

# 2026 SESSION

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1 **HOUSE BILL NO. 463**

2 Offered January 14, 2026

3 Prefiled January 12, 2026

4 *A BILL to amend and reenact §§ 2.2-3701 and 2.2-3708.3 of the Code of Virginia, relating to Virginia*  
5 *Freedom of Information Act; definitions; meetings; quorum and electronic communication.*

6 Patron—Cohen

7 Committee Referral Pending

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

9 **1. That §§ 2.2-3701 and 2.2-3708.3 of the Code of Virginia are amended and reenacted as follows:**

10 **§ 2.2-3701. Definitions.**

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

12 "All-virtual public meeting" means a public meeting (i) conducted by a public body, other than those  
13 excepted pursuant to subsection C of § 2.2-3708.3, using electronic communication means, (ii) during which  
14 all members of the public body who participate do so remotely rather than being assembled in one physical  
15 location, and (iii) to which public access is provided through electronic communication means.

16 "Caregiver" means an adult who provides care for a person with a disability as defined in § 51.5-40.1. A  
17 caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the  
18 person with a disability for whom he is caring.

19 "Closed meeting" means a meeting from which the public is excluded.

20 "Electronic communication" means the use of technology having electrical, digital, magnetic, wireless,  
21 optical, electromagnetic, or similar capabilities to transmit or receive information.

22 "Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible  
23 or impracticable and which circumstance requires immediate action.

24 "Information," as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means the  
25 content within a public record that references a specifically identified subject matter, and shall not be  
26 interpreted to require the production of information that is not embodied in a public record.

27 "Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through  
28 electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3, as a body or entity, or as an  
29 informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent  
30 membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public  
31 body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more  
32 members a quorum of a public body (a) at any place or function where no part of the purpose of such  
33 gathering or attendance is the discussion or transaction of any public business, such gathering or attendance  
34 was not called or prearranged with any purpose of discussing or transacting any business of the public body,  
35 and no discussion or transaction of public business takes place among the members of the public body or (b)  
36 at a public forum, informational gathering, candidate appearance, meeting of another public body, or debate,  
37 the purpose of which is to inform the electorate or to gather information from the public and not to transact  
38 public business or to hold discussions relating to the transaction of public business, where no discussion or  
39 transaction of public business takes place among the members of the public body, even though the  
40 performance of the members individually or collectively in the conduct of public business may be a topic of  
41 discussion, debate, or question presented by others at such public meeting, shall be deemed a "meeting"  
42 subject to the provisions of this chapter. The appointment of more than two members a quorum of a public  
43 body to another public body does not constitute a meeting of the first public body. For purposes of this  
44 definition of "meeting" only, the term "public business" means any activity a public body has undertaken or  
45 proposes to undertake on behalf of the people it represents.

46 "Official public government website" means any Internet site controlled by a public body and used,  
47 among any other purposes, to post required notices and other content pursuant to this chapter on behalf of the  
48 public body.

49 "Open meeting" or "public meeting" means a meeting at which the public may be present.

50 "Public body" means any legislative body, authority, board, bureau, commission, district, or agency of the  
51 Commonwealth or of any political subdivision of the Commonwealth, including counties, cities, and towns,  
52 municipal councils, governing bodies of counties, school boards, and planning commissions; governing  
53 boards of public institutions of higher education; and other organizations, corporations, or agencies in the  
54 Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia  
55 Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to  
56 Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however

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59 designated of the public body created to perform delegated functions of the public body or to advise the  
60 public body. It shall not exclude any such committee, subcommittee, or entity because it has private sector or  
61 citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes  
62 of this chapter.

63 For the purposes of the provisions of this chapter applicable to access to public records, constitutional  
64 officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except  
65 as otherwise expressly provided by law, shall have the same obligations to disclose public records as other  
66 custodians of public records.

67 "Public records" means all writings and recordings that consist of letters, words, or numbers, or their  
68 equivalent, set down by handwriting, typewriting, printing, photostatting, photography, magnetic impulse,  
69 optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation,  
70 however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession  
71 of a public body or its officers, employees, or agents in the transaction of public business.

72 "Regional public body" means a unit of government organized as provided by law within defined  
73 boundaries, as determined by the General Assembly, which unit includes two or more localities.

74 "Remote participation" means participation by an individual member of a public body by electronic  
75 communication means in a public meeting where a quorum of the public body is otherwise physically  
76 assembled.

77 "Scholastic records" means those records containing information directly related to a student or an  
78 applicant for admission and maintained by a public body that is an educational agency or institution or by a  
79 person acting for such agency or institution.

80 "Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-336 et  
81 seq.).

82 **§ 2.2-3708.3. Meetings held through electronic communication means; situations other than  
83 declared states of emergency.**

84 A. Public bodies are encouraged to (i) provide public access, both in person and through electronic  
85 communication means, to public meetings and (ii) provide avenues for public comment at public meetings  
86 when public comment is customarily received, which may include public comments made in person or by  
87 electronic communication means or other methods.

88 B. Individual members of a public body may use remote participation instead of attending a public  
89 meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in  
90 subsection D and the member notifies the public body chair that:

91 1. The member has a temporary or permanent disability or other medical condition that prevents the  
92 member's physical attendance. ~~For purposes of determining whether a quorum is physically assembled, an  
93 individual member of a public body who is a person with a disability as defined in § 51.5-40.1 and uses  
94 remote participation counts toward the quorum as if the individual was physically present;~~

95 2. A medical condition of a member of the member's family requires the member to provide care that  
96 prevents the member's physical attendance or the member is a caregiver who must provide care for a person  
97 with a disability at the time the public meeting is being held thereby preventing the member's physical  
98 attendance. ~~For purposes of determining whether a quorum is physically assembled, an individual member of  
99 a public body who is a caregiver for a person with a disability and uses remote participation counts toward  
100 the quorum as if the individual was physically present;~~

101 3. The member's principal residence is more than 60 miles from the meeting location identified in the  
102 required notice for such meeting; or

103 4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the  
104 nature of the personal matter. However, the member may not use remote participation due to personal matters  
105 more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to  
106 the next whole number, whichever is greater.

107 *For purposes of determining whether a quorum is physically assembled, if participation by a member of a  
108 public body through electronic communication is approved pursuant to this subsection, such member using  
109 remote participation counts toward the quorum as if the individual were physically present.*

110 If participation by a member through electronic communication means is approved pursuant to this  
111 subsection, the public body holding the meeting shall record in its minutes the remote location from which  
112 the member participated; however, the remote location need not be open to the public and may be identified  
113 in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2, the public  
114 body shall also include in its minutes the fact that the member participated through electronic communication  
115 means due to a (i) temporary or permanent disability or other medical condition that prevented the member's  
116 physical attendance or (ii) family member's medical condition that required the member to provide care for  
117 such family member, thereby preventing the member's physical attendance. If participation is approved  
118 pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member  
119 participated through electronic communication means due to the distance between the member's principal  
120 residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body

121 shall also include in its minutes the specific nature of the personal matter cited by the member.

122 If a member's participation from a remote location pursuant to this subsection is disapproved because such  
123 participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in  
124 the minutes with specificity.

125 C. With the exception of local governing bodies, local school boards, planning commissions, architectural  
126 review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a  
127 professional or occupational license, any public body may hold all-virtual public meetings, provided that the  
128 public body follows the other requirements in this chapter for meetings, the public body has adopted a policy  
129 as described in subsection D, and:

130 1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in  
131 the required meeting notice along with a statement notifying the public that the method by which a public  
132 body chooses to meet shall not be changed unless the public body provides a new meeting notice in  
133 accordance with the provisions of § 2.2-3707;

134 2. Public access to the all-virtual public meeting is provided via electronic communication means;

135 3. The electronic communication means used allows the public to hear all members of the public body  
136 participating in the all-virtual public meeting and, when audio-visual technology is available, to see the  
137 members of the public body as well. When audio-visual technology is available, a member of a public body  
138 shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual  
139 communication with the member is voluntarily disconnected or otherwise fails or during which audio  
140 communication involuntarily fails;

141 4. A phone number or other live contact information is provided to alert the public body if the audio or  
142 video transmission of the meeting provided by the public body fails, the public body monitors such  
143 designated means of communication during the meeting, and the public body takes a recess until public  
144 access is restored if the transmission fails for the public;

145 5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to  
146 members of a public body for a meeting is made available to the public in electronic format at the same time  
147 that such materials are provided to members of the public body;

148 6. The public is afforded the opportunity to comment through electronic means, including by way of  
149 written comments, at those public meetings when public comment is customarily received;

150 7. No more than two members of the public body are together in any one remote location unless that  
151 remote location is open to the public to physically access it;

152 8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public  
153 resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;

154 9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar  
155 year or 50 percent of the meetings held per calendar year rounded up to the next whole number, whichever is  
156 greater, or (ii) consecutively with another all-virtual public meeting; and

157 10. Minutes of all-virtual public meetings held by electronic communication means are taken as required  
158 by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type  
159 of electronic communication means by which the meeting was held. If a member's participation from a  
160 remote location pursuant to this subsection is disapproved because such participation would violate the policy  
161 adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

162 D. Before a public body uses all-virtual public meetings as described in subsection C or allows members  
163 to use remote participation as described in subsection B, the public body shall at least once annually adopt a  
164 policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception,  
165 to the entire membership and without regard to the identity of the member requesting remote participation or  
166 the matters that will be considered or voted on at the meeting. The policy shall:

167 1. Describe the circumstances under which an all-virtual public meeting and remote participation will be  
168 allowed and the process the public body will use for making requests to use remote participation, approving  
169 or denying such requests, and creating a record of such requests; and

170 2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be  
171 used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

172 The policy shall not prohibit or restrict any individual member of a public body who is participating in an  
173 all-virtual meeting or who is using remote participation from voting on matters before the public body.

174 Any public body that creates a committee, subcommittee, or other entity however designated of the public  
175 body to perform delegated functions of the public body or to advise the public body may also adopt a policy  
176 on behalf of its committee, subcommittee, or other entity that shall apply to the committee, subcommittee, or  
177 other entity's use of individual remote participation and all-virtual public meetings.