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HOUSE BILL NO. 1403
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Health and Human Services
on _____)
(Patron Prior to Substitute—Delegate Franklin, M.A.)

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 in Chapter 2 of Title 32.1 an article numbered 25, consisting of a section numbered 32.1-73.33, relating to Severe Maternal Morbidity Surveillance and Review Program established.

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 in Chapter 2 of Title 32.1 an article numbered 25, consisting of a section numbered 32.1-73.33, 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

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

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

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

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

53 4. Investigative notes; proprietary information not published, copyrighted or patented; information
54 obtained from employee personnel records; personally identifiable information regarding residents, clients or
55 other recipients of services; other correspondence and information furnished in confidence to the Department
56 of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1
57 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the
58 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; *(vi) during a review of any severe maternal morbidity, as that term is defined in*
80 *§ 32.1-73.33, conducted by the Severe Maternal Morbidity Surveillance and Review Program to the extent*
81 *that such information is made confidential by § 32.1-73.33; or ~~(vi)~~ (vii) during a review of any death*
82 *conducted by the Developmental Disabilities Mortality Review Committee to the extent that such information*
83 *is made confidential by § 37.2-314.1.*

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

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

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

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

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

104 13. The names and addresses or other contact information of persons receiving transportation services
105 from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42
106 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under
107 § 63.2-600.

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

110 15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16
111 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

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

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

115 **§ 2.2-3711. (Effective until July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

117 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
118 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
119 officers, appointees, or employees of any public body; and evaluation of performance of departments or
120 schools of public institutions of higher education where such evaluation will necessarily involve discussion of
121 the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting
122 in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some
123 student and the student involved in the matter is present, provided that the teacher makes a written request to

124 be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be
125 construed to authorize a closed meeting by a local governing body or an elected school board to discuss
126 compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

151 8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters
152 requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to

153 permit the closure of a meeting merely because an attorney representing the public body is in attendance or is
154 consulted on a matter.

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

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

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

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

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

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

182 governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both.
183 All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

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

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

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

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

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

223 21. Those portions of meetings in which individual child death cases are discussed by the State Child
224 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
225 child death cases are discussed by a regional or local child fatality review team established pursuant to
226 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
227 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
228 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
229 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
230 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
231 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
232 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
233 Review Team pursuant to § 32.1-283.8, *those portions of meetings in which severe maternal morbidity cases*
234 *are discussed by the Severe Maternal Morbidity Surveillance and Review Program pursuant to § 32.1-73.33,*
235 and those portions of meetings in which individual death cases of persons with developmental disabilities are
236 discussed by the Developmental Disabilities Mortality Review Committee established pursuant to
237 § 37.2-314.1.

238 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
239 University, as the case may be, and those portions of meetings of any persons to whom management
240 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
241 at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary,
242 business-related information pertaining to the operations of the University of Virginia Medical Center or the
243 Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business

244 development or marketing strategies and activities with existing or future joint venturers, partners, or other
245 parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center
246 at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of
247 health care, if disclosure of such information would adversely affect the competitive position of the
248 University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion
249 University, as the case may be.

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

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

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

266 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
267 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
268 § 56-484.12, related to the provision of wireless E-911 service.

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

274 either of the parties.

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

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

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

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

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

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

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

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

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

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

305 Authority.

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

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

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

315 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
316 executive order for the purpose of studying and making recommendations regarding preventing closure or
317 realignment of federal military and national security installations and facilities located in Virginia and
318 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
319 local governing body, during which there is discussion of information subject to the exclusion in subdivision
320 8 of § 2.2-3705.2.

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

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

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

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

336 or is the subject of, the information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

390 **§ 2.2-3711. (Effective July 1, 2026) Closed meetings authorized for certain limited purposes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

454 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to

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

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

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

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

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

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

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

485 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
486 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
487 other ownership interest in an entity, where such security or ownership interest is not traded on a
488 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
489 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
490 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
491 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
492 confidentiality, of the future value of such ownership interest or the future financial performance of the
493 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
494 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
495 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
496 disclosure of information relating to the identity of any investment held, the amount invested or the present
497 value of such investment.

498 21. Those portions of meetings in which individual child death cases are discussed by the State Child
499 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual
500 child death cases are discussed by a regional or local child fatality review team established pursuant to
501 § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence
502 fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual
503 adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5,
504 those portions of meetings in which individual adult death cases are discussed by a local or regional adult
505 fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual
506 death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those
507 portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality
508 Review Team pursuant to § 32.1-283.8, *those portions of meetings in which severe maternal morbidity cases*
509 *are discussed by the Severe Maternal Morbidity Surveillance and Review Program pursuant to § 32.1-73.33,*
510 and those portions of meetings in which individual death cases of persons with developmental disabilities are
511 discussed by the Developmental Disabilities Mortality Review Committee established pursuant to
512 § 37.2-314.1.

513 22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion
514 University, as the case may be, and those portions of meetings of any persons to whom management
515 responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center

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

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

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

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

541 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
542 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
543 § 56-484.12, related to the provision of wireless E-911 service.

544 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
545 Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy

546 conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or
547 meetings of health regulatory boards or conference committees of such boards to consider settlement
548 proposals in pending disciplinary actions or modifications to previously issued board orders as requested by
549 either of the parties.

550 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6
551 by a responsible public entity or an affected locality or public entity, as those terms are defined in
552 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
553 public entity concerning such records.

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

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

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

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

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

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

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

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

577 scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover
578 scholarship awards.

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

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

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

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

591 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by
592 executive order for the purpose of studying and making recommendations regarding preventing closure or
593 realignment of federal military and national security installations and facilities located in Virginia and
594 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
595 local governing body, during which there is discussion of information subject to the exclusion in subdivision
596 8 of § 2.2-3705.2.

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

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

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

607 45. Discussion or consideration of personal and proprietary information related to the resource

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

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

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

619 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26
620 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity
621 Board.

622 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team
623 established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a
624 child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases
625 involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and
626 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established
627 pursuant to § 15.2-1627.6.

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

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

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

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

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

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

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

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

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

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

666 **§ 2.2-4002. Exemptions from chapter generally.**

667 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the
668 following agencies shall be exempted from the provisions of this chapter, except to the extent that they are

669 specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

670 1. The General Assembly.

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

673 3. The Department of Wildlife Resources in promulgating regulations regarding the management of
674 wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3
675 (§ 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.

676 4. The Virginia Housing Development Authority.

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

679 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031, such
680 educational institutions shall be exempt from the publication requirements only with respect to regulations
681 that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion, and disciplining of faculty and
682 employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of students.

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

686 8. The Virginia Resources Authority.

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

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

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

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

694 13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer
695 Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of
696 § 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
697 § 3.2-5406.

698 14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,

699 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists
700 pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

701 15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to
702 § 2.2-2001.3.

703 16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to
704 § 22.1-203.2.

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

708 18. The Virginia Small Business Financing Authority.

709 19. The Virginia Economic Development Partnership Authority.

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

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

713 22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of
714 Health pursuant to § 32.1-35 and in adopting, amending, or repealing regulations pursuant to subsection C of
715 § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food
716 service.

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

719 24. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to
720 § 58.1-3219.7 or 58.1-3219.11.

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

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

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

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

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

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

- 729 5. The chartering of corporations.
- 730 6. Customary military, militia, naval, or police functions.
- 731 7. The selection, tenure, dismissal, direction, or control of any officer or employee of an agency of the
732 Commonwealth.
- 733 8. The conduct of elections or eligibility to vote.
- 734 9. Inmates of prisons or other such facilities or parolees therefrom.
- 735 10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state
736 institutions as well as the treatment, supervision, or discharge of such persons.
- 737 11. Traffic signs, markers, or control devices.
- 738 12. Instructions for application or renewal of a license, certificate, or registration required by law.
- 739 13. Content of, or rules for the conduct of, any examination required by law.
- 740 14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).
- 741 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with
742 duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and
743 posted.
- 744 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
745 finfish, or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
- 746 17. Any operating procedures for review of child deaths developed by the State Child Fatality Review
747 Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult
748 Fatality Review Team pursuant to § 32.1-283.5, any operating procedures for review of adult deaths
749 developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, *any operating procedures for*
750 *review of severe maternal morbidity developed by the Severe Maternal Morbidity Surveillance and Review*
751 *Program pursuant to § 32.1-73.33*, and any operating procedures for review of the deaths of persons with a
752 developmental disability developed by the Developmental Disabilities Mortality Review Committee pursuant
753 to § 37.2-314.1.
- 754 18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the
755 activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515
756 et seq.) of Title 54.1.
- 757 19. The process of reviewing and ranking grant applications submitted to the Commonwealth
758 Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title

759 51.5.

760 20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4
761 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

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

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

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

765 24. Any rules adopted by the Department of Agriculture and Consumer Services for the approval and
766 conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games,
767 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
768 and (ii) published and posted.

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

772 *Article 25.*

773 *Severe Maternal Morbidity Surveillance and Review Program.*

774 **§ 32.1-73.33. Severe Maternal Morbidity Surveillance and Review Program.**

775 *A. For the purposes of this section:*

776 *“Severe maternal morbidity” means unintended outcomes of the process of labor and delivery that result*
777 *in significant short-term or long-term consequences to a woman's health.*

778 *“SMM Program” means the Severe Maternal Morbidity Surveillance and Review Program established*
779 *pursuant to this article.*

780 *B. The Department shall:*

781 *1. Establish the Severe Maternal Morbidity Surveillance and Review Program for the purpose of*
782 *identifying, analyzing, and reviewing instances of severe maternal morbidity;*

783 *2. Develop a reporting system for hospitals and freestanding birthing centers to report findings and*
784 *recommendations;*

785 *3. Develop a severe maternal morbidity surveillance case definition aligned with evidence-based practice*
786 *and reflecting stakeholder subject matter expertise; and*

787 *4. Develop a model protocol for the development and implementation of severe maternal mortality*
788 *advisory boards established pursuant to subsection C. Such model protocol shall include relevant procedures*
789 *for conducting reviews of severe maternal morbidity.*

790 *C. Each hospital and freestanding birthing center shall participate in the SMM Program and shall:*

791 *1. Establish an advisory board to review severe maternal morbidity cases. Such advisory board shall*

792 *consist of a multidisciplinary group of health care providers, experts in maternal care, and community*

793 *members, including:*

794 *a. At least one representative from a community-based organization primarily serving minority*

795 *populations with high rates of maternal mortality or morbidity;*

796 *b. At least one community-based doula or midwife with experience in providing perinatal support; and*

797 *c. Other relevant community members, as deemed appropriate by the hospital or freestanding birth*

798 *center.*

799 *2. Review all severe maternal morbidity events using the severe maternal morbidity surveillance case*

800 *definition;*

801 *3. Identify the drivers, risk factors, and causes of severe maternal morbidity;*

802 *4. Engage in quality improvement efforts regarding severe maternal morbidity based on the reviews;*

803 *5. Determine whether severe maternal morbidity events were potentially preventable;*

804 *6. Make recommendations to reduce the prevalence of severe maternal morbidity in the Commonwealth;*

805 *and*

806 *7. Report its findings and recommendations to the Department on an annual basis at a time and through a*

807 *reporting system specified by the Department.*

808 *D. The Department shall analyze reports submitted pursuant to subdivision C 7 and incorporate*

809 *recommendations as part of the annual report released by the SMM Program. The SMM Program shall also*

810 *work collaboratively with the Maternal Mortality Review Team established pursuant to § 32.1-283.8 to*

811 *address shared risk and protective factors for both severe maternal morbidity and maternal mortality.*

812 *E. The Department shall annually compile statewide trends of severe maternal morbidity and publish such*

813 *trends on its website. Any statistical compilations relating to severe maternal morbidity shall comply with the*

814 *provisions of § 32.1-127.1:03 and the federal Health Insurance Portability and Accountability Act of 1996*

815 *(42 U.S.C. § 1320d et seq.) and shall not contain any personal identifying information.*

816 *F. Upon the request of the Department, made after the conclusion of any law-enforcement investigation or*

817 *prosecution, the Department or its designee may inspect and copy information and records regarding a severe*

818 *maternal morbidity event. Information, records, or reports maintained by any attorney for the*

819 *Commonwealth shall be made available for inspection and copying by the Department or its designee*

820 *pursuant to procedures that shall be developed by the Department and the Commonwealth's Attorneys'*

821 *Services Council established by § 2.2-2617. Any presentence report prepared pursuant to § 19.2-299 for any*
822 *person convicted of a crime that led to a severe maternal morbidity event shall be made available for*
823 *inspection and copying by the Department or its designee. In addition, the Department or its designee may*
824 *inspect and copy from any health care provider or hospital system in the Commonwealth, on behalf of the*
825 *SMM Program, (i) without obtaining consent, subject to any limitations on disclosure under applicable*
826 *federal and state law, the health and mental health records of the woman and those prenatal medical records*
827 *relating to any child born to the woman and (ii) upon obtaining consent, from each adult regarding his*
828 *records.*

829 *G. All information and records obtained or created by the SMM Program or on behalf of the SMM*
830 *Program regarding a review shall be confidential and excluded from the Virginia Freedom of Information*
831 *Act (§ 2.2-3700 et seq.) pursuant to subdivision 7 of § 2.2-3705.5. All such information and records shall be*
832 *used by the SMM Program only in the exercise of its proper purpose and function and shall not be disclosed.*
833 *In preparing information and records for review by the SMM Program, the Department shall remove any*
834 *individually identifiable information or information identifying a health care provider, as those terms are*
835 *defined in 45 C.F.R. § 160.103. Such information shall not be subject to subpoena, subpoena duces tecum, or*
836 *discovery, be admissible in any civil or criminal proceeding, or be used as evidence in any disciplinary*
837 *proceeding or regulatory or licensure action of the Department of Health Professions or any health*
838 *regulatory board. If available from other sources, however, such information and records shall not be*
839 *immune from subpoena, discovery, or introduction into evidence when obtained through such other sources*
840 *solely because the information and records were presented to the SMM Program during a severe maternal*
841 *morbidity review. The findings of the SMM Program may be disclosed or published in statistical or other*
842 *form but shall not identify any individual. Upon conclusion of the severe maternal morbidity review, all*
843 *information and records concerning the case shall be shredded or otherwise destroyed by the Department in*
844 *order to ensure confidentiality.*

845 *All portions of meetings in which individual severe morbidity events are discussed by the SMM Program*
846 *shall be closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all*
847 *SMM Program members and other persons attending closed SMM Program meetings, including any persons*
848 *presenting information or records on specific severe maternal morbidity events to the SMM Program during*
849 *closed meetings, shall execute a sworn statement to (i) honor the confidentiality of the information, records,*
850 *discussions, and opinions disclosed during meetings at which the SMM Program reviews a specific severe*
851 *maternal morbidity event and (ii) not use any such information, records, discussions, or opinions disclosed*

852 *during meetings at which the SMM Program reviews a specific severe maternal morbidity event for any*
853 *purpose other than the exercise of the proper purpose and function of the SMM Program. Violations of this*
854 *subsection are punishable as a Class 3 misdemeanor.*

855 *H. The Board shall promulgate regulations as necessary to implement the SMM Program.*

856 **2. That the provisions of this act shall become effective on September 1, 2026.**

857 **3. That the provisions of this act shall not become effective unless an appropriation effectuating the**
858 **purposes of this act is included in a general appropriation act passed in 2026 by the General Assembly**
859 **that becomes law.**