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HOUSE BILL NO. 1590

Offered January 13, 2025

Prefiled January 2, 2025

A *BILL to amend and reenact § 2.2-3705.7 of the Code of Virginia, relating to Virginia Freedom of Information Act; exclusions; apprenticeship programs; minors.*

Patron—Kent

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

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. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the

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59 Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting
60 list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing
61 authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for
62 housing assistance programs funded by local governments or by any such authority; or (iv) filed with any
63 local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency
64 concerning persons who have applied for occupancy or who have occupied affordable dwelling units
65 established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be
66 denied.

67 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if
68 disclosure of such information would have a detrimental effect upon the negotiating position of a governing
69 body or on the establishment of the terms, conditions, and provisions of the siting agreement.

70 10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant
71 and animal species, natural communities, caves, and significant historic and archaeological sites if, in the
72 opinion of the public body that has the responsibility for such information, disclosure of the information
73 would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to
74 requests from the owner of the land upon which the resource is located.

75 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary
76 nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery
77 game design, development, production, operation, ticket price, prize structure, manner of selecting the
78 winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or
79 selections of winning tickets, odds of winning, advertising, or marketing, where such information not been
80 publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-
81 related information shall be subject to public disclosure under this chapter upon the first day of sales for the
82 specific lottery game to which it pertains.

83 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local
84 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust
85 established by one or more local public bodies to invest funds for post-retirement benefits other than
86 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
87 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The
88 College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers
89 Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other
90 ownership interest in an entity, where such security or ownership interest is not traded on a governmentally
91 regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses
92 prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The
93 College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board
94 of trustees, or the Commonwealth Savers Plan, or provided to the retirement system, a local finance board or
95 board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality of the future value of
96 such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the
97 value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or
98 board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of
99 William and Mary in Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be
100 construed to prevent the disclosure of information relating to the identity of any investment held, the amount
101 invested, or the present value of such investment.

102 13. Financial, medical, rehabilitative, and other personal information concerning applicants for or
103 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under
104 Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

105 14. Information held by the Virginia Commonwealth University Health System Authority pertaining to
106 any of the following: an individual's qualifications for or continued membership on its medical or teaching
107 staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to
108 a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for
109 construction or the purchase of goods or services; information of a proprietary nature produced or collected
110 by or for the Authority or members of its medical or teaching staffs; financial statements not publicly
111 available that may be filed with the Authority from third parties; the identity, accounts, or account status of
112 any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in
113 connection with its strategic planning and goals; the determination of marketing and operational strategies
114 where disclosure of such strategies would be harmful to the competitive position of the Authority; and
115 information of a proprietary nature produced or collected by or for employees of the Authority, other than the
116 Authority's financial or administrative records, in the conduct of or as a result of study or research on
117 medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction
118 with a governmental body or a private concern, when such information has not been publicly released,
119 published, copyrighted, or patented. This exclusion shall also apply when such information is in the

120 possession of Virginia Commonwealth University.

121 15. Information held by the Department of Environmental Quality, the State Water Control Board, the
122 State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal
123 environmental enforcement actions that are considered confidential under federal law and (ii) enforcement
124 strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be
125 disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the
126 agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection
127 reports, notices of violation, and documents detailing the nature of any environmental contamination that may
128 have occurred or similar documents.

129 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel
130 itinerary, including vehicle identification data or vehicle enforcement system information; video or
131 photographic images; Social Security or other identification numbers appearing on driver's licenses; credit
132 card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

133 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification
134 number, state sales tax number, home address and telephone number, personal and lottery banking account
135 and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific
136 retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won
137 shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described
138 in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

139 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person
140 regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary
141 action by the Board for a positive test result.

142 19. Information pertaining to the planning, scheduling, and performance of examinations of holder records
143 pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the
144 State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder
145 records.

146 20. Information held by the Virginia Department of Emergency Management or a local governing body
147 relating to citizen emergency response teams established pursuant to an ordinance of a local governing body
148 that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of
149 an individual participant in the program.

150 21. Information held by state or local park and recreation departments and local and regional park
151 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
152 subdivision shall operate to prevent the disclosure of information defined as directory information under
153 regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless
154 the public body has undertaken the parental notification and opt-out requirements provided by such
155 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such
156 person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has
157 restricted or denied such access. For such information of persons who are emancipated, the right of access
158 may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the
159 information may waive, in writing, the protections afforded by this subdivision. If the protections are so
160 waived, the public body shall open such information for inspection and copying.

161 22. Information submitted for inclusion in the Statewide Alert Network administered by the Department
162 of Emergency Management that reveal names, physical addresses, email addresses, computer or internet
163 protocol information, telephone numbers, pager numbers, other wireless or portable communications device
164 information, or operating schedules of individuals or agencies, where the release of such information would
165 compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert
166 Network.

167 23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

168 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local
169 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system),
170 or the Commonwealth Savers Plan, acting pursuant to § 23.1-704 relating to:

171 a. Internal deliberations of or decisions by the retirement system or the Commonwealth Savers Plan on the
172 pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the
173 execution of such investment strategies or the selection or termination of such managers, if disclosure of such
174 information would have an adverse impact on the financial interest of the retirement system or the
175 Commonwealth Savers Plan; and

176 b. Trade secrets provided by a private entity to the retirement system or the Commonwealth Savers Plan if
177 disclosure of such records would have an adverse impact on the financial interest of the retirement system or
178 the Commonwealth Savers Plan.

179 For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity
180 shall make a written request to the retirement system or the Commonwealth Savers Plan:

181 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which

182 protection from disclosure is sought;

183 (2) Identifying with specificity the data or other materials for which protection is sought; and

184 (3) Stating the reasons why protection is necessary.

185 The retirement system or the Commonwealth Savers Plan shall determine whether the requested exclusion
186 from disclosure meets the requirements set forth in subdivision b.

187 Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any
188 investment held or the present value and performance of all asset classes and subclasses.

189 25. Information held by the Department of Corrections made confidential by former § 53.1-233.

190 26. Information maintained by the Department of the Treasury or participants in the Local Government
191 Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to
192 establish accounts in accordance with § 2.2-4602.

193 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust
194 Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that
195 access shall not be denied to the person who is the subject of the information.

196 28. Information maintained in connection with fundraising activities by the Veterans Services Foundation
197 pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social
198 security number or other identification number appearing on a driver's license or other document issued under
199 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or
200 bank account data of identifiable donors, except that access shall not be denied to the person who is the
201 subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure
202 of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the
203 donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or
204 donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the
205 identities of sponsors providing grants to or contracting with the foundation for the performance of services
206 or other work or (ii) the terms and conditions of such grants or contracts.

207 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the
208 training of state prosecutors or law-enforcement personnel, where such information is not otherwise available
209 to the public and the disclosure of such information would reveal confidential strategies, methods, or
210 procedures to be employed in law-enforcement activities or materials created for the investigation and
211 prosecution of a criminal case.

212 30. Information provided to the Department of Aviation by other entities of the Commonwealth in
213 connection with the operation of aircraft where the information would not be subject to disclosure by the
214 entity providing the information. The entity providing the information to the Department of Aviation shall
215 identify the specific information to be protected and the applicable provision of this chapter that excludes the
216 information from mandatory disclosure.

217 31. Information created or maintained by or on the behalf of the judicial performance evaluation program
218 related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

219 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are
220 discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child
221 abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse
222 response teams established pursuant to § 15.2-1627.5, (iii) individual cases of abuse, neglect, or exploitation
223 of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§
224 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases are discussed by any human trafficking
225 response team established pursuant to § 15.2-1627.6. The findings of any such team may be disclosed or
226 published in statistical or other aggregated form that does not disclose the identity of specific individuals.

227 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the
228 Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies,
229 specific allocation of resources and staff for marketing activities, and specific marketing activities that would
230 reveal to the Commonwealth's competitors for economic development projects the strategies intended to be
231 deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth.
232 The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or
233 withheld pursuant to this subdivision.

234 34. Information discussed in a closed session of the Physical Therapy Compact Commission or the
235 Executive Board or other committees of the Commission for purposes set forth in subsection E of §
236 54.1-3491.

237 35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority),
238 an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i)
239 internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior
240 to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets
241 Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant
242 to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

243 36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary

244 exclusion program administered pursuant to § 58.1-4015.1.

245 37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any
246 person reporting prohibited conduct pursuant to § 58.1-4043.

247 38. *Personal information held by any state public body regarding the participation of a minor in a*
248 *program run by such state public body, such as an internship, externship, or apprenticeship, except as*
249 *otherwise prescribed by law.*

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