

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-3705.7 of the Code of Virginia, relating to Virginia Freedom of*  
 3 *Information Act; exemption for records of minors participating in certain programs run by state public*  
 4 *bodies.*

5 [H 644]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted as follows:**9 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**  
 10 **other limited exclusions.**11 The following information contained in a public record is excluded from the mandatory disclosure  
 12 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such  
 13 disclosure is prohibited by law. Redaction of information excluded under this section from a public record  
 14 shall be conducted in accordance with § 2.2-3704.01.15 1. State income, business, and estate tax returns, personal property tax returns, and confidential records  
 16 held pursuant to § 58.1-3.17 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the  
 18 Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks  
 19 of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political  
 20 subdivision of the Commonwealth; or the president or other chief executive officer of any public institution  
 21 of higher education in the Commonwealth. However, no information that is otherwise open to inspection  
 22 under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated  
 23 within any working paper or correspondence. Further, information publicly available or not otherwise subject  
 24 to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed  
 25 in format without substantive analysis or revision shall not be deemed working papers. Nothing in this  
 26 subdivision shall be construed to authorize the withholding of any resumes or applications submitted by  
 27 persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

28 As used in this subdivision:

29 "Members of the General Assembly" means each member of the Senate of Virginia and the House of  
 30 Delegates and their legislative aides when working on behalf of such member.31 "Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy,  
 32 and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to  
 33 whom the Governor has delegated his authority pursuant to § 2.2-104.34 "Working papers" means those records prepared by or for a public official identified in this subdivision  
 35 for his personal or deliberative use.36 3. Information contained in library records that can be used to identify (i) both (a) any library patron who  
 37 has borrowed or accessed material or resources from a library and (b) the material or resources such patron  
 38 borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access  
 39 shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.40 4. Contract cost estimates prepared for the confidential use of the Department of Transportation in  
 41 awarding contracts for construction or the purchase of goods or services, and records and automated systems  
 42 prepared for the Department's Bid Analysis and Monitoring Program.43 5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the  
 44 lists are maintained by the political subdivision itself or by a single fiduciary designated by the political  
 45 subdivision.46 6. Information furnished by a member of the General Assembly to a meeting of a standing committee,  
 47 special committee, or subcommittee of his house established solely for the purpose of reviewing members'  
 48 annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory  
 49 opinions to members on standards of conduct, or both.50 7. Customer account information of a public utility affiliated with a political subdivision of the  
 51 Commonwealth, including the customer's name and service address, but excluding the amount of utility  
 52 service provided and the amount of money charged or paid for such utility service.53 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development  
 54 Authority concerning individuals who have applied for or received loans or other housing assistance or who  
 55 have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the  
 56 Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting

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57 list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing  
 58 authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for  
 59 housing assistance programs funded by local governments or by any such authority; or (iv) filed with any  
 60 local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency  
 61 concerning persons who have applied for occupancy or who have occupied affordable dwelling units  
 62 established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be  
 63 denied.

64 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if  
 65 disclosure of such information would have a detrimental effect upon the negotiating position of a governing  
 66 body or on the establishment of the terms, conditions, and provisions of the siting agreement.

67 10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant  
 68 and animal species, natural communities, caves, and significant historic and archaeological sites if, in the  
 69 opinion of the public body that has the responsibility for such information, disclosure of the information  
 70 would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to  
 71 requests from the owner of the land upon which the resource is located.

72 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary  
 73 nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery  
 74 game design, development, production, operation, ticket price, prize structure, manner of selecting the  
 75 winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or  
 76 selections of winning tickets, odds of winning, advertising, or marketing, where such information not been  
 77 publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-  
 78 related information shall be subject to public disclosure under this chapter upon the first day of sales for the  
 79 specific lottery game to which it pertains.

80 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local  
 81 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust  
 82 established by one or more local public bodies to invest funds for post-retirement benefits other than  
 83 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of  
 84 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The  
 85 College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers  
 86 Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other  
 87 ownership interest in an entity, where such security or ownership interest is not traded on a governmentally  
 88 regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses  
 89 prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The  
 90 College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board  
 91 of trustees, or the Commonwealth Savers Plan, or provided to the retirement system, a local finance board or  
 92 board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality of the future value of  
 93 such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the  
 94 value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or  
 95 board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of  
 96 William and Mary in Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be  
 97 construed to prevent the disclosure of information relating to the identity of any investment held, the amount  
 98 invested, or the present value of such investment.

99 13. Financial, medical, rehabilitative, and other personal information concerning applicants for or  
 100 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under  
 101 Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

102 14. Information held by the Virginia Commonwealth University Health System Authority pertaining to  
 103 any of the following: an individual's qualifications for or continued membership on its medical or teaching  
 104 staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to  
 105 a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for  
 106 construction or the purchase of goods or services; information of a proprietary nature produced or collected  
 107 by or for the Authority or members of its medical or teaching staffs; financial statements not publicly  
 108 available that may be filed with the Authority from third parties; the identity, accounts, or account status of  
 109 any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in  
 110 connection with its strategic planning and goals; the determination of marketing and operational strategies  
 111 where disclosure of such strategies would be harmful to the competitive position of the Authority; and  
 112 information of a proprietary nature produced or collected by or for employees of the Authority, other than the  
 113 Authority's financial or administrative records, in the conduct of or as a result of study or research on  
 114 medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction  
 115 with a governmental body or a private concern, when such information has not been publicly released,  
 116 published, copyrighted, or patented. This exclusion shall also apply when such information is in the  
 117 possession of Virginia Commonwealth University.

118 15. Information held by the Department of Environmental Quality, the State Water Control Board, the

119 State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal  
 120 environmental enforcement actions that are considered confidential under federal law and (ii) enforcement  
 121 strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be  
 122 disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the  
 123 agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection  
 124 reports, notices of violation, and documents detailing the nature of any environmental contamination that may  
 125 have occurred or similar documents.

126 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel  
 127 itinerary, including vehicle identification data or vehicle enforcement system information; video or  
 128 photographic images; Social Security or other identification numbers appearing on driver's licenses; credit  
 129 card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

130 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification  
 131 number, state sales tax number, home address and telephone number, personal and lottery banking account  
 132 and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific  
 133 retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won  
 134 shall be disclosed. If the value of the prize won by the winner is \$1 million or greater, the information  
 135 described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

136 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person  
 137 regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary  
 138 action by the Board for a positive test result.

139 19. Information pertaining to the planning, scheduling, and performance of examinations of holder records  
 140 pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the  
 141 State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder  
 142 records.

143 20. Information held by the Virginia Department of Emergency Management or a local governing body  
 144 relating to citizen emergency response teams established pursuant to an ordinance of a local governing body  
 145 that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of  
 146 an individual participant in the program.

147 21. Information held by state or local park and recreation departments and local and regional park  
 148 authorities or by the Department of Workforce Development and Advancement concerning identifiable  
 149 individuals younger than 18 years of age. However, nothing in this subdivision shall operate to prevent the  
 150 disclosure of information defined as directory information under regulations implementing the federal Family  
 151 Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental  
 152 notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent,  
 153 including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been  
 154 terminated or a court of competent jurisdiction has restricted or denied such access. For such information of  
 155 persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or  
 156 emancipated person who is the subject of the information may waive, in writing, the protections afforded by  
 157 this subdivision. If the protections are so waived, the public body shall open such information for inspection  
 158 and copying.

159 22. Information submitted for inclusion in the Statewide Alert Network administered by the Department  
 160 of Emergency Management that reveal names, physical addresses, email addresses, computer or internet  
 161 protocol information, telephone numbers, pager numbers, other wireless or portable communications device  
 162 information, or operating schedules of individuals or agencies, where the release of such information would  
 163 compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert  
 164 Network.

165 23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

166 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local  
 167 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system),  
 168 or the Commonwealth Savers Plan, acting pursuant to § 23.1-704 relating to:

169 a. Internal deliberations of or decisions by the retirement system or the Commonwealth Savers Plan on the  
 170 pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the  
 171 execution of such investment strategies or the selection or termination of such managers, if disclosure of such  
 172 information would have an adverse impact on the financial interest of the retirement system or the  
 173 Commonwealth Savers Plan; and

174 b. Trade secrets provided by a private entity to the retirement system or the Commonwealth Savers Plan if  
 175 disclosure of such records would have an adverse impact on the financial interest of the retirement system or  
 176 the Commonwealth Savers Plan.

177 For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity  
 178 shall make a written request to the retirement system or the Commonwealth Savers Plan:

179 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which  
 180 protection from disclosure is sought;

- 181 (2) Identifying with specificity the data or other materials for which protection is sought; and  
182 (3) Stating the reasons why protection is necessary.
- 183 The retirement system or the Commonwealth Savers Plan shall determine whether the requested exclusion  
184 from disclosure meets the requirements set forth in subdivision b.
- 185 Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any  
186 investment held or the present value and performance of all asset classes and subclasses.
- 187 25. Information held by the Department of Corrections made confidential by former § 53.1-233.
- 188 26. Information maintained by the Department of the Treasury or participants in the Local Government  
189 Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to  
190 establish accounts in accordance with § 2.2-4602.
- 191 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust  
192 Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that  
193 access shall not be denied to the person who is the subject of the information.
- 194 28. Information maintained in connection with fundraising activities by the Veterans Services Foundation  
195 pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social  
196 security number or other identification number appearing on a driver's license or other document issued under  
197 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or  
198 bank account data of identifiable donors, except that access shall not be denied to the person who is the  
199 subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure  
200 of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the  
201 donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or  
202 donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the  
203 identities of sponsors providing grants to or contracting with the foundation for the performance of services  
204 or other work or (ii) the terms and conditions of such grants or contracts.
- 205 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the  
206 training of state prosecutors or law-enforcement personnel, where such information is not otherwise available  
207 to the public and the disclosure of such information would reveal confidential strategies, methods, or  
208 procedures to be employed in law-enforcement activities or materials created for the investigation and  
209 prosecution of a criminal case.
- 210 30. Information provided to the Department of Aviation by other entities of the Commonwealth in  
211 connection with the operation of aircraft where the information would not be subject to disclosure by the  
212 entity providing the information. The entity providing the information to the Department of Aviation shall  
213 identify the specific information to be protected and the applicable provision of this chapter that excludes the  
214 information from mandatory disclosure.
- 215 31. Information created or maintained by or on the behalf of the judicial performance evaluation program  
216 related to an evaluation of any individual justice or judge made confidential by § 17.1-100.
- 217 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are  
218 discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child  
219 abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse  
220 response teams established pursuant to § 15.2-1627.5, (iii) individual cases of abuse, neglect, or exploitation  
221 of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to  
222 §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases are discussed by any human  
223 trafficking response team established pursuant to § 15.2-1627.6. The findings of any such team may be  
224 disclosed or published in statistical or other aggregated form that does not disclose the identity of specific  
225 individuals.
- 226 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the  
227 Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies,  
228 specific allocation of resources and staff for marketing activities, and specific marketing activities that would  
229 reveal to the Commonwealth's competitors for economic development projects the strategies intended to be  
230 deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth.  
231 The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or  
232 withheld pursuant to this subdivision.
- 233 34. Information discussed in a closed session of the Physical Therapy Compact Commission or the  
234 Executive Board or other committees of the Commission for purposes set forth in subsection E of  
235 § 54.1-3491.
- 236 35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority),  
237 an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i)  
238 internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior  
239 to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets  
240 Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant  
241 to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.
- 242 36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary

243 exclusion program administered pursuant to § 58.1-4015.1.

244 37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any  
245 person reporting prohibited conduct pursuant to § 58.1-4043.

246 38. *Personal contact information held by any state public body concerning identifiable individuals*  
247 *younger than 18 years of age who are participating in a program, such as an apprenticeship or unpaid*  
248 *internship or externship, run by such state public body. Access shall not be denied to the parent, including a*  
249 *noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or*  
250 *a court of competent jurisdiction has restricted or denied such access. For personal contact information of*  
251 *persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or*  
252 *emancipated person who is the subject of the personal contact information may waive, in writing, the*  
253 *protections afforded by this subdivision. If the protections are so waived, the public body shall open such*  
254 *personal contact information for inspection and copying. As used in this subdivision, "personal contact*  
255 *information" means the contact information provided to the public body by the individual participating in the*  
256 *program, including (i) home or mailing address, (ii) email address, or (iii) telephone number or comparable*  
257 *number assigned to any other electronic communication device.*