

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Chapter 2 of Title 65.2 a section numbered*  
3 *65.2-205, relating to the Virginia Workers' Compensation Act; creation of Ombudsman program.*

4 [H 1558]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That the Code of Virginia is amended by adding in Chapter 2 of Title 65.2 a section numbered**  
8 **65.2-205 as follows:**

9 **§ 65.2-205. Ombudsman program; confidentiality.**

10 *A. The Commission may create an Ombudsman program and appoint an ombudsman to administer*  
11 *such program. The purpose of the Ombudsman program shall be to provide neutral educational*  
12 *information and assistance to persons who are not represented by an attorney, including those persons*  
13 *who have claims pending or docketed before the Commission. The ombudsman shall be an attorney*  
14 *licensed by the Virginia State Bar, in active status, and in good standing. The ombudsman and any*  
15 *Ombudsman program personnel shall carry out their duties with impartiality and shall not serve as an*  
16 *advocate for any person or provide legal advice.*

17 *B. All memoranda, work products, and other materials contained in the case files of the ombudsman*  
18 *or Ombudsman program personnel shall be confidential. Any communication between the ombudsman or*  
19 *Ombudsman program personnel and a person receiving assistance as provided by this section that is*  
20 *made during or in connection with the provision of Ombudsman program services, including screening,*  
21 *intake, and scheduling, shall be confidential.*

22 *Confidential materials and communications are not subject to disclosure and shall not be admissible*  
23 *in any judicial or administrative proceeding except where (i) a threat to inflict bodily injury is made;*  
24 *(ii) communications are intentionally used to plan, attempt to commit, or commit a crime or conceal an*  
25 *ongoing crime; (iii) a complaint is made against Ombudsman program personnel by a person receiving*  
26 *assistance to the extent necessary for the complainant to prove misconduct or the Ombudsman program*  
27 *personnel to defend against such complaint; or (iv) communications are sought or offered to prove or*  
28 *disprove a claim or complaint of misconduct or malpractice filed against the legal representative of a*  
29 *person who received assistance from the Ombudsman program.*

30 *Confidential materials and communications as described in this section are not subject to mandatory*  
31 *disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

32 *C. The ombudsman and Ombudsman program personnel are immune from civil liability in their*  
33 *performance of the duties specified in this section.*

ENROLLED

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