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HOUSE BILL NO. 1398

Offered January 22, 2026

A BILL to amend and reenact §§ 2.2-3705.5, 2.2-3711, as it is currently effective and as it shall become effective, and 2.2-4002 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-283.9, relating to the Fetal and Infant Mortality Review Team established; penalty; report.

Patrons—Franklin, M.A., Anthony, Cousins, Gardner, Nivar and Tran

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.5, 2.2-3711, as it is currently effective and as it shall become effective, and 2.2-4002 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-283.9 as follows:

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

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

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

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

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

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

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

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-184 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant

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

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

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

70 7. Information acquired (i) during a review of any child death conducted by the State Child Fatality
 71 Review Team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the
 72 extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted
 73 by a family violence fatality review team to the extent that such information is made confidential by
 74 § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the
 75 extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that
 76 such information is made confidential by § 32.1-283.6; (iv) by a local or regional overdose fatality review
 77 team to the extent that such information is made confidential by § 32.1-283.7; (v) during a review of any
 78 death conducted by the Maternal Mortality Review Team to the extent that such information is made
 79 confidential by § 32.1-283.8 or *the Fetal and Infant Mortality Review Team to the extent that such*
 80 *information is made confidential by § 32.1-283.9;* or (vi) during a review of any death conducted by the
 81 Developmental Disabilities Mortality Review Committee to the extent that such information is made
 82 confidential by § 37.2-314.1.

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

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

93 10. Any information copied, recorded, or received by the Commissioner of Health in the course of an
 94 examination, investigation, or review of a managed care health insurance plan licensee pursuant to
 95 §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all
 96 computer or other recordings.

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

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

103 13. The names and addresses or other contact information of persons receiving transportation services
 104 from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42
 105 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under
 106 § 63.2-600.

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

109 15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16
 110 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

111 16. Records of and information held by the Smartchart Network Program required to be kept confidential
 112 pursuant to § 32.1-372.

113 17. Information submitted to the acute psychiatric bed registry pursuant to § 37.2-308.1.

114 **§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

116 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
 117 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
 118 officers, appointees, or employees of any public body; and evaluation of performance of departments or
 119 schools of public institutions of higher education where such evaluation will necessarily involve discussion of
 120 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting

121 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some
 122 student and the student involved in the matter is present, provided that the teacher makes a written request to
 123 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be
 124 construed to authorize a closed meeting by a local governing body or an elected school board to discuss
 125 compensation matters that affect the membership of such body or board collectively.

126 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
 127 involve the disclosure of information contained in a scholastic record concerning any student of any public
 128 institution of higher education in the Commonwealth or any state school system. However, any such student,
 129 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be
 130 present during the taking of testimony or presentation of evidence at a closed meeting, if such student,
 131 parents, or guardians so request in writing and such request is submitted to the presiding officer of the
 132 appropriate board.

133 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition
 134 of publicly held real property, where discussion in an open meeting would adversely affect the bargaining
 135 position or negotiating strategy of the public body.

136 4. The protection of the privacy of individuals in personal matters not related to public business.

137 5. Discussion concerning a prospective business or industry or the expansion of an existing business or
 138 industry where no previous announcement has been made of the business' or industry's interest in locating or
 139 expanding its facilities in the community.

140 6. Discussion or consideration of the investment of public funds where competition or bargaining is
 141 involved, where, if made public initially, the financial interest of the governmental unit would be adversely
 142 affected.

143 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or
 144 probable litigation, where such consultation or briefing in open meeting would adversely affect the
 145 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation"
 146 means litigation that has been specifically threatened or on which the public body or its legal counsel has a
 147 reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall
 148 be construed to permit the closure of a meeting merely because an attorney representing the public body is in
 149 attendance or is consulted on a matter.

150 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters
 151 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to
 152 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is
 153 consulted on a matter.

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

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

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

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

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

178 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
 179 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in
 180 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the
 181 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.

- 182 All discussions with the applicant or its representatives may be conducted in a closed meeting.
183 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
184 activity and estimating general and nongeneral fund revenues.
185 16. Discussion or consideration of medical and mental health records subject to the exclusion in
186 subdivision 1 of § 2.2-3705.5.
187 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
188 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
189 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
190 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and
191 subdivision 11 of § 2.2-3705.7.
192 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
193 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
194 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
195 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
196 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.
197 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity
198 threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency
199 service officials concerning actions taken to respond to such matters or a related threat to public safety;
200 discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in
201 an open meeting would jeopardize the safety of any person or the security of any facility, building, structure,
202 information technology system, or software program; or discussion of reports or plans related to the security
203 of any governmental facility, building or structure, or the safety of persons using such facility, building or
204 structure.
205 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
206 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
207 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
208 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
209 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
210 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
211 other ownership interest in an entity, where such security or ownership interest is not traded on a
212 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
213 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
214 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
215 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
216 confidentiality, of the future value of such ownership interest or the future financial performance of the
217 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
218 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
219 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
220 disclosure of information relating to the identity of any investment held, the amount invested or the present
221 value of such investment.
222 21. Those portions of meetings in which individual child death cases are discussed by the State Child
223 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
224 child death cases are discussed by a regional or local child fatality review team established pursuant to
225 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
226 fatality review teams established pursuant to § 32.1-283.3, *those portions of meetings in which individual*
227 *fetal and infant death cases are discussed by the Fetal and Infant Mortality Review Team pursuant to*
228 *§ 32.1-283.9*, those portions of meetings in which individual adult death cases are discussed by the state
229 Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which
230 individual adult death cases are discussed by a local or regional adult fatality review team established
231 pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by
232 overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which
233 individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to
234 § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental
235 disabilities are discussed by the Developmental Disabilities Mortality Review Committee established
236 pursuant to § 37.2-314.1.
237 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
238 University, as the case may be, and those portions of meetings of any persons to whom management
239 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
240 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
241 business-related information pertaining to the operations of the University of Virginia Medical Center or the
242 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
243 development or marketing strategies and activities with existing or future joint venturers, partners, or other

244 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
245 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
246 health care, if disclosure of such information would adversely affect the competitive position of the
247 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
248 University, as the case may be.

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

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

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

265 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
266 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
267 § 56-484.12, related to the provision of wireless E-911 service.

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

274 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
275 by a responsible public entity or an affected locality or public entity, as those terms are defined in
276 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
277 public entity concerning such records.

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

281 30. Discussion or consideration of grant or loan application information subject to the exclusion in
282 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

283 31. Discussion or consideration by the Commitment Review Committee of information subject to the
284 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
285 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

286 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
287 held by a local public body providing certain telecommunication services or cable television services and
288 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
289 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

290 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
291 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
292 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

293 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
294 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

295 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
296 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

297 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
298 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
299 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
300 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
301 scholarship awards.

302 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in
303 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
304 Authority.

305 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting

306 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
307 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan
308 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee
309 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

310 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
311 related to economic development.

312 40. Discussion or consideration by the Board of Education of information relating to the denial,
313 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

314 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
315 executive order for the purpose of studying and making recommendations regarding preventing closure or
316 realignment of federal military and national security installations and facilities located in Virginia and
317 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
318 local governing body, during which there is discussion of information subject to the exclusion in subdivision
319 8 of § 2.2-3705.2.

320 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
321 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
322 information of donors.

323 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
324 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained
325 in grant applications.

326 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
327 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for
328 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
329 information of a private entity provided to the Authority.

330 45. Discussion or consideration of personal and proprietary information related to the resource
331 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection
332 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
333 information that has been certified for release by the person who is the subject of the information or
334 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
335 or is the subject of, the information.

336 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
337 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of
338 applicants for licenses and permits and of licensees and permittees.

339 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion
340 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)
341 of Chapter 22.

342 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
343 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
344 Board.

345 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
346 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
347 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
348 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
349 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
350 pursuant to § 15.2-1627.6.

351 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
352 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
353 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
354 of § 2.2-3705.7.

355 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
356 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
357 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the
358 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

359 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
360 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
361 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

362 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
363 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
364 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
365 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

366 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
367 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting

368 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
369 disclosure under subdivision 1 of § 2.2-3705.3.

370 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of
371 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

372 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
373 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting
374 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that
375 shall have its substance reasonably identified in the open meeting.

376 C. Public officers improperly selected due to the failure of the public body to comply with the other
377 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
378 obtain notice of the legal defect in their election.

379 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
380 public bodies, or their representatives, but these conferences shall be subject to the same procedures for
381 holding closed meetings as are applicable to any other public body.

382 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
383 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
384 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial
385 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial
386 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.
387 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the
388 actual date of the board's authorization of the sale or issuance of such bonds.

389 **§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

391 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
392 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
393 officers, appointees, or employees of any public body; and evaluation of performance of departments or
394 schools of public institutions of higher education where such evaluation will necessarily involve discussion of
395 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting
396 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some
397 student and the student involved in the matter is present, provided that the teacher makes a written request to
398 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be
399 construed to authorize a closed meeting by a local governing body or an elected school board to discuss
400 compensation matters that affect the membership of such body or board collectively.

401 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
402 involve the disclosure of information contained in a scholastic record concerning any student of any public
403 institution of higher education in the Commonwealth or any state school system. However, any such student,
404 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be
405 present during the taking of testimony or presentation of evidence at a closed meeting, if such student,
406 parents, or guardians so request in writing and such request is submitted to the presiding officer of the
407 appropriate board.

408 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition
409 of publicly held real property, where discussion in an open meeting would adversely affect the bargaining
410 position or negotiating strategy of the public body.

411 4. The protection of the privacy of individuals in personal matters not related to public business.

412 5. Discussion concerning a prospective business or industry or the expansion of an existing business or
413 industry where no previous announcement has been made of the business' or industry's interest in locating or
414 expanding its facilities in the community.

415 6. Discussion or consideration of the investment of public funds where competition or bargaining is
416 involved, where, if made public initially, the financial interest of the governmental unit would be adversely
417 affected.

418 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or
419 probable litigation, where such consultation or briefing in open meeting would adversely affect the
420 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation"
421 means litigation that has been specifically threatened or on which the public body or its legal counsel has a
422 reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall
423 be construed to permit the closure of a meeting merely because an attorney representing the public body is in
424 attendance or is consulted on a matter.

425 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters
426 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to
427 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is
428 consulted on a matter.

429 9. Discussion or consideration by governing boards of public institutions of higher education of matters

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

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

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

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

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

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

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

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

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

467 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses
468 the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
469 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension
470 of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary
471 services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

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

480 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
481 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
482 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
483 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
484 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
485 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
486 other ownership interest in an entity, where such security or ownership interest is not traded on a
487 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
488 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
489 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
490 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
491 confidentiality, of the future value of such ownership interest or the future financial performance of the

492 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
493 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
494 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
495 disclosure of information relating to the identity of any investment held, the amount invested or the present
496 value of such investment.

497 21. Those portions of meetings in which individual child death cases are discussed by the State Child
498 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
499 child death cases are discussed by a regional or local child fatality review team established pursuant to
500 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
501 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
502 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
503 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
504 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
505 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
506 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
507 Review Team pursuant to § 32.1-283.8, *those portions of meetings in which individual fetal and infant death*
508 *cases are discussed by the Fetal and Infant Mortality Review Team pursuant to § 32.1-283.9,* and those
509 portions of meetings in which individual death cases of persons with developmental disabilities are discussed
510 by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

511 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
512 University, as the case may be, and those portions of meetings of any persons to whom management
513 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
514 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
515 business-related information pertaining to the operations of the University of Virginia Medical Center or the
516 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business
517 development or marketing strategies and activities with existing or future joint venturers, partners, or other
518 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
519 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
520 health care, if disclosure of such information would adversely affect the competitive position of the
521 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
522 University, as the case may be.

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

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

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

539 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
540 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
541 § 56-484.12, related to the provision of wireless E-911 service.

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

548 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
549 by a responsible public entity or an affected locality or public entity, as those terms are defined in
550 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
551 public entity concerning such records.

552 29. Discussion of the award of a public contract involving the expenditure of public funds, including
553 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in

554 an open session would adversely affect the bargaining position or negotiating strategy of the public body.

555 30. Discussion or consideration of grant or loan application information subject to the exclusion in
556 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

557 31. Discussion or consideration by the Commitment Review Committee of information subject to the
558 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent
559 predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

560 32. Discussion or consideration of confidential proprietary information and trade secrets developed and
561 held by a local public body providing certain telecommunication services or cable television services and
562 subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
563 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

564 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
565 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
566 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

567 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security
568 matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1 and review by the State Board of Elections
569 of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

570 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
571 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

572 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
573 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings
574 of the Committee to deliberate concerning the annual maximum scholarship award, review and consider
575 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
576 scholarship awards.

577 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in
578 subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port
579 Authority.

580 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
581 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by
582 any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan
583 acting pursuant to § 23.1-706, or by the Commonwealth Savers Plan's Investment Advisory Committee
584 appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

585 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6
586 related to economic development.

587 40. Discussion or consideration by the Board of Education of information relating to the denial,
588 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

589 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
590 executive order for the purpose of studying and making recommendations regarding preventing closure or
591 realignment of federal military and national security installations and facilities located in Virginia and
592 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
593 local governing body, during which there is discussion of information subject to the exclusion in subdivision
594 8 of § 2.2-3705.2.

595 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
596 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
597 information of donors.

598 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
599 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained
600 in grant applications.

601 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of
602 information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for
603 the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary
604 information of a private entity provided to the Authority.

605 45. Discussion or consideration of personal and proprietary information related to the resource
606 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection
607 E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
608 information that has been certified for release by the person who is the subject of the information or
609 transformed into a statistical or aggregate form that does not allow identification of the person who supplied,
610 or is the subject of, the information.

611 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
612 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of
613 applicants for licenses and permits and of licensees and permittees.

614 47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion
615 in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.)

616 of Chapter 22.

617 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
618 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
619 Board.

620 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
621 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
622 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
623 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
624 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
625 pursuant to § 15.2-1627.6.

626 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
627 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions
628 of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33
629 of § 2.2-3705.7.

630 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development
631 Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information
632 received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the
633 Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

634 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the
635 Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of
636 information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

637 53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or
638 revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of
639 any license or permit related to casino gaming, and discussion, consideration, or review of matters related to
640 investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

641 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding
642 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting
643 and any discussion, consideration, or review of matters related to investigations excluded from mandatory
644 disclosure under subdivision 1 of § 2.2-3705.3.

645 55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of
646 Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

647 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed
648 meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting
649 and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that
650 shall have its substance reasonably identified in the open meeting.

651 C. Public officers improperly selected due to the failure of the public body to comply with the other
652 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
653 obtain notice of the legal defect in their election.

654 D. Nothing in this section shall be construed to prevent the holding of conferences between two or more
655 public bodies, or their representatives, but these conferences shall be subject to the same procedures for
656 holding closed meetings as are applicable to any other public body.

657 E. This section shall not be construed to (i) require the disclosure of any contract between the Department
658 of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.)
659 of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial
660 Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial
661 revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies.
662 However, such business or industry shall be identified as a matter of public record at least 30 days prior to the
663 actual date of the board's authorization of the sale or issuance of such bonds.

664 **§ 2.2-4002. Exemptions from chapter generally.**

665 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the
666 following agencies shall be exempted from the provisions of this chapter, except to the extent that they are
667 specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

668 1. The General Assembly.

669 2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted
670 any of the powers of a court of record.

671 3. The Department of Wildlife Resources in promulgating regulations regarding the management of
672 wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3
673 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

674 4. The Virginia Housing Development Authority.

675 5. Municipal corporations, counties, and all local, regional, or multijurisdictional authorities created under
676 this Code, including those with federal authorities.

677 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031, such

678 educational institutions shall be exempt from the publication requirements only with respect to regulations
679 that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion, and disciplining of faculty and
680 employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of students.

681 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii)
682 classification and allocation of milk, computation of sales, and shrinkage, and (iii) class prices for producers'
683 milk, time and method of payment, butterfat testing, and differential.

684 8. The Virginia Resources Authority.

685 9. Agencies expressly exempted by any other provision of this Code.

686 10. The Department of General Services in promulgating standards for the inspection of buildings for
687 asbestos pursuant to § 2.2-1164.

688 11. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines
689 pursuant to § 23.1-207.

690 12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to
691 subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

692 13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer
693 Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of
694 § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection A of
695 § 3.2-5406.

696 14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,
697 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists
698 pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

699 15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to
700 § 2.2-2001.3.

701 16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to
702 § 22.1-203.2.

703 17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in
704 matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse
705 racing at race meetings licensed by the Commission.

706 18. The Virginia Small Business Financing Authority.

707 19. The Virginia Economic Development Partnership Authority.

708 20. The Board of Agriculture and Consumer Services in adopting, amending, or repealing regulations
709 pursuant to subsection A (ii) of § 59.1-156.

710 21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

711 22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of
712 Health pursuant to § 32.1-35 and in adopting, amending, or repealing regulations pursuant to subsection C of
713 § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food
714 service.

715 23. The Board of Pharmacy when specifying special subject requirements for continuing education for
716 pharmacists pursuant to § 54.1-3314.1.

717 24. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to
718 § 58.1-3219.7 or 58.1-3219.11.

719 25. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any
720 training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions
721 are authorized by the Governor in the interest of public safety.

722 B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

723 1. Money or damage claims against the Commonwealth or agencies thereof.

724 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

725 3. The location, design, specifications, or construction of public buildings or other facilities.

726 4. Grants of state or federal funds or property.

727 5. The chartering of corporations.

728 6. Customary military, militia, naval, or police functions.

729 7. The selection, tenure, dismissal, direction, or control of any officer or employee of an agency of the
730 Commonwealth.

731 8. The conduct of elections or eligibility to vote.

732 9. Inmates of prisons or other such facilities or parolees therefrom.

733 10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state
734 institutions as well as the treatment, supervision, or discharge of such persons.

735 11. Traffic signs, markers, or control devices.

736 12. Instructions for application or renewal of a license, certificate, or registration required by law.

737 13. Content of, or rules for the conduct of, any examination required by law.

738 14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).

739 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with

740 duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and
741 posted.

742 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
743 finfish, or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

744 17. Any operating procedures for review of child deaths developed by the State Child Fatality Review
745 Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult
746 Fatality Review Team pursuant to § 32.1-283.5, any operating procedures for review of adult deaths
747 developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, *any operating procedures for*
748 *review of fetal and infant deaths developed by the Fetal and Infant Mortality Review Team pursuant to*
749 *§ 32.1-283.9, and any operating procedures for review of the deaths of persons with a developmental*
750 *disability developed by the Developmental Disabilities Mortality Review Committee pursuant to*
751 *§ 37.2-314.1.*

752 18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the
753 activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515
754 et seq.) of Title 54.1.

755 19. The process of reviewing and ranking grant applications submitted to the Commonwealth
756 Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title
757 51.5.

758 20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4
759 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

760 21. The Virginia Breeders Fund created pursuant to § 59.1-372.

761 22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

762 23. The administration of medication or other substances foreign to the natural horse.

763 24. Any rules adopted by the Department of Agriculture and Consumer Services for the approval and
764 conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games,
765 provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2
766 and (ii) published and posted.

767 C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia
768 Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be
769 exempt from the provisions of this chapter.

770 **§ 32.1-283.9. Fetal and Infant Mortality Review Team; duties; membership; confidentiality; penalty;**
771 **report.**

772 A. As used in this section:

773 "Fetal death" means the same as that term is defined in § 32.1-249.

774 "Infant" means any child under the age of 12 months.

775 "Team" means the Fetal and Infant Mortality Review Team established in this section.

776 B. This section shall not apply to the review of a fetal death that is the result of a voluntary or therapeutic
777 termination of pregnancy.

778 C. There is hereby created the Fetal and Infant Mortality Review Team, which shall develop and
779 implement procedures to ensure that certain fetal and infant deaths occurring in the Commonwealth are
780 analyzed in a systematic way. The purpose of the Team is to decrease the incidence of preventable fetal and
781 infant deaths. The Team shall coordinate with the State Child Fatality Review Team established in §
782 32.1-283.1 and the Maternal Mortality Review Team established in § 32.1-283.8 to avoid duplicative work.
783 The Team shall develop criteria for the selection and review of fetal and infant death in the Commonwealth,
784 excluding those resulting from a voluntary or therapeutic termination of pregnancy and any infant death
785 covered by the review of the State Child Fatality Review Team. The Team shall not initiate a fetal or infant
786 death review until the conclusion of any law-enforcement investigation or criminal prosecution. The Team
787 shall (i) develop and revise as necessary operating procedures for fetal and infant death reviews, including
788 identification of cases to be reviewed and procedures for coordinating among the agencies and professionals
789 involved; (ii) improve the identification of and data collection and recordkeeping related to causes of fetal
790 and natural infant deaths; (iii) recommend components of programs to increase awareness and prevention of
791 and education about fetal and infant deaths; (iv) recommend training to improve the review of fetal and
792 infant deaths; (v) develop recommendations to assess the service systems and community resources that
793 support and promote the health and well-being of women, infants, and families; (vi) develop and recommend
794 plans for implementing changes to existing state services, state programs, and organizations that serve
795 families, children, and pregnant women; (vii) select a number of cases for in-depth review and interviews of
796 parents, families, and medical personnel to develop a full picture of the causes of fetal or infant death,
797 evaluate gaps in services or access that may have played a part in such death, and evaluate the supports
798 available to families before and after such death; and (viii) provide aggregate data, trends, and patterns
799 regarding fetal and infant deaths to stakeholders as requested. The Team shall also provide evidence-based
800 policy recommendations to both prevent preventable fetal and infant deaths and ensure that families receive
801 necessary support pre-fetal or infant death and post-fetal or infant death. In cases where the team conducts

802 *in-depth interviews and reviews of specific cases, the Team will ensure that such families have access to grief*
803 *counseling and other necessary resources to be determined by the Team. Such operating procedures shall be*
804 *exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.*

805 *D. The Team shall consist of the following persons or their designees: the Chief Medical Examiner, the*
806 *Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the*
807 *Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of*
808 *Criminal Justice Services shall serve ex officio with voting privileges. In addition, the Governor shall appoint*
809 *one representative of each of the following entities: local law enforcement, local fire departments, local*
810 *emergency medical services providers, local departments of social services, community services boards,*
811 *attorneys for the Commonwealth, the Medical Society of Virginia, the Virginia Hospital and Healthcare*
812 *Association, the Virginia College of Emergency Physicians, the Virginia Section of the American College of*
813 *Obstetricians and Gynecologists, the Virginia Affiliate of the American College of Nurse-Midwives, the*
814 *Virginia Chapter of the Association of Women's Health, Obstetric and Neonatal Nurses, the Virginia*
815 *Neonatal Perinatal Collaborative, the Virginia Midwives Alliance, and the Virginia Academy of Nutrition*
816 *and Dietetics, and, in a number to make up no less than one-third of the total Team, representatives of*
817 *community organizations who work directly with the community on issues of fetal and infant mortality,*
818 *including doulas, midwives, members of local nonprofits, individuals from geographically representative*
819 *areas of the Commonwealth, experts as determined by the Team, and other stakeholders, to rotate every four*
820 *years. The Chief Medical Examiner and a co-chair to be determined by the chair shall serve as co-chairs of*
821 *the Team and may invite additional individuals to serve on the Team.*

822 *Ex officio members shall serve terms coincident with their terms of office. After the initial staggering of*
823 *terms, other members shall be appointed for a term of four years. Appointments to fill vacancies, other than*
824 *by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the*
825 *original appointments. All members except the community representatives may be reappointed.*

826 *E. Upon the request of the Chief Medical Examiner in his capacity as a co-chair of the Team, made after*
827 *the conclusion of any law-enforcement investigation or prosecution, the Chief Medical Examiner or his*
828 *designee may inspect and copy information and records regarding a fetal or infant death, including (i) any*
829 *report of the circumstances of the death maintained by any state or local law-enforcement agency or medical*
830 *examiner and (ii) information or records about the mother and family maintained by any social services*
831 *agency or court. Information, records, or reports maintained by any attorney for the Commonwealth shall be*
832 *made available for inspection and copying by the Chief Medical Examiner or his designee pursuant to*
833 *procedures that shall be developed by the Chief Medical Examiner and the Commonwealth's Attorneys'*
834 *Services Council established by § 2.2-2617. Any presentence report prepared pursuant to § 19.2-299 for any*
835 *person convicted of a crime that led to the death of a fetus or infant shall be made available for inspection*
836 *and copying by the Chief Medical Examiner or his designee. In addition, the Chief Medical Examiner or his*
837 *designee may inspect and copy from any health care provider in the Commonwealth, on behalf of the Team,*
838 *(a) without obtaining consent, subject to any limitations on disclosure under applicable federal and state law,*
839 *the health and mental health records of the fetus or infant and mother and those prenatal medical records*
840 *regarding the infant or fetus and (b) upon obtaining consent, from each adult regarding his records. With the*
841 *consent of the mother, father, or other legal guardian, when deemed appropriate, trained interviewers on*
842 *behalf of the Team may conduct interviews of any person if the interview is deemed necessary to the work of*
843 *the Team. The Team shall develop trauma-informed protocols for (1) the conduct of such interviews and (2)*
844 *ensuring that the interviewer has a list of resources that may be made available to the interviewee, including*
845 *resources related to bereavement and mental health services. Any record of the interview or interviews shall*
846 *be treated the same as any other record related to the work of the team under subsection F.*

847 *F. All information and records obtained or created by the Team or on behalf of the Team regarding a*
848 *review shall be confidential and excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)*
849 *pursuant to subdivision 7 of § 2.2-3705.5. All such information and records shall be used by the Team only in*
850 *the exercise of its proper purpose and function and shall not be disclosed. In preparing information and*
851 *records for review by the Team, the Department shall remove any individually identifiable information or*
852 *information identifying a health care provider, as those terms are defined in 45 C.F.R. § 160.103. Such*
853 *information shall not be subject to subpoena, subpoena duces tecum, or discovery, be admissible in any civil*
854 *or criminal proceeding, or be used as evidence in any disciplinary proceeding or regulatory or licensure*
855 *action of the Department of Health Professions or any health regulatory board. If available from other*
856 *sources, however, such information and records shall not be immune from subpoena, discovery, or*
857 *introduction into evidence when obtained through such other sources solely because the information and*
858 *records were presented to the Team during a fetal or infant death review. The findings of the Team may be*
859 *disclosed or published in statistical or other form but shall not identify any individual. Upon conclusion of*
860 *the fetal or infant death review, all information and records concerning the family shall be shredded or*
861 *otherwise destroyed by the Office of the Chief Medical Examiner in order to ensure confidentiality.*

862 *The portions of meetings in which individual fetal or infant deaths are discussed by the Team shall be*
863 *closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all Team*

864 members and other persons attending closed Team meetings, including any persons presenting information
865 or records on specific fetal or infant deaths to the Team during closed meetings, shall execute a sworn
866 statement to (i) honor the confidentiality of the information, records, discussions, and opinions disclosed
867 during meetings at which the Team reviews a specific fetal or infant death and (ii) not use any such
868 information, records, discussions, or opinions disclosed during meetings at which the Team reviews a
869 specific fetal or infant death for any purpose other than the exercise of the proper purpose and function of the
870 Team. Violations of this subsection are punishable as a Class 3 misdemeanor.

871 G. Upon notification of a fetal or infant death, any state or local government agency maintaining records
872 on the fetus or infant or the fetus or infant's family that are periodically purged shall retain such records for
873 the longer of 12 months or until such time as the Team has completed its review of the case.

874 H. The Team shall compile triennial statistical data, which shall be made available to the Governor, the
875 General Assembly, and the Department. Any statistical compilations prepared by the Team shall be public
876 record and shall contain no personal identifying information. The Team shall include policy
877 recommendations where appropriate and consistent with the purpose of the Team as specified in subsection
878 C.

879 I. Members of the Team, as well as their agents and employees, shall be immune from civil liability for
880 any act or omission made in connection with participation in a review by the Team, unless such act or
881 omission was the result of gross negligence or willful misconduct. Any organization, institution, or person
882 furnishing information, data, testimony, reports, or records to the Team as part of such review shall be
883 immune from civil liability for any act or omission in furnishing such information, unless such act or
884 omission was the result of gross negligence or willful misconduct.

885 J. The co-chairs are authorized to name qualified persons to fetal and infant mortality advisory panels to
886 discuss data trends, recommendations, and other items related to fetal and natural infant death. Panels shall
887 be convened at a minimum of one time per fiscal year. Panels shall consist of grassroots organizations,
888 community members, parents who have experienced fetal or natural infant death, agencies of the
889 Commonwealth not involved with the Team in any other manner, emergency medical services personnel,
890 mental health professionals, and other professionals with knowledge and vested interest in preventing and
891 understanding fetal and infant deaths. The recommendations of such advisory panels may be included in the
892 triannual report provided by the Team to the General Assembly.