wager through another person as a proxy.

F. No permit holder shall allow an athlete, sports agent, team official, team representative, team employee, referee, or league official associated with any competition that is the subject of a sports bet, to engage in sports betting in the sport in which such individual participates. A permit holder shall not be held liable for a violation of this subsection if (i) the permit holder makes commercially reasonable efforts to obtain lists of such persons for the purpose of implementing this provision by monitoring for and excluding such persons from platforms operated by the permit holder; (ii) the permit holder makes these restrictions known to all affected individuals and corporate entities; (iii) the governing body for the sport in which the athlete, or the sports agent, team official, team representative, team employee, referee, or league official, participates maintains and enforces a policy that excludes such individuals from betting on that sport; and (iv) the permit holder, upon learning of a violation of this subsection, immediately bars the individual committing the violation from sports betting by banning such individual from all platforms operated by the permit holder, terminating any existing promotional agreements with such individual, and refusing to make any new promotional agreements that compensate such individual.

G. No athlete, sports agent, team official, team representative, team employee, referee, or league official associated with any competition that is the subject of a sports bet, shall provide proprietary or nonpublic information regarding such competition to any sports bettor before such information is made public.

H. No permit holder shall knowingly permit an athlete, sports agent, team official, team representative, team employee, referee, or league official associated with any competition that is the subject of a sports bet, to provide proprietary or nonpublic information regarding such competition to any sports bettor before such information is made public. Upon learning of a violation of this subsection, a permit holder shall bar an individual committing the violation as well as any person receiving such information from sports betting by banning such individuals from all platforms operated by the permit holder. The permit holder shall also terminate any existing individual promotional agreements with any athlete, sports agent, team official, team representative, team employee, referee, or league official, who violates this subsection and shall refuse to make any new individual promotional agreements that compensate such individual. A permit holder shall make these restrictions known to all affected individuals and corporate entities.

§ 58.1-4130. Data protection and retention.

A. A sports bettor has the right to reasonable privacy and security of his data. A permit holder shall protect the confidential information of sports bettors using its platform and comply with all applicable state and federal requirements for data privacy and security.

B. A permit holder shall retain information on all sports bettors, including the sports bettor's personal information, the amount and type of each wager, the time and location of each wager, the outcome of each wager, and the amount of any prizes awarded in any winning wager for at least 10 years from the date of the most recent wager.

C. A permit holder shall retain data about any suspicious or illegal betting activity.

D. A permit holder shall retain copies of all advertisements for at least four years from the date of the last use of that advertisement and shall retain records sufficient to identify where such

1289 advertisements were placed. To the extent that an advertisement cannot be maintained in its original
1290 form, the advertising copy shall be retained.

1291 E. A permit holder shall disclose the records described in this section to the Department upon
1292 request.

1293 **§ 58.1-4131. Consumer complaint procedures.**

1294 A. A permit holder shall develop and prominently publish procedures by which a sports bettor may
1295 file a complaint with the permit holder in person, in writing, online, or by other means about any aspect
1296 of the sports betting program.

1297 B. A permit holder shall respond to any such complaint in writing within 10 business days of the
1298 filing of the complaint. If a sports bettor requests relief in a complaint, and the requested relief or part
1299 thereof will not be granted, the response to the complaint shall state the reasons for the denial of relief
1300 with specificity.

1301 C. If the response to a complaint is that additional information is needed, the form and nature of the
1302 necessary information shall be specifically stated. When additional information is received, further
1303 response shall be required within seven business days.

1304 D. All complaints received by a permit holder from a sports bettor and the permit holder's responses
1305 to complaints shall be retained by the permit holder for at least four years and made available to the
1306 Department within seven days of any request by the Department.

1307 **§ 58.1-4132. Compliance with tax laws; disclosure.**

1308 A permit holder shall comply with all applicable tax laws and regulations, including laws and
1309 regulations applicable to tax withholding and laws and regulations applicable to providing information
1310 about winnings and withholdings to taxing authorities and to sports bettors.

1311 **§ 59.1-364. Control of racing with pari-mutuel wagering.**

1312 A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the
1313 Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent
1314 with the health, safety and welfare of the people. The Virginia Racing Commission is vested with
1315 control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to
1316 prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to
1317 maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent,
1318 dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The
1319 Virginia Racing Commission shall encourage participation by local individuals and businesses in those
1320 activities associated with horse racing.

1321 B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or
1322 wagering and entrance to any place where such racing or wagering is conducted is a privilege which
1323 may be granted or denied by the Commission or its duly authorized representatives in its discretion in
1324 order to effectuate the purposes set forth in this chapter.

1325 C. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility
1326 licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview
1327 of § 11-14.

1328 D. This section shall not apply to any sports betting or related activity that is lawful under the
1329 Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.).

1330 **§ 59.1-569. Fantasy contests conducted under this chapter not illegal gambling.**

1331 A. Nothing contained in Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 shall be applicable
1332 to a fantasy contest conducted in accordance with this chapter. The award of any prize money for any
1333 fantasy contest shall not be deemed to be part of any gaming contract within the purview of § 11-14.

1334 B. This section shall not apply to any sports betting or related activity that is lawful under the
1335 Virginia Electronic Sports Betting Law (§ 58.1-4100 et seq.).

1336 **2. That § 58.1-4007.2 of the Code of Virginia is repealed.**

1337 **3. That the Virginia Lottery Board shall promulgate regulations to implement the provisions of**
1338 **this act to be effective no later than December 1, 2019. The Department's initial adoption of**
1339 **regulations necessary to implement the provisions of this act shall be exempt from the**
1340 **Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall**
1341 **provide an opportunity for public comment on the regulations prior to adoption.**