

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.2-3705.5, 2.2-3711, as it is currently effective and as it shall become*
 3 *effective, and 2.2-4002 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 2*
 4 *of Title 32.1 an article numbered 25, consisting of a section numbered 32.1-73.33, relating to Severe*
 5 *Maternal Morbidity Surveillance and Review Program established.*

6 [H 1403]

7 Approved

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

9 **1. That §§ 2.2-3705.5, 2.2-3711, as it is currently effective and as it shall become effective, and 2.2-4002**
 10 **of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by**
 11 **adding in Chapter 2 of Title 32.1 an article numbered 25, consisting of a section numbered 32.1-73.33,**
 12 **as follows:**

13 **§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

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

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

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

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

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

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

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

51 4. Investigative notes; proprietary information not published, copyrighted or patented; information
 52 obtained from employee personnel records; personally identifiable information regarding residents, clients or
 53 other recipients of services; other correspondence and information furnished in confidence to the Department
 54 of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1
 55 (§ 22.1-289.02 et seq.) of Title 22.1; other correspondence and information furnished in confidence to the
 56 Department of Social Services in connection with an active investigation of an applicant or licensee pursuant

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

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

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

68 7. Information acquired (i) during a review of any child death conducted by the State Child Fatality
 69 Review Team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the
 70 extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted
 71 by a family violence fatality review team to the extent that such information is made confidential by
 72 § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the
 73 extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that
 74 such information is made confidential by § 32.1-283.6; (iv) by a local or regional overdose fatality review
 75 team to the extent that such information is made confidential by § 32.1-283.7; (v) during a review of any
 76 death conducted by the Maternal Mortality Review Team to the extent that such information is made
 77 confidential by § 32.1-283.8; (vi) *during a review of any severe maternal morbidity, as that term is defined in*
 78 *§ 32.1-73.33, conducted by the Severe Maternal Morbidity Surveillance and Review Program to the extent*
 79 *that such information is made confidential by § 32.1-73.33; or ~~(vi)~~ (vii) during a review of any death*
 80 *conducted by the Developmental Disabilities Mortality Review Committee to the extent that such information*
 81 *is made confidential by § 37.2-314.1.*

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

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

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

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

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

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

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

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

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

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

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

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

115 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
 116 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
 117 officers, appointees, or employees of any public body; and evaluation of performance of departments or
 118 schools of public institutions of higher education where such evaluation will necessarily involve discussion of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

204 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of
205 any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
206 a trust established by one or more local public bodies to invest funds for postemployment benefits other than
207 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
208 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth
209 Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
210 other ownership interest in an entity, where such security or ownership interest is not traded on a
211 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
212 analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or
213 a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement
214 system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of
215 confidentiality, of the future value of such ownership interest or the future financial performance of the
216 entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed
217 of by the retirement system, a local finance board or board of trustees, the board of visitors of the University
218 of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the
219 disclosure of information relating to the identity of any investment held, the amount invested or the present
220 value of such investment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

668 1. The General Assembly.

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

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

674 4. The Virginia Housing Development Authority.

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

676 this Code, including those with federal authorities.

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

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

684 8. The Virginia Resources Authority.

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

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

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

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

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

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

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

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

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

706 18. The Virginia Small Business Financing Authority.

707 19. The Virginia Economic Development Partnership Authority.

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

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

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

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

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

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

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

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

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

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

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

727 5. The chartering of corporations.

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

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

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

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

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

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

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

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

- 738 14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).
- 739 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with
- 740 duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and
- 741 posted.
- 742 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
- 743 finfish, or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
- 744 17. Any operating procedures for review of child deaths developed by the State Child Fatality Review
- 745 Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult
- 746 Fatality Review Team pursuant to § 32.1-283.5, any operating procedures for review of adult deaths
- 747 developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, *any operating procedures for*
- 748 *review of severe maternal morbidity developed by the Severe Maternal Morbidity Surveillance and Review*
- 749 *Program pursuant to § 32.1-73.33, and any operating procedures for review of the deaths of persons with a*
- 750 *developmental disability developed by the Developmental Disabilities Mortality Review Committee pursuant*
- 751 *to § 37.2-314.1.*
- 752 18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the
- 753 activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515
- 754 et seq.) of Title 54.1.
- 755 19. The process of reviewing and ranking grant applications submitted to the Commonwealth
- 756 Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title
- 757 51.5.
- 758 20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4
- 759 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.
- 760 21. The Virginia Breeders Fund created pursuant to § 59.1-372.
- 761 22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.
- 762 23. The administration of medication or other substances foreign to the natural horse.
- 763 24. Any rules adopted by the Department of Agriculture and Consumer Services for the approval and
- 764 conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games,
- 765 provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2
- 766 and (ii) published and posted.
- 767 C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia
- 768 Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be
- 769 exempt from the provisions of this chapter.
- 770 *Article 25.*
- 771 *Severe Maternal Morbidity Surveillance and Review Program.*
- 772 **§ 32.1-73.33. Severe Maternal Morbidity Surveillance and Review Program.**
- 773 A. For the purposes of this section:
- 774 "Severe maternal morbidity" means unintended outcomes of the process of labor and delivery that result
- 775 in significant short-term or long-term consequences to a woman's health.
- 776 "SMM Program" means the Severe Maternal Morbidity Surveillance and Review Program established
- 777 pursuant to this article.
- 778 B. The Department shall:
- 779 1. Establish the Severe Maternal Morbidity Surveillance and Review Program for the purpose of
- 780 identifying, analyzing, and reviewing instances of severe maternal morbidity;
- 781 2. Develop a reporting system for hospitals and freestanding birthing centers to report findings and
- 782 recommendations;
- 783 3. Develop a severe maternal morbidity surveillance case definition aligned with evidence-based practice
- 784 and reflecting stakeholder subject matter expertise; and
- 785 4. Develop a model protocol for the development and implementation of severe maternal mortality
- 786 advisory boards established pursuant to subsection C. Such model protocol shall include relevant procedures
- 787 for conducting reviews of severe maternal morbidity.
- 788 C. Each hospital and freestanding birthing center shall participate in the SMM Program and shall:
- 789 1. Establish an advisory board to review severe maternal morbidity cases. Such advisory board shall
- 790 consist of a multidisciplinary group of health care providers, experts in maternal care, and community
- 791 members, including:
- 792 a. At least one representative from a community-based organization primarily serving minority
- 793 populations with high rates of maternal mortality or morbidity;
- 794 b. At least one community-based doula or midwife with experience in providing perinatal support; and
- 795 c. Other relevant community members, as deemed appropriate by the hospital or freestanding birth
- 796 center.
- 797 2. Review all severe maternal morbidity events using the severe maternal morbidity surveillance case
- 798 definition;
- 799 3. Identify the drivers, risk factors, and causes of severe maternal morbidity;

800 4. Engage in quality improvement efforts regarding severe maternal morbidity based on the reviews;
 801 5. Determine whether severe maternal morbidity events were potentially preventable;
 802 6. Make recommendations to reduce the prevalence of severe maternal morbidity in the Commonwealth;
 803 and

804 7. Report its findings and recommendations to the Department on an annual basis at a time and through a
 805 reporting system specified by the Department.

806 D. The Department shall analyze reports submitted pursuant to subdivision C 7 and incorporate
 807 recommendations as part of the annual report released by the SMM Program. The SMM Program shall also
 808 work collaboratively with the Maternal Mortality Review Team established pursuant to § 32.1-283.8 to
 809 address shared risk and protective factors for both severe maternal morbidity and maternal mortality.

810 E. The Department shall annually compile statewide trends of severe maternal morbidity and publish such
 811 trends on its website. Any statistical compilations relating to severe maternal morbidity shall comply with the
 812 provisions of § 32.1-127.1:03 and the federal Health Insurance Portability and Accountability Act of 1996
 813 (42 U.S.C. § 1320d et seq.) and shall not contain any personal identifying information.

814 F. Upon the request of the Department, made after the conclusion of any law-enforcement investigation or
 815 prosecution, the Department or its designee may inspect and copy information and records regarding a severe
 816 maternal morbidity event. Information, records, or reports maintained by any attorney for the
 817 Commonwealth shall be made available for inspection and copying by the Department or its designee
 818 pursuant to procedures that shall be developed by the Department and the Commonwealth's Attorneys'
 819 Services Council established by § 2.2-2617. Any presentence report prepared pursuant to § 19.2-299 for any
 820 person convicted of a crime that led to a severe maternal morbidity event shall be made available for
 821 inspection and copying by the Department or its designee. In addition, the Department or its designee may
 822 inspect and copy from any health care provider or hospital system in the Commonwealth, on behalf of the
 823 SMM Program, (i) without obtaining consent, subject to any limitations on disclosure under applicable
 824 federal and state law, the health and mental health records of the woman and those prenatal medical records
 825 relating to any child born to the woman and (ii) upon obtaining consent, from each adult regarding his
 826 records.

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

843 All portions of meetings in which individual severe morbidity events are discussed by the SMM Program
 844 shall be closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all
 845 SMM Program members and other persons attending closed SMM Program meetings, including any persons
 846 presenting information or records on specific severe maternal morbidity events to the SMM Program during
 847 closed meetings, shall execute a sworn statement to (i) honor the confidentiality of the information, records,
 848 discussions, and opinions disclosed during meetings at which the SMM Program reviews a specific severe
 849 maternal morbidity event and (ii) not use any such information, records, discussions, or opinions disclosed
 850 during meetings at which the SMM Program reviews a specific severe maternal morbidity event for any
 851 purpose other than the exercise of the proper purpose and function of the SMM Program. Violations of this
 852 subsection are punishable as a Class 3 misdemeanor.

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

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