

036793211

HOUSE BILL NO. 2621

Offered January 8, 2003

A *BILL to amend and reenact §§ 2.2-3705 and 22.1-279.8 of the Code of Virginia, relating to school safety audits.*

Patrons—Sherwood, Keister, Jones, S.C., O'Bannon and Putney; Senators: Howell and Stolle

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-3705 and 22.1-279.8 of the Code of Virginia are amended and reenacted as follows:**

§ 2.2-3705. Exclusions to application of chapter.

A. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

2. State income, business, and estate tax returns, personal property tax returns, scholastic and confidential records held pursuant to § 58.1-3.

3. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of eighteen years. For scholastic records of students under the age of eighteen years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a state-supported institution of higher education, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is eighteen years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

4. Personnel records containing information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of any personnel record and who is eighteen years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

5. Medical and mental records, except that such records may be personally reviewed by the subject person or a physician of the subject person's choice. However, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being.

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

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and copying as provided in § 2.2-3704. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's

59 parental rights have been terminated or a court of competent jurisdiction has restricted or denied such
60 access. In instances where the person who is the subject thereof is an emancipated minor or a student in
61 a public institution of higher education, the right of access may be asserted by the subject person.

62 6. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the
63 Attorney General; the members of the General Assembly or the Division of Legislative Services; the
64 mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or
65 other chief executive officer of any public institution of higher education in Virginia. However, no
66 record, which is otherwise open to inspection under this chapter, shall be deemed exempt by virtue of
67 the fact that it has been attached to or incorporated within any working paper or correspondence.

68 As used in this subdivision:

69 "Working papers" means those records prepared by or for an above-named public official for his
70 personal or deliberative use.

71 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet
72 Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor
73 has delegated his authority pursuant to § 2.2-104.

74 7. Written advice of legal counsel to state, regional or local public bodies or the officers or
75 employees of such public bodies, and any other records protected by the attorney-client privilege.

76 8. Legal memoranda and other work product compiled specifically for use in litigation or for use in
77 an active administrative investigation concerning a matter that is properly the subject of a closed
78 meeting under § 2.2-3711.

79 9. Confidential letters and statements of recommendation placed in the records of educational
80 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an
81 application for employment, or (iii) receipt of an honor or honorary recognition.

82 10. Library records that can be used to identify both (i) any library patron who has borrowed
83 material from a library and (ii) the material such patron borrowed.

84 11. Any test or examination used, administered or prepared by any public body for purposes of
85 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's
86 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license
87 or certificate issued by a public body.

88 As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test
89 or examination and (b) any other document that would jeopardize the security of the test or examination.
90 Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by
91 law, or limit access to individual records as provided by law. However, the subject of such employment
92 tests shall be entitled to review and inspect all records relative to his performance on such employment
93 tests.

94 When, in the reasonable opinion of such public body, any such test or examination no longer has any
95 potential for future use, and the security of future tests or examinations will not be jeopardized, the test
96 or examination shall be made available to the public. However, minimum competency tests administered
97 to public school children shall be made available to the public contemporaneously with statewide release
98 of the scores of those taking such tests, but in no event shall such tests be made available to the public
99 later than six months after the administration of such tests.

100 12. Applications for admission to examinations or for licensure and scoring records maintained by
101 the Department of Health Professions or any board in that department on individual licensees or
102 applicants. However, such material may be made available during normal working hours for copying, at
103 the requester's expense, by the individual who is the subject thereof, in the offices of the Department of
104 Health Professions or in the offices of any health regulatory board, whichever may possess the material.

105 13. Records of active investigations being conducted by the Department of Health Professions or by
106 any health regulatory board in the Commonwealth.

107 14. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to
108 § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed
109 exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

110 15. Reports, documentary evidence and other information as specified in §§ 2.2-706 and 63.2-104.

111 16. Proprietary information gathered by or for the Virginia Port Authority as provided in
112 § 62.1-132.4 or § 62.1-134.1.

113 17. Contract cost estimates prepared for the confidential use of the Department of Transportation in
114 awarding contracts for construction or the purchase of goods or services, and records and automated
115 systems prepared for the Department's Bid Analysis and Monitoring Program.

116 18. Vendor proprietary information software that may be in the official records of a public body. For
117 the purpose of this subdivision, "vendor proprietary software" means computer programs acquired from a
118 vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

119 19. Financial statements not publicly available filed with applications for industrial development
120 financings.

121 20. Data, records or information of a proprietary nature produced or collected by or for faculty or
122 staff of public institutions of higher education, other than the institutions' financial or administrative
123 records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly
124 issues, whether sponsored by the institution alone or in conjunction with a governmental body or a
125 private concern, where such data, records or information has not been publicly released, published,
126 copyrighted or patented.

127 21. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,
128 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by
129 the political subdivision.

130 22. Confidential proprietary records, voluntarily provided by private business pursuant to a promise
131 of confidentiality from the Department of Business Assistance, the Virginia Economic Development
132 Partnership, the Virginia Tourism Authority, or local or regional industrial or economic development
133 authorities or organizations, used by the Department, the Partnership, the Authority, or such entities for
134 business, trade and tourism development; and memoranda, working papers or other records related to
135 businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where
136 competition or bargaining is involved and where, if such records are made public, the financial interest
137 of the governmental unit would be adversely affected.

138 23. Information that was filed as confidential under the Toxic Substances Information Act
139 (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

140 24. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis
141 center or a program for battered spouses.

142 25. Computer software developed by or for a state agency, state-supported institution of higher
143 education or political subdivision of the Commonwealth.

144 26. Investigator notes, and other correspondence and information, furnished in confidence with
145 respect to an active investigation of individual employment discrimination complaints made to the
146 Department of Human Resource Management. However, nothing in this section shall prohibit the
147 disclosure of information taken from inactive reports in a form that does not reveal the identity of
148 charging parties, persons supplying the information or other individuals involved in the investigation.

149 27. Fisheries data that would permit identification of any person or vessel, except when required by
150 court order as specified in § 28.2-204.

151 28. Records of active investigations being conducted by the Department of Medical Assistance
152 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

153 29. Records and writings furnished by a member of the General Assembly to a meeting of a standing
154 committee, special committee or subcommittee of his house established solely for the purpose of
155 reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of
156 formulating advisory opinions to members on standards of conduct, or both.

157 30. Customer account information of a public utility affiliated with a political subdivision of the
158 Commonwealth, including the customer's name and service address, but excluding the amount of utility
159 service provided and the amount of money paid for such utility service.

160 31. Investigative notes and other correspondence and information furnished in confidence with
161 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice
162 under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in
163 accordance with the authority specified in § 2.2-2638, or adopted pursuant to § 15.2-965, or adopted
164 prior to July 1, 1987, in accordance with applicable law, relating to local human rights or human
165 relations commissions. However, nothing in this section shall prohibit the distribution of information
166 taken from inactive reports in a form that does not reveal the identity of the parties involved or other
167 persons supplying information.

168 32. Investigative notes; proprietary information not published, copyrighted or patented; information
169 obtained from employee personnel records; personally identifiable information regarding residents,
170 clients or other recipients of services; and other correspondence and information furnished in confidence
171 to the Department of Social Services in connection with an active investigation of an applicant or
172 licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2.
173 However, nothing in this section shall prohibit disclosure of information from the records of completed
174 investigations in a form that does not reveal the identity of complainants, persons supplying information,
175 or other individuals involved in the investigation.

176 33. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development
177 Authority concerning individuals who have applied for or received loans or other housing assistance or
178 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
179 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the
180 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and
181 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the

182 waiting list for housing assistance programs funded by local governments or by any such authority; or
183 (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other
184 local government agency concerning persons who have applied for occupancy or who have occupied
185 affordable dwelling units established pursuant to § 15.2-2304 or § 15.2-2305. However, access to one's
186 own information shall not be denied.

187 34. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if
188 disclosure of them would have a detrimental effect upon the negotiating position of a governing body or
189 on the establishment of the terms, conditions and provisions of the siting agreement.

190 35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior
191 to the completion of such purchase, sale or lease.

192 36. Records containing information on the site specific location of rare, threatened, endangered or
193 otherwise imperiled plant and animal species, natural communities, caves, and significant historic and
194 archaeological sites if, in the opinion of the public body that has the responsibility for such information,
195 disclosure of the information would jeopardize the continued existence or the integrity of the resource.
196 This exemption shall not apply to requests from the owner of the land upon which the resource is
197 located.

198 37. Records, memoranda, working papers, graphics, video or audio tapes, production models, data
199 and information of a proprietary nature produced by or for or collected by or for the State Lottery
200 Department relating to matters of a specific lottery game design, development, production, operation,
201 ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to
202 holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning,
203 advertising, or marketing, where such official records have not been publicly released, published,
204 copyrighted or patented. Whether released, published or copyrighted, all game-related information shall
205 be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game
206 to which it pertains.

207 38. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii)
208 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
209 regulations that cause abuses in the administration and operation of the lottery and any evasions of such
210 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where
211 such official records have not been publicly released, published or copyrighted. All studies and
212 investigations referred to under clauses (iii), (iv) and (v) shall be open to inspection and copying upon
213 completion of the study or investigation.

214 39. Those portions of engineering and construction drawings and plans submitted for the sole purpose
215 of complying with the Building Code in obtaining a building permit that would identify specific trade
216 secrets or other information the disclosure of which would be harmful to the competitive position of the
217 owner or lessee. However, such information shall be exempt only until the building is completed.
218 Information relating to the safety or environmental soundness of any building shall not be exempt from
219 disclosure.

220 40. Records concerning reserves established in specific claims administered by the Department of the
221 Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of
222 Chapter 18 of this title, or by any county, city, or town.

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

226 42. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

227 43. Investigative notes, correspondence and information furnished in confidence, and records
228 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the (i)
229 Auditor of Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) Department of the
230 State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste
231 and Abuse Hotline; or (iv) committee or the auditor with respect to an investigation or audit conducted
232 pursuant to § 15.2-825. Records of completed investigations shall be disclosed in a form that does not
233 reveal the identity of the complainants or persons supplying information to investigators. Unless
234 disclosure is prohibited by this section, the records disclosed shall include, but not be limited to, the
235 agency involved, the identity of the person who is the subject of the complaint, the nature of the
236 complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective
237 action, the identity of the person who is the subject of the complaint may be released only with the
238 consent of the subject person.

239 44. Data formerly required to be submitted to the Commissioner of Health relating to the
240 establishment of new or the expansion of existing clinical health services, acquisition of major medical
241 equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

242 45. Documentation or other information that describes the design, function, operation or access
243 control features of any security system, whether manual or automated, which is used to control access to

244 or use of any automated data processing or telecommunications system.

245 46. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections
246 provided to the Department of Rail and Public Transportation, provided such information is exempt
247 under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws
248 administered by the Surface Transportation Board or the Federal Railroad Administration with respect to
249 data provided in confidence to the Surface Transportation Board and the Federal Railroad
250 Administration.

251 47. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local
252 retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of
253 Virginia, acting pursuant to § 23-76.1, relating to the acquisition, holding or disposition of a security or
254 other ownership interest in an entity, where such security or ownership interest is not traded on a
255 governmentally regulated securities exchange, to the extent that: (i) such records contain confidential
256 analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement
257 system or provided to the retirement system under a promise of confidentiality, of the future value of
258 such ownership interest or the future financial performance of the entity, and (ii) disclosure of such
259 confidential analyses would have an adverse effect on the value of the investment to be acquired, held
260 or disposed of by the retirement system or the Rector and Visitors of the University of Virginia.
261 Nothing in this subdivision shall be construed to prevent the disclosure of records relating to the identity
262 of any investment held, the amount invested, or the present value of such investment.

263 48. Confidential proprietary records related to inventory and sales, voluntarily provided by private
264 energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy
265 contingency planning purposes or for developing consolidated statistical information on energy supplies.

266 49. Confidential proprietary information furnished to the Board of Medical Assistance Services or the
267 Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of
268 Chapter 10 of Title 32.1.

269 50. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and
270 cost projections provided by a private transportation business to the Virginia Department of
271 Transportation and the Department of Rail and Public Transportation for the purpose of conducting
272 transportation studies needed to obtain grants or other financial assistance under the Transportation
273 Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is
274 exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other
275 laws administered by the Surface Transportation Board or the Federal Railroad Administration with
276 respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad
277 Administration. However, the exemption provided by this subdivision shall not apply to any wholly
278 owned subsidiary of a public body.

279 51. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department
280 of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the
281 Department not release such information.

282 52. Information required to be provided pursuant to § 54.1-2506.1.

283 53. Confidential information designated as provided in subsection D of § 2.2-4342 as trade secrets or
284 proprietary information by any person who has submitted to a public body an application for
285 prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

286 54. All information and records acquired during a review of any child death by the State Child
287 Fatality Review team established pursuant to § 32.1-283.1, during a review of any child death by a local
288 or regional child fatality review team established pursuant to § 32.1-283.2, and all information and
289 records acquired during a review of any death by a family violence fatality review team established
290 pursuant to § 32.1-283.3.

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

294 56. Confidential proprietary records that are voluntarily provided by a private entity pursuant to a
295 proposal filed with a public entity or an affected local jurisdiction under the Public-Private
296 Transportation Act of 1995 (§ 56-556 et seq.) or the Public-Private Education Facilities and
297 Infrastructure Act of 2002 (§ 56-575.1 et seq.), pursuant to a promise of confidentiality from the
298 responsible public entity or affected local jurisdiction, used by the responsible public entity or affected
299 local jurisdiction for purposes related to the development of a qualifying transportation facility or
300 qualifying project; and memoranda, working papers or other records related to proposals filed under the
301 Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure
302 Act of 2002, where, if such records were made public, the financial interest of the public or private
303 entity involved with such proposal or the process of competition or bargaining would be adversely
304 affected. In order for confidential proprietary information to be excluded from the provisions of this

305 chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials
306 for which protection from disclosure is sought, (ii) identify the data or other materials for which
307 protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this
308 subdivision, the terms "affected local jurisdiction", "public entity" and "private entity" shall be defined
309 as they are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education
310 Facilities and Infrastructure Act of 2002.

311 57. Plans to prevent or respond to terrorist activity, to the extent such records set forth specific
312 tactics, or specific security or emergency procedures, the disclosure of which would jeopardize the safety
313 of governmental personnel or the general public, or the security of any governmental facility, building,
314 structure, or information storage system.

315 58. All records of the University of Virginia or the University of Virginia Medical Center or Eastern
316 Virginia Medical School, as the case may be, that contain proprietary, business-related information
317 pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical
318 School, as the case may be, including business development or marketing strategies and activities with
319 existing or future joint venturers, partners, or other parties with whom the University of Virginia
320 Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any
321 arrangement for the delivery of health care, if disclosure of such information would be harmful to the
322 competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

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

326 60. Records of the Virginia Commonwealth University Health System Authority pertaining to any of
327 the following: an individual's qualifications for or continued membership on its medical or teaching
328 staffs; proprietary information gathered by or in the possession of the Authority from third parties
329 pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
330 awarding contracts for construction or the purchase of goods or services; data, records or information of
331 a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
332 staffs; financial statements not publicly available that may be filed with the Authority from third parties;
333 the identity, accounts or account status of any customer of the Authority; consulting or other reports
334 paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and
335 the determination of marketing and operational strategies where disclosure of such strategies would be
336 harmful to the competitive position of the Authority; and data, records or information of a proprietary
337 nature produced or collected by or for employees of the Authority, other than the Authority's financial
338 or administrative records, in the conduct of or as a result of study or research on medical, scientific,
339 technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
340 governmental body or a private concern, when such data, records or information have not been publicly
341 released, published, copyrighted or patented.

342 61. Confidential proprietary information or trade secrets, not publicly available, provided by a private
343 person or entity to the Virginia Resources Authority or to a fund administered in connection with
344 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such
345 information were made public, the financial interest of the private person or entity would be adversely
346 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of
347 confidentiality.

348 62. Confidential proprietary records that are provided by a franchisee under § 15.2-2108 to its
349 franchising authority pursuant to a promise of confidentiality from the franchising authority that relates
350 to the franchisee's potential provision of new services, adoption of new technologies or implementation
351 of improvements, where such new services, technologies or improvements have not been implemented
352 by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were
353 made public, the competitive advantage or financial interests of the franchisee would be adversely
354 affected. In order for confidential proprietary information to be excluded from the provisions of this
355 chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for
356 which protection from disclosure is sought, (ii) identify the data or other materials for which protection
357 is sought, and (iii) state the reason why protection is necessary.

358 63. Records of the Intervention Program Committee within the Department of Health Professions, to
359 the extent such records may identify any practitioner who may be, or who is actually, impaired to the
360 extent disclosure is prohibited by § 54.1-2517.

361 64. Records submitted as a grant application, or accompanying a grant application, to the
362 Commonwealth Neurotrauma Initiative Advisory Board pursuant to Chapter 3.1 (§ 51.5-12.1 et seq.) of
363 Title 51.5, to the extent such records contain (i) medical or mental records, or other data identifying
364 individual patients or (ii) proprietary business or research-related information produced or collected by
365 the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific,
366 technical or scholarly issues, when such information has not been publicly released, published,

367 copyrighted or patented, if the disclosure of such information would be harmful to the competitive
368 position of the applicant.

369 65. Information that would disclose the security aspects of a system safety program plan adopted
370 pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety
371 Oversight agency; and information in the possession of such agency, the release of which would
372 jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway
373 safety.

374 66. Documents and other information of a proprietary nature furnished by a supplier of charitable
375 gaming supplies to the Charitable Gaming Commission pursuant to subsection E of § 18.2-340.34.

376 67. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College
377 Savings Plan or its employees by or on behalf of individuals who have requested information about,
378 applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to
379 Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit
380 disclosure or publication of information in a statistical or other form that does not identify individuals or
381 provide personal information. Individuals shall be provided access to their own personal information.

382 68. Any record copied, recorded or received by the Commissioner of Health in the course of an
383 examination, investigation or review of a managed care health insurance plan licensee pursuant to
384 §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or
385 all computer or other recordings.

386 69. Engineering and architectural drawings, operational, procedural, tactical planning or training
387 manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance
388 techniques, personnel deployments, alarm or security systems or technologies, or operational and
389 transportation plans or protocols, to the extent such disclosure would jeopardize the security of any
390 governmental facility, building or structure or the safety of persons using such facility, building or
391 structure.

392 70. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple
393 Board pursuant to §§ 3.1-622 and 3.1-624.

394 71. Records of the Department of Environmental Quality, the State Water Control Board, State Air
395 Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal
396 environmental enforcement actions that are considered confidential under federal law and (ii)
397 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records
398 shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the
399 director of the agency. This subdivision shall not be construed to prohibit the disclosure of records
400 related to inspection reports, notices of violation, and documents detailing the nature of any
401 environmental contamination that may have occurred or similar documents.

402 72. As it pertains to any person, records related to the operation of toll facilities that identify an
403 individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle
404 enforcement system information; video or photographic images; Social Security or other identification
405 numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone
406 numbers; or records of the date or time of toll facility use.

407 73. Records of the Virginia Office for Protection and Advocacy consisting of documentary evidence
408 received or maintained by the Office or its agents in connection with specific complaints or
409 investigations, and records of communications between employees and agents of the Office and its
410 clients or prospective clients concerning specific complaints, investigations or cases. Upon the
411 conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Office may
412 not at any time release the identity of any complainant or person with mental illness, mental retardation,
413 developmental disabilities or other disability, unless (i) such complainant or person or his legal
414 representative consents in writing to such identification or (ii) such identification is required by court
415 order.

416 74. Information furnished in confidence to the Department of Employment Dispute Resolution with
417 respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title,
418 and memoranda, correspondence and other records resulting from any such investigation, consultation or
419 mediation. However, nothing in this section shall prohibit the distribution of information taken from
420 inactive reports in a form that does not reveal the identity of the parties involved or other persons
421 supplying information.

422 75. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1,
423 submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery
424 Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

425 76. Records of the State Lottery Department pertaining to (i) the social security number, tax
426 identification number, state sales tax number, home address and telephone number, personal and lottery
427 banking account and transit numbers of a retailer, and financial information regarding the nonlottery

428 operations of specific retail locations, and (ii) individual lottery winners, except that a winner's name,
429 hometown, and amount won shall be disclosed.

430 77. Records, information and statistical registries required to be kept confidential pursuant to
431 §§ 63.2-102 and 63.2-104.

432 78. Personal information, as defined in § 2.2-3801, including electronic mail addresses, furnished to a
433 public body for the purpose of receiving electronic mail from the public body, provided that the
434 electronic mail recipient has requested that the public body not disclose such information. However,
435 access shall not be denied to the person who is the subject of the record.

436 79. (For effective date, see note) All data, records, and reports relating to the prescribing and
437 dispensing of covered substances to recipients and any abstracts from such data, records, and reports that
438 are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et
439 seq.) of Title 54.1 and any material relating to the operation or security of the Program.

440 80. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the
441 Virginia Administrative Dispute Resolution Act.

442 81. The names, addresses and telephone numbers of complainants furnished in confidence with
443 respect to an investigation of individual zoning enforcement complaints made to a local governing body.

444 82. *Security plans and specific vulnerability assessment components of school safety audits, as*
445 *provided in § 22.1-279.8.*

446 B. Neither any provision of this chapter nor any provision of Chapter 38 (§ 2.2-3800 et seq.) of this
447 title shall be construed as denying public access to (i) contracts between a public body and its officers
448 or employees, other than contracts settling public employee employment disputes held confidential as
449 personnel records under subdivision 4. of subsection A; (ii) records of the position, job classification,
450 official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to
451 any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any
452 corporation organized by the Virginia Retirement System or its officers or employees. The provisions of
453 this subsection, however, shall not require public access to records of the official salaries or rates of pay
454 of public employees whose annual rate of pay is \$10,000 or less.

455 C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to
456 afford any rights to any person incarcerated in a state, local or federal correctional facility, whether or
457 not such facility is (i) located in the Commonwealth or (ii) operated pursuant to the Corrections Private
458 Management Act (§ 53.1-261 et seq.). However, this subsection shall not be construed to prevent an
459 incarcerated person from exercising his constitutionally protected rights, including, but not limited to, his
460 rights to call for evidence in his favor in a criminal prosecution.

461 D. Nothing in this chapter shall be construed as denying public access to the nonexempt portions of
462 a report of a consultant hired by or at the request of a local public body or the mayor or chief executive
463 or administrative officer of such public body if (i) the contents of such report have been distributed or
464 disclosed to members of the local public body or (ii) the local public body has scheduled any action on
465 a matter that is the subject of the consultant's report.

466 § 22.1-279.8. School safety audits and school crisis and emergency management plans required.

467 A. For the purposes of this section, unless the context requires otherwise:

468 "School crisis and emergency management plan" means the essential procedures, operations, and
469 assignments required to prevent, manage, and respond to a critical event or emergency, including natural
470 disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water,
471 communications or shelter; bus or other accidents; medical emergencies; student or staff member deaths;
472 explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous
473 substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of
474 a student; hostage situations; violence on school property or at school activities; incidents involving acts
475 of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities.

476 "School safety audit" means a written assessment of the safety conditions in each public school to (i)
477 identify and, if necessary, develop solutions for physical safety concerns, including building security
478 issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property
479 or at school-sponsored events. Solutions and responses ~~may~~shall include recommendations for structural
480 adjustments, changes in school safety procedures, and revisions to the school board's standards for
481 student conduct.

482 B. The Superintendent of Public Instruction shall develop a list of items to be reviewed and
483 evaluated in the school safety audits required by this section. Each local school board shall require all
484 schools under its supervisory control to *annually* conduct school safety audits as defined in this section
485 and consistent with such list.

486 *The results of such school safety audits shall be made public within 90 days of completion. The local*
487 *school board shall retain authority to withhold or limit the release of any security plans and specific*
488 *vulnerability assessment components as provided in § 2.2-3705. Each school shall maintain a copy of the*
489 *school safety audit, which may exclude such security plans and vulnerability assessment components,*

490 within the office of the school principal and shall make a copy of such report available for review upon
491 written request.

492 Each school shall submit a copy of its school safety audit to the relevant school division
493 superintendent. The division superintendent shall collate and submit all such school safety audits to the
494 Virginia Center for School Safety.

495 C. The school board may establish a school safety audit committee to consist of representatives of
496 parents, teachers, local law-enforcement agencies, judicial and public safety personnel, and the
497 community at large. The school safety audit committee shall evaluate, in accordance with the directions
498 of the local school board, the safety of each school and submit a plan for improving school safety at a
499 public meeting of the local school board.

500 D. Each school board shall ensure that every school that it supervises shall develop a written school
501 crisis and emergency management plan, consistent with the definition provided in this section. The
502 Department of Education and the Virginia Center for School Safety shall provide technical assistance to
503 the school divisions of the Commonwealth in the development of the school crisis and emergency
504 management plans.

505 Upon consultation with local school boards, division superintendents, the Virginia Center for School
506 Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may
507 revise as it deems necessary, a model school crisis and emergency management plan for the purpose of
508 assisting the public schools in Virginia in developing viable, effective crisis and emergency management
509 plans. Such model shall set forth recommended effective procedures and means by which parents can
510 contact the relevant school or school division regarding the location and safety of their school children
511 and by which school officials may contact parents, with parental approval, during a critical event or
512 emergency.

INTRODUCED

HB2621