

26107290D

## HOUSE BILL NO. 1403

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services  
on February 10, 2026)

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

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

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

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

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to

the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 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, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

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

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

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review Team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6; (iv) by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.7; (v) during a review of any death conducted by the Maternal Mortality Review Team to the extent that such information is made confidential by § 32.1-283.8; (vi) *during a review of any severe maternal morbidity, as that term is defined in § 32.1-73.33, conducted by the Severe Maternal Morbidity Surveillance and Review Program to the extent that such information is made confidential by § 32.1-73.33;* or ~~(vi)~~ (vii) during a review of any death conducted by the Developmental Disabilities Mortality Review Committee to the extent that such information is made confidential by § 37.2-314.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29. Discussion of the award of a public contract involving the expenditure of public funds, including

interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion

in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The General Assembly.

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

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

4. The Virginia Housing Development Authority.

5. Municipal corporations, counties, and all local, regional, or multijurisdictional authorities created under 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.).

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and posted.

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

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5, any operating procedures for review of adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, *any operating procedures for review of severe maternal morbidity developed by the Severe Maternal Morbidity Surveillance and Review Program pursuant to § 32.1-73.33*, and any operating procedures for review of the deaths of persons with a developmental disability developed by the Developmental Disabilities Mortality Review Committee pursuant to § 37.2-314.1.

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

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

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

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

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

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

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

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

#### Article 25.

#### *Severe Maternal Morbidity Surveillance and Review Program.*

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

A. For the purposes of this section:

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

"SMM Program" means the Severe Maternal Morbidity Surveillance and Review Program established pursuant to this article.

B. The Department shall:

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

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

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

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

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

1. Establish an advisory board to review severe maternal morbidity cases. Such advisory board shall consist of a multidisciplinary group of health care providers, experts in maternal care, and community members, including:

a. At least one representative from a community-based organization primarily serving minority populations with high rates of maternal mortality or morbidity;

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

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

2. Review all severe maternal morbidity events using the severe maternal morbidity surveillance case definition;

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

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.**