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HOUSE BILL NO. 2546

Offered January 9, 2019

Prefiled January 9, 2019

A BILL to amend and reenact §§ 2.2-3705.5 and 2.2-3711 of the Code of Virginia and to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 20, consisting of sections numbered 32.1-373, 32.1-374, and 32.1-375, relating to Maternal Mortality Review Team established; investigations.

Patrons—Robinson, Kory and Davis

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.5 and 2.2-3711 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 20, consisting of sections numbered 32.1-373, 32.1-374, and 32.1-375, as follows:

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

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

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

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

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

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

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

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

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee

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59 pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information
60 furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant
61 to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of
62 Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the
63 records of completed investigations in a form that does not reveal the identity of complainants, persons
64 supplying information, or other individuals involved in the investigation.

65 5. Information collected for the designation and verification of trauma centers and other specialty
66 care centers within the Statewide Emergency Medical Services System and Services pursuant to Article
67 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

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

70 7. Information acquired (i) during a review of any child death conducted by the State Child Fatality
71 Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to
72 the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death
73 conducted by a family violence fatality review team to the extent that such information is made
74 confidential by § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality
75 Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality
76 review team to the extent that such information is made confidential by § 32.1-283.6; ~~or~~ (iv) by a local
77 or regional overdose fatality review team to the extent that such information is made confidential by
78 § 32.1-283.7; *or (v) during a review of any death conducted by the Maternal Mortality Review Team to*
79 *the extent that such information is made confidential by § 32.1-375.*

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

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

90 10. Any information copied, recorded, or received by the Commissioner of Health in the course of an
91 examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§
92 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all
93 computer or other recordings.

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

96 12. Information held by the State Health Commissioner relating to the health of any person subject to
97 an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter
98 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of
99 statistical summaries, abstracts, or other information in aggregate form.

100 13. The names and addresses or other contact information of persons receiving transportation services
101 from a state or local public body or its designee under Title II of the Americans with Disabilities Act,
102 (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created
103 under § 63.2-600.

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

106 15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16
107 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

108 16. Records of and information held by the Emergency Department Care Coordination Program
109 required to be kept confidential pursuant to § 32.1-372.

110 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. 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.

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

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

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

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

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

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

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

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

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

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

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

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

220 21. Those portions of meetings in which individual child death cases are discussed by the State Child
221 Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which
222 individual child death cases are discussed by a regional or local child fatality review team established
223 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
224 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
225 which individual adult death cases are discussed by the state Adult Fatality Review Team established
226 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
227 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions
228 of meetings in which individual death cases are discussed by overdose fatality review teams established
229 pursuant to § 32.1-283.7, and those portions of meetings in which individual death cases are discussed
230 by the Maternal Mortality Review Team pursuant to § 32.1-375.

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

242 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
243 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.

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.

CHAPTER 20.

MATERNAL MORTALITY PREVENTION PROGRAM.

§ 32.1-373. Definitions.

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

"Pregnancy-associated death" means the death of a woman while pregnant or during the one-year period immediately following the date of the end of the pregnancy, regardless of the outcome of the pregnancy and irrespective of the cause of death.

"Pregnancy-related death" means the death of a woman while pregnant or during the one-year period immediately following the date of the end of the pregnancy, regardless of the outcome of the pregnancy, from any cause related to, or aggravated by, the pregnancy or the management of the pregnancy, excluding any accidental cause.

§ 32.1-374. Reporting of pregnancy-related deaths; mandatory reporting; voluntary reporting.

A. Any of the following persons who, in his professional or official capacity, has reason to believe a death is a pregnancy-associated death or pregnancy-related death shall report such death to the local department of health for the county or city in which the death occurred within such time and in such manner as may be prescribed by the Board in regulations:

1. Person licensed to practice medicine or the healing arts in attendance at the time the death occurred;

2. Employee of any hospital or health care facility at which the decedent was receiving care at the time the death occurred;

3. Law-enforcement officer; or

4. Funeral director.

However, no person shall be required to report a death believed to be a pregnancy-associated or pregnancy-related death if he has reason to believe the matter has already been reported to the local department of health.

B. Any person who has reason to believe that a death is a pregnancy-associated death or pregnancy-related death may report such death to the local department of health for the county or city in which the death occurred. The Board shall make information about the method by which such reports may be made available on its website.

C. Upon receipt of a report pursuant to subsection A or B, a local health department shall forward the information received pursuant to this section to the Maternal Mortality Review Team established pursuant to § 32.1-375, in such form as may be prescribed by the Board.

D. Reports made pursuant to this section and information related thereto shall be confidential and shall not be disclosed to the public pursuant to subdivision 7 of § 2.2-3705.5.

§ 32.1-375. Maternal Mortality Review Team established; investigations; confidentiality; reports; penalty.

A. The Department shall establish a Maternal Mortality Review Team (the Team) to review pregnancy-associated deaths and pregnancy-related deaths occurring in the Commonwealth in a systematic way and (i) determine the rate of pregnancy-associated and pregnancy-related deaths in the Commonwealth; (ii) identify risk factors of pregnancy-associated or pregnancy-related deaths; (iii) identify other factors contributing to pregnancy-associated and pregnancy-related deaths, including delayed diagnosis of medical conditions, inadequate medical treatment, failure of health care providers to follow basic safety procedures, or other medical or nonmedical errors; and (iv) develop recommendations for prevention and intervention programs to reduce the rate of pregnancy-associated and pregnancy-related deaths in the Commonwealth.

B. The Director of the Office of Family Health Services and the Chief Medical Examiner shall serve as co-chairs of the Team. The Team shall include representatives of the Department's Office of Child and Family Health, local health departments, the Department of Behavioral Health and Developmental Services, the Department of Medical Assistance Services, the Department of Social Services, the Virginia Affiliate of the American College of Nurse-Midwives, the Virginia Section of the American College of Obstetricians and Gynecologists, the Virginia Chapter of the Association of Women's Health, Obstetric

428 *and Neonatal Nurses, the Medical Society of Virginia, the Virginia Chapter of the National Association*
429 *of Social Workers, the Virginia Academy of Nutrition and Dietetics, the Virginia Hospital and*
430 *Healthcare Association, the Virginia Sexual and Domestic Violence Action Alliance, and such other*
431 *organizations as the Commissioner may deem appropriate.*

432 *C. The Team shall review every case reported to a local department of health pursuant to*
433 *§ 32.1-374. The Team shall also annually request and review records of the State Registrar of Vital*
434 *Statistics to identify cases of pregnancy-associated and pregnancy-related deaths by (i) identifying cases*
435 *in which the death certificate indicates that the deceased was pregnant within three months of the death*
436 *and (ii) matching birth and fetal death certificate records with maternal death certificate information*
437 *and shall review all such deaths.*

438 *D. Each case reviewed pursuant to this section shall include evaluation of the following, if available:*

439 *1. Any report of the circumstances of the death maintained by a state or local law-enforcement*
440 *agency or medical examiner;*

441 *2. Information or records related to the deceased maintained by the Department of Behavioral*
442 *Health and Developmental Services or the Department of Social Services or any local department of*
443 *social services;*

444 *3. Information or records related to the deceased maintained by any court or attorney for the*
445 *Commonwealth;*

446 *4. Medical records of the deceased; and*

447 *5. Oral or written interviews of individuals directly involved in the care of the deceased during and*
448 *immediately following the pregnancy, including providers of health care, mental health, and social*
449 *service services.*

450 *Such records and information shall be made available to the Team for inspection and copying.*
451 *Records maintained by any attorney for the Commonwealth shall be made available for inspection and*
452 *copying pursuant to procedures developed by the Department and the Commonwealth's Attorneys'*
453 *Services Council established pursuant to § 2.2-2617. Any presentence report prepared pursuant to*
454 *§ 19.2-299 for any person convicted of a crime that led to the death under investigation shall be made*
455 *available for inspection and copying pursuant to procedures developed by the Department. The Chief*
456 *Medical Examiner may inspect and copy medical records of the deceased maintained by a health care*
457 *provider in the Commonwealth on behalf of the Team without obtaining consent. All such information*
458 *and records shall be confidential and excluded from the Virginia Freedom of Information Act*
459 *(§ 2.2-3700 et seq.) pursuant to subdivision 7 of § 2.2-3705.5. Upon conclusion of the investigation, all*
460 *information and records concerning the investigation shall be destroyed by the Department to ensure*
461 *confidentiality. Such information and records shall not be subject to subpoena or discovery or be*
462 *admissible in any criminal or civil proceeding. If available from other sources, however, such*
463 *information and records shall not be immune from subpoena, discovery, or introduction into evidence*
464 *when obtained through such other sources solely because the information and records were presented to*
465 *the Team during a review pursuant to this section.*

466 *E. The portions of meetings in which individual cases are discussed by the Team shall be closed*
467 *pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all members*
468 *of the Team, persons participating or assisting in the investigation, and persons presenting information*
469 *and records on specific deaths to the Team shall execute a sworn statement to honor the confidentiality*
470 *of the information, records, discussions, and opinions disclosed during any meeting to review a specific*
471 *pregnancy-associated or pregnancy-related death. Violations of this subsection are punishable as a*
472 *Class 3 misdemeanor.*

473 *F. The Team shall report information and statistics about pregnancy-associated and*
474 *pregnancy-related deaths in the Commonwealth, investigations undertaken pursuant to this section, and*
475 *recommendations for prevention and intervention programs to reduce the rate of pregnancy-associated*
476 *and pregnancy-related deaths in the Commonwealth to the Chairmen of the House Committee on*
477 *Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1 of*
478 *each year. The Team may disclose or publish information regarding cases investigated pursuant to this*
479 *section in statistical or other form that shall not identify individuals.*