

HOUSE BILL NO. 336  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Rules  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Delegate Anthony)

*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 Health Data and Quality Improvement Review Team established; duties; confidentiality; penalty; report.*

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

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

**14       § 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

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

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

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

29 Where the person who is the subject of health records is under the age of 18, his right of access may be  
30 asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental  
31 rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent

32 has been denied access to the health record in accordance with § 20-124.6. In instances where the person who  
33 is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a  
34 minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access  
35 may be asserted by the subject person.

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

40 2. Applications for admission to examinations or for licensure and scoring records maintained by the  
41 Department of Health Professions or any board in that department on individual licensees or applicants;  
42 information required to be provided to the Department of Health Professions by certain licensees pursuant to  
43 § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the  
44 Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to  
45 the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and  
46 dispensing of covered substances to recipients and any abstracts from such information that are in the  
47 possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.)  
48 of Title 54.1 and any material relating to the operation or security of the Program.

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

52 4. Investigative notes; proprietary information not published, copyrighted or patented; information  
53 obtained from employee personnel records; personally identifiable information regarding residents, clients or  
54 other recipients of services; other correspondence and information furnished in confidence to the Department  
55 of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1  
56 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the  
57 Department of Social Services in connection with an active investigation of an applicant or licensee pursuant  
58 to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to  
59 the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1  
60 (§ 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,  
61 nothing in this subdivision shall prevent the disclosure of information from the records of completed  
62 investigations in a form that does not reveal the identity of complainants, persons supplying information, or

63 other individuals involved in the investigation.

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

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

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

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

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

92 10. Any information copied, recorded, or received by the Commissioner of Health in the course of an  
93 examination, investigation, or review of a managed care health insurance plan licensee pursuant to

94        §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all  
95        computer or other recordings.

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

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

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

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

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

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

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

113       **§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

115       1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
116       appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
117       officers, appointees, or employees of any public body; and evaluation of performance of departments or  
118       schools of public institutions of higher education where such evaluation will necessarily involve discussion of  
119       the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting  
120       in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some  
121       student and the student involved in the matter is present, provided that the teacher makes a written request to  
122       be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be  
123       construed to authorize a closed meeting by a local governing body or an elected school board to discuss

124 compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

204        20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of  
205        any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of  
206        a trust established by one or more local public bodies to invest funds for postemployment benefits other than  
207        pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of  
208        visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth  
209        Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or  
210        other ownership interest in an entity, where such security or ownership interest is not traded on a  
211        governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential  
212        analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or

213 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement  
214 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of  
215 confidentiality, of the future value of such ownership interest or the future financial performance of the  
216 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed  
217 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University  
218 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the  
219 disclosure of information relating to the identity of any investment held, the amount invested or the present  
220 value of such investment.

221 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
222 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual  
223 child death cases are discussed by a regional or local child fatality review team established pursuant to  
224 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence  
225 fatality review teams established pursuant to § 32.1-283.3, *those portions of meetings in which individual*  
226 *fetal and infant death cases are discussed by the Fetal and Infant Health Data and Quality Improvement*  
227 *Review Team pursuant to § 32.1-283.9*, those portions of meetings in which individual adult death cases are  
228 discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of  
229 meetings in which individual adult death cases are discussed by a local or regional adult fatality review team  
230 established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed  
231 by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which  
232 individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to  
233 § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental  
234 disabilities are discussed by the Developmental Disabilities Mortality Review Committee established  
235 pursuant to § 37.2-314.1.

236 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion  
237 University, as the case may be, and those portions of meetings of any persons to whom management  
238 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center  
239 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,  
240 business-related information pertaining to the operations of the University of Virginia Medical Center or the  
241 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business  
242 development or marketing strategies and activities with existing or future joint venturers, partners, or other

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

365        54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding

366 the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting  
367 and any discussion, consideration, or review of matters related to investigations excluded from mandatory  
368 disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

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

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

388 **§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

390 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
391 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
392 officers, appointees, or employees of any public body; and evaluation of performance of departments or  
393 schools of public institutions of higher education where such evaluation will necessarily involve discussion of  
394 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting  
395 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some

396 student and the student involved in the matter is present, provided that the teacher makes a written request to  
397 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be  
398 construed to authorize a closed meeting by a local governing body or an elected school board to discuss  
399 compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

424 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters

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

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

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

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

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

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

452 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to  
453 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in

454 open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the  
455 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.

456 All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

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

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

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

479 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of  
480 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of  
481 a trust established by one or more local public bodies to invest funds for postemployment benefits other than  
482 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of  
483 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth

484 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or  
485 other ownership interest in an entity, where such security or ownership interest is not traded on a  
486 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential  
487 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or  
488 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement  
489 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of  
490 confidentiality, of the future value of such ownership interest or the future financial performance of the  
491 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed  
492 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University  
493 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the  
494 disclosure of information relating to the identity of any investment held, the amount invested or the present  
495 value of such investment.

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

749        *Review Team pursuant to § 32.1-283.9*, and any operating procedures for review of the deaths of persons with

750        a developmental disability developed by the Developmental Disabilities Mortality Review Committee

751        pursuant to § 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 Health Data and Quality Improvement Review Team; duties;  
771        membership; confidentiality; penalty; 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 between six months and 12 months of age.

775        "Sentinel event" means an unexpected occurrence involving death or serious physical injury related to  
776        fetal or infant care, as defined by the Department for quality improvement purposes.

777        "Team" means the Fetal and Infant Health Data and Quality Improvement Review Team established in  
778        this section.

779        B. *This section shall not apply to any fetal or infant death resulting from voluntary termination of  
780        pregnancy, medical termination of pregnancy, or self-termination events.*

781        C. *There is hereby created the Fetal and Infant Health Data and Quality Improvement Review Team,  
782        which shall develop and implement procedures to ensure that certain fetal and infant deaths occurring in the  
783        Commonwealth are analyzed through a public health data and quality improvement framework to identify  
784        systemic factors, trends, and evidence-based prevention strategies. The Team shall coordinate with the State  
785        Child Fatality Review Team established in § 32.1-283.1 and the Maternal Mortality Review Team established  
786        in § 32.1-283.8 to avoid duplicative work. The Team shall develop criteria for the selection and review of  
787        fetal and infant death in the Commonwealth, excluding those resulting from a voluntary or therapeutic  
788        termination of pregnancy and any infant death covered by the review of the State Child Fatality Review*

789 *Team. The Team shall coordinate with appropriate agencies to ensure that its activities do not interfere with*  
790 *any ongoing investigations. The Team shall (i) develop and revise as necessary operating procedures for*  
791 *fetal and infant death reviews, including identification of cases to be reviewed and procedures for*  
792 *coordinating among the agencies and professionals involved; (ii) improve the identification of and data*  
793 *collection and recordkeeping related to causes of fetal and natural infant deaths; (iii) recommend*  
794 *components of programs to increase awareness and prevention of and education about fetal and infant*  
795 *deaths; (iv) recommend training to improve the review of fetal and infant deaths; (v) develop*  
796 *recommendations to assess the service systems and community resources that support and promote the health*  
797 *and well-being of women, infants, and families; (vi) develop and recommend plans for implementing changes*  
798 *to existing state services, state programs, and organizations that serve families, children, and pregnant*  
799 *women; (vii) provide aggregate data, trends, and patterns regarding fetal and infant deaths to stakeholders*  
800 *as requested; and (viii) review aggregate data related to sentinel events associated with fetal or infant*  
801 *morbidity or mortality for the purpose of identifying system gaps, clinical quality concerns, and opportunities*  
802 *for prevention and quality improvement. The Team shall also provide evidence-based policy*  
803 *recommendations to both prevent preventable fetal and infant deaths and ensure that families receive*  
804 *necessary support pre-fetal or infant death and post-fetal or infant death. The Team shall ensure that families*  
805 *affected by fetal or infant death are informed of the availability of grief counseling and other supportive*  
806 *resources, as determined by the Team. Such operating procedures shall be exempt from the Administrative*  
807 *Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.*

808 *D. The Team shall consist of the following persons or their designees: the Chief Medical Examiner, the*  
809 *Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the*  
810 *Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of*  
811 *Criminal Justice Services shall serve ex officio with voting privileges. In addition, the Governor shall appoint*  
812 *one representative of each of the following entities: local law enforcement, local fire departments, local*  
813 *emergency medical services providers, local departments of social services, community services boards,*  
814 *attorneys for the Commonwealth, the Medical Society of Virginia, the Virginia Hospital and Healthcare*  
815 *Association, the Virginia College of Emergency Physicians, the Virginia Section of the American College of*  
816 *Obstetricians and Gynecologists, the Virginia Affiliate of the American College of Nurse-Midwives, the*  
817 *Virginia Chapter of the Association of Women's Health, Obstetric and Neonatal Nurses, the Virginia*  
818 *Neonatal Perinatal Collaborative, the Virginia Midwives Alliance, and the Virginia Academy of Nutrition*  
819 *and Dietetics, and, in a number to make up no less than one-third of the total Team, representatives of*

820 *community organizations who work directly with the community on issues of fetal and infant mortality,*  
821 *including doulas, midwives, members of local nonprofits, individuals from geographically representative*  
822 *areas of the Commonwealth, experts as determined by the Team, and other stakeholders, to rotate every four*  
823 *years. Membership shall emphasize public health, data analysis, and maternal and infant health expertise.*  
824 *The Chief Medical Examiner and a co-chair to be determined by the chair shall serve as co-chairs of the*  
825 *Team and may invite additional individuals to serve on the Team.*

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

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

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

868       *The portions of meetings in which individual fetal or infant deaths are discussed by the Team shall be*  
869       *closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all Team*  
870       *members and other persons attending closed Team meetings, including any persons presenting information*  
871       *or records on specific fetal or infant deaths to the Team during closed meetings, shall execute a sworn*  
872       *statement to (i) honor the confidentiality of the information, records, discussions, and opinions disclosed*  
873       *during meetings at which the Team reviews a specific fetal or infant death and (ii) not use any such*  
874       *information, records, discussions, or opinions disclosed during meetings at which the Team reviews a*  
875       *specific fetal or infant death for any purpose other than the exercise of the proper purpose and function of the*  
876       *Team. Violations of this subsection are punishable as a Class 3 misdemeanor.*

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

880       *H. The Team shall compile triennial statistical data, which shall be made available to the Governor, the*  
881       *General Assembly, and the Department. Any statistical compilations prepared by the Team shall be public*

882 *record and shall contain no personal identifying information. The Team shall include policy*  
883 *recommendations where appropriate and consistent with the purpose of the Team as specified in subsection*  
884 *C.*

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

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