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SENATE BILL NO. 1126

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 23, 2019)

(Patrons Prior to Substitute—Senators Lucas, Carrico [SB 1503], and Lewis [SB 1706])

A BILL to amend and reenact §§ 2.2-3711, 19.2-389, 58.1-4002, 58.1-4006, and 59.1-364 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, and by adding in Title 58.1 a chapter numbered 41, consisting of sections numbered 58.1-4100 and 58.1-4101, relating to regulation of casino gaming by Virginia Lottery Board.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3711, 19.2-389, 58.1-4002, 58.1-4006, and 59.1-364 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 a section numbered 18.2-334.5, and by adding in Title 58.1 a chapter numbered 41, consisting of sections numbered 58.1-4100 and 58.1-4101, 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.

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,

60 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
61 accepted by a public institution of higher education in the Commonwealth shall be subject to public
62 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
63 (i) "foreign government" means any government other than the United States government or the
64 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
65 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
66 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
67 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
68 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
69 citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

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

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

108 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
109 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
110 trustees of a trust established by one or more local public bodies to invest funds for postemployment
111 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
112 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
113 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
114 holding or disposition of a security or other ownership interest in an entity, where such security or
115 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
116 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
117 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
118 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
119 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
120 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
121 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a

122 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
123 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
124 of information relating to the identity of any investment held, the amount invested or the present value
125 of such investment.

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

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

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

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

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

164 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
165 created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act
166 (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of
167 wireless E-911 service.

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

174 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
175 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
176 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
177 responsible public entity concerning such records.

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

182 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. *Discussion, consideration, or review of matters by the Virginia Lottery Board 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 from the chapter.

This chapter shall not apply to any bet, wager, or casino gaming permitted by Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.

§ 18.2-334.5. Exemptions to article; certain gaming operations.

Nothing in this article shall be construed to make it illegal to participate in any casino gaming operation conducted in accordance with Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.

§ 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;

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

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

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

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

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

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

332 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
333 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
334 position of employment whenever, in the interest of public welfare or safety and as authorized in the
335 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
336 with a conviction record would be compatible with the nature of the employment under consideration;

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

344 9. To the extent permitted by federal law or regulation, public service companies as defined in
345 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
346 personal contact with the public or when past criminal conduct of an applicant would be incompatible
347 with the nature of the employment under consideration;

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

350 11. A person requesting a copy of his own criminal history record information as defined in
351 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
352 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
353 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
354 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
355 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
356 Solvers or Crime Line program as defined in § 15.2-1713.1;

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

366 13. The school boards of the Commonwealth for the purpose of screening individuals who are
367 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 casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, 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 § 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 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests 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 has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and

429 37.2-607;

430 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
431 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
432 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

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

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

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

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

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

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

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

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

468 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
469 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
470 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
471 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

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

479 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
480 a juvenile's household when completing a predispositional or postdispositional report required by
481 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

482 45. Other entities as otherwise provided by law.

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

487 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
488 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
489 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
490 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.

§ 58.1-4002. Definitions.

For the purposes of As used in this chapter and Chapter 41, unless the context requires a different meaning:

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

"Casino gaming" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, sports betting, roulette wheels, Klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, push cards, jar tickets, pull tabs, online gaming, and any other activity that is authorized by the Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.).

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in this chapter.

"Director" means the Director of the Virginia Lottery.

"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.

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer the:

1. The operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder; and

2. The regulation of casino gaming as defined in § 58.1-4002 and in accordance with Chapter 41 (§ 58.1-4100 et seq.).

B. The Director shall also:

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

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery *and the regulation of casino gaming*; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery *and the regulation of casino gaming*.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

8. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance Committee, House Committee on Finance Committee, and House Committee on Appropriations Committee the total lottery revenues, prize disbursements, and other expenses for the preceding month; and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, *as well as a separate financial statement of the expenses incurred in the regulation of casino operations*, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter *and Chapter 41* (§ 58.1-4100 *et seq.*) as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters ~~which~~ *that* require immediate changes in the laws of ~~this~~ *the* Commonwealth in order to prevent abuses and evasions of this chapter *and Chapter 41* (§ 58.1-4100 *et seq.*) or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

10. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of \$600 in the manner required by the lottery rules and regulations.

11. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,001.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents ~~which~~ *that* he determines will be cost effective and support increased sales of lottery products.

CHAPTER 41.

CASINO GAMING.

§ 58.1-4100. Conduct of casino gaming; limitation.

A. *The conduct of casino gaming shall be limited to:*

1. Any city (i) in which at least 40 percent of the assessed value of all real estate in such locality is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2017, and (ii) that experienced a population decrease of at least seven percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;

2. Any city that had (i) an unemployment rate of at least five percent in November 2017, according to data provided by the U.S. Bureau of Labor Statistics; (ii) a poverty rate of at least 20 percent in 2016, according to data provided by the U.S. Census Bureau; and (iii) a population decrease of at least 20 percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;

3. Any city that (i) had an unemployment rate of at least four percent in November 2017, according to data provided by the U.S. Bureau of Labor Statistics; (ii) had a poverty rate of at least 20 percent in 2016, according to data provided by the U.S. Census Bureau; (iii) experienced a population decrease of at least four percent from 1990 to 2016, according to data provided by the U.S. Census Bureau; and (iv) is located adjacent to a state that has adopted a Border Region Retail Tourism Development District Act; and

4. Any city (i) with a population greater than 200,000 according to the 2017 population estimates from the Weldon Cooper Center for Public Service of the University of Virginia and (ii) in which at least 24 percent of the assessed value of all real estate in such locality is exempt from local property

taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2017, provided that such casino gaming is conducted by a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the United States Assistant Secretary-Indian Affairs as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.).

B. The Board shall be limited to the issuance of a single operator's license for each city described in subsection A.

C. An operator's license shall only be issued pursuant to this chapter for a casino gaming project that involves a minimum capital investment of \$200 million, which may include investments in land, facilities, infrastructure, equipment, or furnishings.

§ 58.1-4101. Local referendum required.

A. The Department shall not grant any initial license to operate a gaming operation until a referendum approving the question is held in each city in which such casino gaming operation is to be located.

B. The governing body of any city meeting the requirements of § 58.1-4100 shall petition the court, by resolution, asking that a referendum be held on the question of whether casino gaming be permitted within the city. The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the county to open the polls and take the sense of the voters on the question as herein provided.

C. The clerk of such court of record of such city shall publish notice of such election in a newspaper of general circulation in such city once a week for three consecutive weeks prior to such election.

D. The regular election officers of such city shall open the polls at the various voting places in such city on the date specified in such order and conduct such election in the manner provided by law. The election shall be by ballot, which shall be prepared by the electoral board of the city and on which shall be printed the following question:

"Shall casino gaming be permitted at a casino gaming establishment in _____ (name of city and location) as may be approved by the Virginia Lottery Board?

[] Yes

[] No"

In the blank shall be inserted the name of the city in which such election is held and the proposed location of the casino gaming establishment. Any voter desiring to vote "Yes" shall mark in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark in the square provided for such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.

E. The ballots shall be counted, the returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering such election. Thereupon, such court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the Board and to the governing body of such city.

F. A subsequent local referendum shall be required if a license has not been granted by the Board within five years of the court order proclaiming the results of the election.

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

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

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

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

D. This section shall not apply to any sports betting or related activity that is lawful under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.

675 2. That the Joint Legislative Audit and Review Commission shall conduct a review of casino
676 gaming laws in other states. For purposes of the review, "casino gaming" shall have the same
677 meaning as set forth in § 58.1-4002 of the Code of Virginia, and shall also include the lottery,
678 historical horseracing, and horse racing and pari-mutuel wagering. The Joint Legislative Audit
679 and Review Commission shall report any findings and recommendations to the Chairmen of the
680 Senate Committee on General Laws and Technology and the House Committee on General Laws
681 on or before December 1, 2019.

682 3. That no referendum shall be authorized pursuant to this act unless § 58.1-4101 is reenacted by
683 the 2020 Session of the General Assembly.

684 4. That no referendum shall be held pursuant to § 58.1-4101 of the Code of Virginia prior to the
685 publication of the Joint Legislative Audit and Review Commission's findings and recommendations
686 regarding casino gaming pursuant to the second enactment of this act, and no referendum shall be
687 held after January 1, 2021.

688 5. That the Virginia Lottery Board promulgate regulations to implement the provisions of this act
689 beginning January 1, 2020, and shall complete work on such regulations by June 30, 2020.

690 6. That the Virginia Lottery Board shall not issue a license to operate a gaming operation before
691 July 1, 2020.

692 7. That the provisions of the first enactment of this act shall not become effective unless reenacted
693 by the 2020 Session of the General Assembly.