

**REPORT OF THE JOINT  
SUBCOMMITTEE STUDYING**

**STATE AND FEDERAL LAW ON  
PRIVACY, CONFIDENTIALITY, AND  
MANDATORY DISCLOSURE OF  
INFORMATION HELD OR USED BY  
GOVERNMENTAL AGENCIES**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 65**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1996**



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Senator R. Edward Houck, Vice Chairman  
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Delegate Mary T. Christian  
Delegate Bernard S. Cohen  
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Kay Coles James, Secretary of Health and Human Resources  
Jerry W. Kilgore, Secretary of Public Safety  
Beverly H. Sgro, Secretary of Education  
Michael E. Thomas, Secretary of Administration

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FEDERAL LAW ON PRIVACY, CONFIDENTIALITY, AND MANDATORY  
DISCLOSURE OF INFORMATION HELD OR USED BY GOVERNMENTAL  
AGENCIES**

**To  
The Governor  
and the  
General Assembly of Virginia**

**Richmond, Virginia  
November 1995**

**I. INTRODUCTION**

**A. Authority and Scope of Study**

In 1994, the General Assembly passed House Joint Resolution No. 66 (Appendix A), which created a 19-member joint subcommittee to study state and federal law on privacy, confidentiality, and mandatory disclosure of information held or used by governmental agencies.

The resolution directed the subcommittee to (i) identify existing mandatory state and federal confidentiality and disclosure laws; (ii) determine the circumstances under which disclosure laws supersede confidentiality laws; (iii) identify necessary statutory changes to clarify conflicts between disclosure and confidentiality; (iv) identify existing state expungement laws and where third party expungement provisions are necessary to ensure confidentiality beyond the origin of the information; (v) clarify the legal ramifications of the Privacy Protection Act on state confidentiality, disclosure, and expungement laws; (vi) develop a statewide resource manual to guide local service providers on confidentiality and disclosure laws and decisions; and (vii) develop training programs to inform local service providers on the laws in the manual which may impact their work.

## **B. Members**

Serving on the joint subcommittee were Delegates L. Karen Darner of Arlington (chairman), David B. Albo of Fairfax County, Bernard S. Cohen of Alexandria, Mary T. Christian of Hampton, George W. Grayson of Williamsburg, H. Morgan Griffith of Salem, Frank D. Hargrove, Sr. of Hanover, Jerrauld C. Jones of Norfolk, William S. Moore, Jr. of Portsmouth and Senators Robert L. Calhoun of Alexandria, Joseph V. Gartlan, Jr. of Fairfax County, R. Edward Houck of Spotsylvania (vice chairman), Madison E. Marye of Montgomery, Frederick M. Quayle of Chesapeake and Kenneth W. Stolle of Virginia Beach. Ex officio members included Kay Coles James, Secretary of Health and Human Resources; Jerry W. Kilgore, Secretary of Public Safety; Beverly H. Sgro, Secretary of Education; and Michael E. Thomas, Secretary of Administration.

## **C. Confidentiality and Disclosure: The Dual Nature of Information**

The development of the law governing confidentiality and disclosure of governmental information has been an evolutionary process, reflecting an ever-changing view of society's need for individual privacy and government accountability. People generally expect government processes to be open to public scrutiny and participation. At the same time, they want personal information collected by government to be protected against unwarranted invasions of their privacy. At a minimal, they expect (i) the collection of only necessary and accurate information; (ii) the right to see and correct their own records; and (iii) a notice before personal information is shared with others. Maintaining a balance between privacy protection and government accountability has been a challenge to the Commonwealth. The following comprehensive statutes in the Code of Virginia provide standards on the collection, retention, and dissemination of most government records:

- The Virginia Freedom of Information Act (FOIA) (§ 2.1-340 *et seq.*) sets the standards for determining which records must be disclosed and which records may be disclosed in the discretion of the record keeper. Designed to ensure "government in the sunshine" for the people in the Commonwealth, FOIA directs that all nonexempt official records be open to inspections and copying within five business days after the request, except as may be otherwise specified by law. Currently, 58 exemptions from mandatory disclosure are listed in the FOIA. A common misconception regarding exempt records is that these records are automatically confidential. Unless the exemption directly specifies confidentiality or there is a separate confidential law that applies, these exempt records may be disclosed in the discretion of the record keeper.



- The Privacy Protection Act of 1976 (§ 2.1-377 *et seq.*) is a companion of FOIA and provides safeguards against the invasion of privacy through the misuse of records by state and local agencies. The Act places certain restrictions and requirements on the collection, maintenance, and dissemination of information by government agencies. Information collected by each agency must be relevant, accurate, current, and clearly necessary. No information can be collected except as explicitly or implicitly authorized by law. Individuals are entitled to learn the purpose of such collection and to correct inaccurate information. Although the privacy act restricts the collection of and access to information in many respects, it does not make personal information confidential. Whether personal information must be kept confidential or must be released depends upon the governing statutes and the regulations and practices adopted by the agency.
- The Virginia Public Records Act (§ 42.1-76 *et seq.*) establishes procedures for public records management and preservation to ensure that the procedures used to preserve public records will be uniform throughout the Commonwealth. It also preserves the confidentiality of any record of any public entity, including a court, that is otherwise made confidential by statute or court order, even after the record is archived.

In addition to these standards, there are numerous confidentiality and disclosure rules embodied in statutes, regulations and agency practices that govern the release of sensitive and personal information. These provisions target specific agency records and reflect most closely the present attitude concerning privacy and disclosure. Generally, confidentiality statutes protect individuals from:

- Embarrassment and humiliation by disclosure of personal or family problems (e.g., treatment for alcohol and drug abuse).
- Exposure of information that is inherently inflammatory and unsubstantiated (such as allegations of child abuse or mental instability).
- Lack of personal security (such as the location of victims and witnesses).
- Loss of job security, particularly when personal problems may have no connection with actual job performance.
- Disclosure of trade secrets and proprietary interests.

Disclosure laws enhance:

- Public safety (e.g., by requiring mandatory disclosure of criminal history records as a condition to issuing certain licenses for or employment in positions of trust).

- Fraud and abuse prevention through a periodic review of eligibility records (such as Medicaid claims or student financial assistance).
- Treatment services by increasing an agency's ability to share confidential information with other agencies as part of a comprehensive treatment program.

#### **D. Prior Related Studies**

In 1988, at the request of the Secretary of Health and Human Resources, the Plan of Cooperation Development Committee established a joint state-local work group to examine issues involving the sharing of client-related information. In its examination, priority was given to:

- Assessing the nature and extent of issues surrounding interagency sharing of client information;
- Identifying specific barriers to information sharing; and
- Providing recommendations for improved sharing of client information in conjunction with federal, state, and local statutes and regulations.

The 1989 final report, "Issues Involved in Sharing Client Information Among Local Services Agencies," recommended that the Attorney General finalize a multi-agency release-of-information form and conduct regional seminars on the sharing of client information for local service agencies. In response, the Attorney General unveiled a release form at the 1992 Teleconference on Confidentiality and Collaboration: Working Together with the Clients We Share. The form enables participating agencies serving the same client to repeatedly share "confidential information" after the client gives his initial consent. The form eliminates the need to duplicate intake information or obtain multiple consent releases from the client.

In 1993, the Commission of Youth conducted a separate study on the confidentiality of juvenile records. During its study, the Commission found that some service providers involved in interagency collaboration and exchange of "confidential" information were unfamiliar with the confidentiality and disclosure requirements outside their own discipline. Even within their own discipline, these service providers encountered difficulties in applying the law to individual cases and often sought the assistance of legal counsel. Different time schedules for the expungement of confidential records of juveniles added to the confusion of record maintenance and appeared to be contrary to the interests of children and families. In light of these preliminary findings, the Commission recommended that a legislative study subcommittee be established to examine these issues further and determine what, if any, clarifications of the law were necessary.

## **II. SUBCOMMITTEE WORK**

### **A. Survey of Confidentiality and Disclosure Laws**

Since most confidentiality and disclosure laws are dispersed throughout federal and state laws or embedded in regulations and agency practices, the subcommittee decided to request individual agencies who primarily work with confidential information to (i) identify applicable mandatory state and federal confidentiality and disclosure laws, (ii) determine under what circumstances disclosure laws supersede confidentiality laws, and (iii) identify existing state expungement laws to ascertain if third party expungement provisions are necessary to ensure confidentiality beyond the origin of the information. [See request letter from Chairman Darner (Appendix B).] Approximately, 25 state agencies were surveyed. Specific confidentiality and disclosure provisions identified by those agencies are summarized in an aggregate table (Appendix C).

### **B. Agency Responses**

The subcommittee held two meetings to review the agency responses presented by cabinet level officials and agency representatives. The following five types of records received considerable attention during those meetings.

#### **1. Criminal History**

Virginia law restricts dissemination of criminal history to law-enforcement agencies and to certain other agencies for prescribed purposes, such as determining licensing and employment qualifications for positions requiring a high level of trust. Juvenile criminal records, including court records, receive the highest degree of confidentiality. However public safety concerns about violent youths has taken precedence in recent years, causing a relaxation in the release of certain juvenile records. To combat escalating school violence, the 1994 General Assembly expanded the dissemination of criminal history records by enacting a court notification law, requiring the courts to inform school superintendents of students with convictions for violent crimes, regardless of whether those crimes were school related. Under the new law, superintendents may provide to principals and other school personnel the names of students who might pose a danger to anyone.

Records of active criminal investigations are released to the public on a need-to-know basis. Law-enforcement agencies argue that confidentiality needs to be maintained in order to protect investigations from premature disclosure that could discourage cooperation of victims and witnesses. On the other side, the media argues that the public has the right to know about active investigations in order to protect themselves from potential danger. In recent years, confidentiality statutes that protect law-enforcement efforts have prevailed.

## **2. Employment**

The Department of Personnel and Training Policy No. 6.05 governs the disclosure of state personnel records. The policy protects personal information from being disclosed to third parties without the prior consent or knowledge of the subject employee. Persons who have unrestricted access to these records include the employee's supervisor, agency head, human resource personnel, and staff of private entities who have contractual agreements with the Commonwealth to provide various services (i.e., life insurance, health insurance, and workers' compensation). Confidentiality does not apply to information concerning the employee's position and classification title; dates of employment; and annual salary, official salary, or rate of pay, if such pay exceeds \$10,000 per year. Insurance companies may access medical information on individuals insured by other insurance companies without the consent of the employee. Medical information relates to general health conditions of the data subject and does not extend to the person's medical records.

## **3. Division of Motor Vehicles**

Current statutes render DMV's customer records confidential, with accessibility dependent upon the requester meeting certain conditions. For instance, employers can only get driving records when they present signed releases from the employees, unless the position involves a commercial driver's license. The position must entail the operation of a motor vehicle, and the requester only gets seven years of data. However, DMV also provides a great deal of information from its records to licensing authorities in other states and foreign countries. In some cases, confidential Virginia information is passed to entities where the information is considered public or vice versa.

In addition, copies of accident reports, which DMV maintains and releases, are created by local law-enforcement agencies. Persons entitled to receive the information in these reports include those involved or injured in the accident, their attorneys or representatives, and any insurance company reasonably anticipating exposure to liability as a consequence of the accident.

#### **4. Health**

Medical and mental health records are exempted from the provisions of the Freedom of Information Act, except that such records can be personally reviewed by the subject person or a physician of the data subject's choice. However, the data subject may not review his own mental health records if the treating physician or clinical psychologist has documented that such access would be harmful to the patient.

Specific disclosure statutes include numerous reporting provisions that require the release of medical information to safeguard the health of the patient or public. Nonidentifying information from medical records may also be released for statistical research purposes.

Strict confidentiality rules apply to alcohol and drug treatment services provided in federally assisted programs pursuant to 42 U.S.C. Sections 290 dd-3 and ee-3; 42 C.F.R. Part 2. These programs include treatment and rehabilitation programs, programs within general hospitals, school-based programs, and those of private practitioners who provide alcohol and drug abuse diagnoses, or referrals for treatment. Disclosure of such information is restricted to reports of child abuse, medical emergencies, research, audits, program evaluations, court orders and patient consent.

#### **5. Education**

Scholastic records are exempt from the provisions of the Freedom of Information Act; however, confidential letters and statements of recommendation placed in the records of agencies or institutions concerning (i) the admission to any educational agency or institution, (ii) an application for employment, or (iii) the receipt of an honor or honorary recognition are confidential under the act. Confidentiality also applies to any test or examination used or administered or prepared by any public body to evaluate any student or his performance. The restrictions on the release of information do not extend to qualified situations involving research or certain assistance programs.

Institutions which receive federal funds cannot deny parents the right to inspect the education records of their children under the Family Educational Rights and Privacy Act of 1974. Education records include information directly related to a student and maintained by the institution. They do not include records of instructional, supervisory and administrative personnel records. These schools must obtain prior written parental consent before disclosing personally identifiable

information from a student's records. Schools are allowed to share personally identifiable information from student records without parental consent only in certain situations. Most of these circumstances involve the accreditation of the school or the determination of eligibility for student financial aid.

Confidentiality of education records is also specifically protected by § 22.1-287 of the Code of Virginia and may not be released to anyone except under judicial process unless that person is the parent or guardian of such pupil or a school or law-enforcement officer enumerated under the statute.

### **C. Issues**

Improving agency and public awareness of confidentiality and disclosure laws remained the focus of the subcommittee's deliberations. As a starting point, the subcommittee recommended sharing its survey of confidentiality and disclosure laws to all interested parties by inclusion of the survey in the study's final report. The subcommittee also considered the following issues identified in the agencies' responses.

#### **1. Restrictions on Third-party Access to Confidential Information**

The Privacy Protection Act of Virginia provides in § 2.1-380 that, for the dissemination of information to third parties, an agency shall:

“make no dissemination to another system without (i) specifying requirements for security and usage including limitations on access thereto and (ii) receiving reasonable assurances that those requirements and limitations will be observed, provided that this subdivision shall not apply to a dissemination made by an agency to an agency in another state, district or territory of the United States where the personal information is requested by the agency of such other state, district or territory in connection with the application of the data subject therein for a service, privilege or right under the laws thereof, . . .” (§ 2.1-380)

Determining the confidential status of information released to third parties can be complex. As revealed in the testimony from the Department of Motor Vehicles, the degree of confidentiality associated with particular information often changes when the information is transferred to a third party. For instance, DMV customer records are considered privileged records, accessible only under certain conditions as set by statute. However, the Privacy Act permits DMV to provide

information from its records to licensing authorities in other states and foreign countries. A reverse, but comparable, situation occurs when public records from Virginia's courts are passed to DMV, where the information becomes privileged. Moreover, copies of accident reports which DMV obtains from local law enforcement are released only in accordance with §§ 46.2-379 and 46.2-380. However, the originating entity (law enforcement) does not have to abide by these statutes and may, if desired, give out more information from the same report than DMV is allowed to release.

The subcommittee supported the policy which requires DMV to release its driver's records to other licensing authorities. In this instance, the subcommittee found that confidentiality could not be guaranteed beyond the source agency without jeopardizing reciprocal licensing agreements with other states. Since no abuses were reported to the subcommittee regarding the release of DMV records, the subcommittee concluded that a balanced approach had been achieved in the release of these records.

## **2. Restrictions on Access to Personal Information about Oneself**

The subcommittee learned in the course of its deliberations that as a general rule a data subject has direct access to personal information collected by the agency relating to himself. However, the following exceptions to this general rule were noted in the agency responses:

1. Nonaccess to personal information about oneself in cases of child abuse and neglect while the case is subject to an ongoing criminal prosecution (§ 2.1-384.7).
2. Restricted access to medical, psychological or other information which would be harmful to the individual if disclosed directly. This type of information may not be released directly to the individual, but must be provided to his or her representative, a physician or a licensed or certified psychologist (§ 2.1-382 (3a)).
3. Nonaccess to letters of references and recommendations from or to a third party which are a part of the person's personnel file (§ 2.1-382 B).

The subcommittee found that in each case a rational policy, such as protecting public safety or preserving the integrity of the recommendation process, required the withholding of certain personal information directly from the data subject. The subcommittee found no compelling reason to remove these restrictions.

### **3. Notification Procedures Regarding Release of Confidential Information**

The Virginia Privacy Act clearly gives data subjects certain rights concerning information collected and maintained by state agencies, including the right to challenge and correct or explain such information and the right to learn the names of third-party recipients, other than those with regular access authority. However, several members were concerned that existing regulations and policies may not give adequate notice about these rights to persons applying for benefits or services. Moreover, members questioned whether an agency-activated notification process should replace the current subject-activated discovery process.

The subcommittee found one instance in which agency notification could be improved. During its deliberations, the subcommittee learned that DMV is required to report to the Department of the Visually Handicapped and the Department of the Rehabilitative Services the names and addresses of all persons who fail the DMV visual examination. Because these two agencies are considered to have "regular access" to these records, DMV is not required to give notice to its customers prior to the release of these records. The subcommittee suggested and DMV agreed administratively to revise its license application form to provide a statement notifying its customers of the law regarding the visual examination.

The subcommittee also found that the universal release consent form developed by the Attorney General served well in notifying clients of agencies' practices in sharing confidential information. The form afforded optimal privacy by requiring specificity in the kind of information to be shared and by setting restrictions on how long information could be shared. In recognition of the highly confidential nature of medical records, the subcommittee supported time-restricted authorizations of six months to a year for these types of records. Because agency responses indicated that the form was widely liked by service providers, the subcommittee recommended that participating agencies continue to expand their use of the universal release form to serve their clients more efficiently.

### **4. DMV's Use of the Social Security Number**

Several persons at the subcommittee's work sessions commented that the universal use of a person's social security number, particularly on driver's licenses jeopardizes a person's right to privacy by increasing the opportunity for others to discover and misuse this number to establish false credit. Subcommittee members examined the feasibility of removing the social security numbers from the face of driver's licenses, while allowing DMV to use social security numbers internally. Some members opposed changing the system because they argued that any number



used by DMV would eventually become subject to abuse and that law enforcement relies on the social security number as an important identifier.

## **5. Development of a Confidentiality and Disclosure Manual**

As the complexity of the confidentiality and disclosure laws continues to grow, agencies need to be more cognizant of the interrelationship of these laws in and outside of their own discipline. The subcommittee found that several agencies currently use internal policy manuals and training programs to assist their employees in working with these laws. Also, many agencies as a standard practice direct confidentiality and disclosure questions to the Office of the Attorney General. These procedural safeguards appear to be sufficient in protecting privacy interests as evidenced by the lack of reported abuses of the confidentiality laws brought to the subcommittee's attention. Based on these findings, the subcommittee could not justify recommending the establishment of an independent agency to address complaints and issue advisory opinions on confidentiality and disclosure laws. However, agencies and Secretaries should coordinate efforts to update policy manuals, guidelines and training programs as appropriate to include information concerning other disciplines.

## **III. CONCLUSION**

After reviewing the information presented by agencies and others at the subcommittee work sessions the subcommittee agreed that present confidentiality and disclosure laws appear to be sufficient in balancing two distinct interests -- protecting privacy of individuals and ensuring the accessibility of information of governmental operations. This conclusion was supported by the testimony from agency representatives who reported very few problems in the release or sharing of information with other agencies. However, because confidentiality and disclosure laws can be confusing and even contradictory to those unfamiliar with these laws, the subcommittee found that a periodic survey of these laws would be beneficial. Agencies in coordination with their Secretaries are encouraged to develop comprehensive manuals and training programs on confidentiality and disclosure laws that (i) discuss the interrelationship of these laws to other disciplines and (ii) pursue uniform resolution of perceived inconsistencies and conflicts. The subcommittee encouraged agencies, particularly in the human services field, to designate personnel already knowledgeable in state and federal confidentiality and disclosure laws to track changes in the law and periodically report these changes to their Secretaries. (See Appendix D for 1995 update.)

Respectfully submitted,

Delegate L. Karen Darner, Chairman  
Senator R. Edward Houck, Vice Chairman  
Delegate David B. Albo  
Delegate Mary T. Christian  
Delegate Bernard S. Cohen  
Delegate George W. Grayson  
Delegate H. Morgan Griffith  
Delegate Frank D. Hargrove, Sr.  
Delegate Jerrauld C. Jones  
Delegate William S. Moore, Jr.  
Senator Robert L. Calhoun  
Senator Joseph V. Gartlan, Jr.  
Senator Madison E. Marye  
Senator Frederick M. Quayle  
Senator Kenneth W. Stolle  
Kay Coles James, Secretary of Health and Human Resources  
Jerry W. Kilgore, Secretary of Public Safety  
Beverly H. Sgro, Secretary of Education  
Michael E. Thomas, Secretary of Administration

## **IV. APPENDICES**

**HOUSE JOINT RESOLUTION NO. 66**

*Establishing a joint subcommittee to study state and federal law on privacy, confidentiality and mandatory disclosure of information held or used by governmental agencies.*

Agreed to by the House of Delegates, February 11, 1994

Agreed to by the Senate, February 28, 1994

WHEREAS, the development of programs such as the Comprehensive Services Act and the Serious and Habitual Offender Comprehensive Action Programs has increased the involvement of multi-disciplinary teams in services to certain populations; and

WHEREAS, Senate Joint Resolution 205 (1993) directed the Virginia Commission on Youth to conduct a study on the issue of confidentiality of juvenile records; and

WHEREAS, the Commission's study found conflicts in the various disciplinary fields concerning access to and disclosure of confidential information; and

WHEREAS, many of these conflicts cannot be resolved without legislation resulting from serious consideration of the underlying policy issues in the areas of education, child welfare, juvenile justice, and medical and mental health treatment; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study privacy, confidentiality, and mandatory disclosure of information held or used by governmental agencies. The joint subcommittee shall (i) identify existing mandatory state and federal confidentiality and disclosure laws, (ii) determine the circumstances under which disclosure laws supersede confidentiality laws, (iii) identify necessary statutory changes to clarify conflicts between disclosure and confidentiality, (iv) identify existing state expungement laws and where third party expungement provisions are necessary to ensure confidentiality beyond the origin of the information, (v) clarify the legal ramifications of the Privacy Protection Act on state confidentiality, disclosure, and expungement laws, (vi) develop a statewide resource manual to guide local service providers on confidentiality and disclosure laws and decisions, (vii) develop training programs to inform local service providers on the laws in the manual which may impact their work, and (viii) consider any other issues the joint subcommittee deems relevant.

The joint subcommittee shall consist of 19 members to be appointed as follows: nine members of the House of Delegates to be appointed by the Speaker of the House and six members of the Senate to be appointed by the Senate Committee on Privileges and Elections. The Secretaries of Administration, Education, Health and Human Resources, and Public Safety shall serve ex officio.

The Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the staff of the Commission on Youth. All agencies of the Commonwealth are requested to provide assistance to the joint subcommittee upon request.

The direct costs of this study shall not exceed \$18,000.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.



COMMONWEALTH OF VIRGINIA  
HOUSE OF DELEGATES  
RICHMOND

Appendix B

L. KAREN DARNER  
969 SOUTH BUCHANAN STREET  
ARLINGTON, VIRGINIA 22204  
FORTY-NINTH DISTRICT

COMMITTEE ASSIGNMENTS:  
ROADS AND INTERNAL NAVIGATION  
COUNTIES, CITIES AND TOWNS  
HEALTH, WELFARE AND INSTITUTIONS  
CLAIMS  
CHESAPEAKE AND ITS TRIBUTARIES

July 8, 1994

«Name»  
«Address1»

Dear «Salutation»:

This letter is to inform you that the Joint Subcommittee Studying State and Federal Law on Privacy, Confidentiality and Mandatory Disclosure of Information and Held or Used by Government Agencies is requesting your assistance in the compilation of certain information. The subcommittee is specifically interested in obtaining information that will:

- (i) identify existing mandatory state and federal confidentiality and disclosure laws;
- (ii) determine under what circumstances disclosure laws supersede confidentiality laws; and
- (iii) identify existing state expungement laws to determine whether third party expungement provisions are necessary to ensure the continued confidentiality beyond the originating source of the information. (See House Joint Resolution 66 enclosed.)

Because the Subcommittee will be examining the laws, regulations, and practices of many agencies, we are requesting that the information be compiled in a similar format for comparison purposes. Enclosed is a copy of a compilation of federal confidentiality and disclosure laws affecting children and families which was compiled by the California Youth Law Center. We ask that you follow this format with the following modifications:

1. For the statutory category, include all federal and state regulations and practices. Examples of agency practices may include the use of memoranda of understanding or release forms authorizing the exchange of client information between agencies or other parties.

Letter to «Salutation»

July 8, 1994

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2. For the allowable communication category, specify whether the release of information is permissible or mandatory and who typically receives the information.

3. Include supplemental categories that (i) highlight possible conflicts between confidentiality and disclosure laws (ii) identify existing expungement laws and their applicability to third party recipients and (iii) list other agencies and parties who obtain or share personal or confidential information with you on a routine basis.

4. Append separately any additional descriptive or narrative material which you think will enhance the subcommittee's understanding of your agency's procedures.

5. Include any recommendations or changes that you think will facilitate or clarify the process.

The subcommittee's next meeting is scheduled for August 22. In order for the members to have adequate time to review the information compiled, we request that you complete and submit your compilation by August 5. Materials and questions concerning the nature of this request should be directed to Virginia Edwards or Maria Everett at the Division of Legislative Services. For the August 22 meeting, we ask that you make available additional copies of your submission.

Thank you for your cooperation,

The Honorable L. Karen Darner  
Subcommittee Chair

cc: The Honorable Michael E. Thomas  
The Honorable Jerry W. Kilgore  
The Honorable Beverly H. Sgro  
The Honorable Kay Coles James

Enclosures

## APPENDIX C

### CONFIDENTIALITY AND DISCLOSURE PROVISIONS TABLE

*The following listing and summary of confidentiality and disclosure provisions represent a consolidation and interpretation of material originally submitted by various state agencies. The principal agencies identifying the records are noted. The summary is not all-inclusive, but is offered as an illustration of common types of access restrictions and release mechanisms for certain governmental records.*

#### COURT AND CRIMINAL HISTORY RECORDS

(Department of Criminal Justice Services, Department of Corrections, Virginia Parole Board, Virginia Supreme Court and Department of Youth and Family Services)

Statute	Citation	Information Restricted	Allowable Communications
Change of name	Va. Code § 8.01-217	New name, if the applicant for the change of name can show that revealing the name change would threaten the safety of the applicant or applicant's family (chief judge of circuit court orders record sealed and directs clerk not to spread or index order or transmit same to the CCRE or the Registrar of Vital Records)	As a general rule, circuit court orders changing a person's name are sent to the Central Criminal Records Exchange (CCRE) and to the Registrar of Vital Records and are spread on court's order book (§ 17-43).  Release of restricted information in the discretion of the circuit court's chief judge.
Court-appointed Special Advocate Program	Va. Code §§ 9-173.6 through 9-173.13	Disclosure of contents of juvenile records by court-appointed special advocates who have been appointed to assist, except by specific court order	Under § 9-173.12 and by court order, inspection and copying of records of any state or local agency, school, institution or health care provider concerning the juvenile by court-appointed special advocates serving in court proceedings where a juvenile is alleged to be abused, neglected or in need of services or supervision. Consent of the juvenile or parent is not needed.
Criminal Justice Information System	Va. Code §§ 9-184 through 9-196; see also § 9-169 for definitions	Dissemination of "criminal history record information" concerning specific individuals by "criminal justice agencies" (defined by § 9-169 to include courts)	Original court records of public criminal proceedings. See § 9-184 B. Restrictions of §§ 9-184 through 9-196 apply to the criminal history records a court obtains from the CCRE or elsewhere, but not to disclosure of the court's own records.  Records released with consent or in accordance with §§ 19.2-387 through 19.2-392.

	and § 19.2-387		
Constitutional officer's fee records	Va. Code § 14-139		Records of all fees, allowances, commissions and other compensation collected by constitutional officers, including circuit court clerks.
Liens for local government fees and charges	Va. Code § 15.1-227.7		Liens for fees and charges imposed by local governments in judgment records which have been indexed by circuit court clerks.
District court records, excluding juvenile records	Va. Code §§ 16.1-69.40, 16.1-69.53, 16.1-69.54 and 16.1-69.55	None specific, but, in practice, some documents in particular cases put under seal by some district courts	Most district court records not involving juveniles, unless court has sealed them; no statute expressly addresses access to such records. [District court clerks are custodians of records. In consultation with the Executive Secretary of the Supreme Court, the Committee on District Courts clerks determine methods for processing, retention, reproduction and disposal of district court records. Retention periods for case records in various civil, criminal and traffic matters are established by § 16.1-69.55.]
Virginia Juvenile Justice Information System	Va. Code §§ 16.1-222 through 16.1-225	Court or criminal records of juveniles maintained by the Department of Youth & Family Services (DYFS) in the Virginia Juvenile Justice Information System (§ 16.1-222). (Court services units serving juvenile and domestic relations district courts submit to DYFS the data concerning juveniles referred to intake officers. The Department promulgates regulations concerning confidentiality of the system's data (§ 16.1-223).) [Knowingly violating confidentiality is a Class 2 misdemeanor (§ 16.1-225).]	Information released only to the judge, prosecuting attorney or probation officer assigned to a court that has the subject juvenile currently before it.  Other release mechanisms are per DYFS regulations.  Release by consent not permitted.
Transfer of education information upon	Va. Code § 16.1-287	Clinical reports, pre-disposition study and other records in court files	Reports and records of the court to the DYFS when the child is committed.



commitment		<p>pertinent to care and treatment</p> <p>Information in school board files</p> <p>Information about a child in DYFS files</p>	<p>Information from school board files to DYFS that the Department deems necessary in order to classify, evaluate, place or treat the child.</p> <p>Department information to the local school boards that the boards deem necessary when the child is returned to the community.</p> <p>Information concerning the child from DYFS to the court as the court may require.</p>
Fingerprints and photographs of juveniles	Va. Code § 16.1-299	<p>Fingerprints and photographs: of a juvenile 14 years of age or older who is charged with a delinquent act which would be a felony if committed by an adult or of a juvenile 13 years of age or older who is charged with bodily wounding, use of a firearm in committing a felony, attempted poisoning, extortion, robbery, rape, forcible sodomy, inanimate sexual object penetration, grand larceny, burglary, arson and related crimes or murder; or of any juvenile regardless of age who has been charged with a violation and there is probable cause to believe that latent fingerprints found during the investigation are those of the juvenile</p>	<p>Fingerprints and report of disposition forwarded to the Central Criminal Records Exchange if a juvenile "14 years or older . . ." is transferred to a circuit court and found guilty; if a juvenile 14 years or older is found guilty of a felony in a Juvenile and Domestic Relations District Court; or if a juvenile "13 years or older . . ." is found guilty of enumerated offenses.</p> <p>[If a petition is not filed, photographs and fingerprints are destroyed in 60 days. If a child is found not guilty or is under 13 years of age, photographs and fingerprints are destroyed within 60 days of the finding.</p> <p>If a juvenile 13 or older is found guilty, fingerprints and photographs may be retained in local law-enforcement files and his fingerprints entered into any fingerprint identification computer system provided the child's identity is kept confidential.]</p>
Department of Youth and Family Services (DYFS)	Va. Code § 16.1-300	Social, medical, psychiatric and psychological records of juveniles who are or have	Record inspections only by (i) judges, prosecutors and court personnel; (ii) public agency or private organization, facility or person providing services to subject juvenile; (iii) parents, guardians, or others <u>in loco</u>

records		been (i) before juvenile court, (ii) receiving services from a court services unit, or (iii) committed to DYFS	<p><u>parentis</u> (unless court agrees that DYFS may withhold because of detriment to the child); (iv) adults who previously were wards of DYFS who request their own records; (v) state agencies paying grant funds to DYFS who need access to records for audit purposes; and (vi) persons or entities conducting research or evaluations at DYFS's request.</p> <p>Reports and records to an interagency group or individual who is treating the subject, if authorized by the subject, parents or the legal representative.</p> <p>[Court may order release to any other person or entity having a legitimate interest.]</p>
Juvenile law-enforcement records	Va. Code § 16.1-301	<p>Law-enforcement records concerning juveniles</p> <p>[Law-enforcement agencies must keep records of offenses by juveniles separate from records of adult offenses.]</p>	<p>Disclosure of juvenile records by law-enforcement agencies only to: (i) a court having the juvenile before it; (ii) the officers of a public or private institution to which juvenile is committed; and (iii) the probation staff of other courts for use in preparing presentence reports.</p> <p>With court approval, a juvenile's record to: (i) law-enforcement officers of other jurisdictions; (ii) the juvenile or his parent, guardian, custodian, or counsel; and (iii) any other person or entity with a legitimate interest.</p> <p>Records of juvenile being tried by a circuit court as an adult.</p>
Court dockets, indices and order books of juvenile cases	Va. Code § 16.1-302	Juvenile court dockets and circuit court dockets, indices and order books for most types of cases appealed from juvenile court	Court docket, etc., inspection only as permitted by specific statute or court order; release by consent unavailable. <u>See</u> § 16.1-305.
General rule of confidentiality of information relating to juvenile court matters	Va. Code § 16.1-303	All information obtained by court employees and other officials in juvenile court matters	<p>Information only to judge; however, if the information discloses that an offense has been committed which would be a felony if committed by an adult, it shall be immediately disclosed to the Commonwealth's attorney or law-enforcement officers in the locality where the offense was committed.</p> <p>Authorization for release only by the juvenile court or a circuit court judge.</p>
Court records in juvenile case files	Va. Code § 16.1-305	Juvenile case files which are filed separately from adult case files	Case files open only to (i) the judge, the probation officer and juvenile court professional staff; (ii) attorneys for parties before court in case; (iii) adult probation or parole officers preparing presentence reports for the

		<p>[Files include social, medical, psychiatric or psychological records; preliminary inquiries; predisposition studies; supervision records; and any other filed papers of neglected and abused children, children in need of services and delinquent children.]</p>	<p>circuit court or background reports for the Parole Board; and (iv) representatives of public or private agencies supervising or having custody of the juvenile or performing an evaluation or treatment ordered by the court.</p> <p>Certain records to Commonwealth's attorneys who certify they are necessary for other criminal, traffic or habitual offender proceedings. <u>See § 16.1-305 D.</u></p> <p>Records by court order to any other person or entity with a legitimate interest.</p> <p>Copy of the disposition order in a delinquency case, on request, to the Virginia Worker's Compensation Commission for the sole purpose of determining whether to compensate a crime victim. <u>See § 16.1-305 E.</u></p> <p>Disposition of the case against a juvenile committed to state care after adjudication of sexual assault, to a requester who was a victim of sexual assault (or a minor victim's parent), by the court services unit or Commonwealth's attorney. <u>See § 16.1-305 F.</u></p> <p>Advance notice of a juvenile's anticipated date of release from commitment, by the Department of Youth and Family Services to a victim or parent who submits a written request.</p>
<p>Disclosure of disposition in certain delinquency cases to school officials</p>	<p>Va. Code § 16.1-305.1</p>	<p>Written notice of the disposition of a proceeding in which a juvenile is adjudicated delinquent or convicted of a crime based on a violation of the law involving the unlawful purchase, possession or use of a weapon; homicide; felonious assault and bodily wounding; criminal sexual assault; manufacture, sale, gift or distribution of Schedule I or II controlled substances; manufacture,</p>	<p>Disposition of the case where the juvenile is found delinquent or guilty of certain violent or drug-related offenses, by the clerk of court to the school superintendent in the division where the juvenile is enrolled.</p> <p>[School superintendent receiving notification of disposition under § 16.1-305.1 may make further disclosure of that information only as allowed under § 22.1-288.2.]</p>

		sale or distribution of marijuana; arson and related crimes; and burglary	
Expungement of juvenile court records	Va. Code § 16.1-306	Records of juvenile court proceedings	Records of juvenile court proceedings open to inspection as provided in § 16.1-305 until such records have been expunged. Juvenile files, etc., of 19-year olds or older, with no hearing in the past five years are destroyed on January 2 of each year. However, if the person was found guilty of a delinquent act committed when the juvenile was 14 years or older, which would be a felony if committed by an adult or which was an offense for which the clerk is required to furnish an abstract to DMV then the records are destroyed when the person has attained the age of 29.  In all other cases, a person may petition the court to destroy all its files 10 years after the last hearing in any case involving the juvenile.
Confidentiality of proceedings against juvenile in circuit court	Va. Code § 16.1-307	Files of proceedings against a juvenile in circuit court where the court deals with the juvenile in the same manner as would a juvenile court	Records in these cases only as provided in § 16.1-305, or as allowed under § 19.2-389.1 or § 19.2-390. [However, release of these records is subject to expungement provisions of § 16.1-306.]
General penalty for improper disclosure of juvenile proceedings	Va. Code § 16.1-309	Improper use of information by any person participating in, or having access to, juvenile proceedings  [Except as allowed under §§ 16.1-299 through 16.1-309, such person is guilty of a Class 3 misdemeanor.]	Certain disclosures to school personnel concerning delinquent acts on school property, or on the way to or from school activities, if the purpose is to facilitate appropriate disciplinary action by the school. <u>See</u> § 16.1-309 B.
Exceptions to confidentiality in serious juvenile offender cases	Va. Code § 16.1-309.1	Name and address of juvenile and nature of offense committed by juvenile; his physical description, photograph, etc.	Name, address and nature of offense of a juvenile, who has been adjudicated delinquent for an act that would be a Class 1, 2 or 3 felony, forcible rape, robbery, or burglary or a related offense, or was sentenced as an adult in circuit court, if a judge determines that release of such information is in the public's interest.  Name, photo, etc., of a fugitive juvenile serious offender, upon petition to the court by the Commonwealth's attorney, DYFS or the local court services unit.

<p>Serious or Habitual Offender Comprehensive Action Program (SHOCAP)</p>	<p>Va. Code §§ 16.1-330.1 and 16.1-330.2</p>	<p>All information in the possession of law-enforcement agencies, schools, Commonwealth's attorney's, juvenile court services, detention homes, mental and medical health providers, and DYFS, as related to a SHOCAP eligible juvenile offender</p>	<p>Information available to the SHOCAP committee and staff from member agencies who provide direct services to, or community conduct control and supervision of, the offender.</p> <p>[§§ 16.1-330.1 and 16.1-330.2 take precedence over Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1; Article 5 (§ 22.1-287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records; Title 37.1 governing access to juvenile mental health records; and Title 63.1 governing access to records concerning treatments or services provided to a juvenile.]</p> <p>[Records are expunged whenever (i) the juvenile is no longer under SHOCAP supervision or (ii) a report and recommendations are submitted to an appointing court.]</p>
<p>Access to circuit court records</p>	<p>Va. Code § 17-43</p>	<p>"[C]ases in which it is otherwise specifically provided," i.e., records made confidential by other specific statutes. (See, e.g., § 16.1-307.)</p> <p>All or any part of the record of any particular case placed under seal by the court of record</p>	<p>Records held by a circuit court.</p>
<p>Crime victims right to nondisclosure</p>	<p>Va. Code § 19.2-11.2</p>	<p>Residential address, telephone number, and place of employment of the victim or the victim's family</p>	<p>Such information if : (i) required by law or rules of court, (ii) needed for law enforcement, (iii) permitted by court for good cause, (iv) needed for examination of witnesses, or (v) released upon consent of victim.</p>
<p>Seizure of records from attorney's office</p>	<p>Va. Code § 19.2-56.1</p>	<p>Seized evidence from an attorney's office pending inspection by a circuit court judge</p>	<p>[A search warrant for the contents of an attorney's office may be issued only by a circuit court judge. The judge must inspect any evidence seized to determine whether it is within the scope of the attorney-client privilege. The attorney shall be present for this in camera inspection.]</p>
<p>Criminal Justice Information System and Central Criminal Records</p>	<p>§ 19.2-387 et seq. and § 9-184 et seq. and VR 240-02-1</p>	<p>Criminal history record information maintained by criminal justice agencies of the Commonwealth and its political subdivisions</p>	<p>Such information is available to:</p> <ul style="list-style-type: none"> <li>(i) authorized employees of criminal justice agencies;</li> <li>(ii) researchers and special users pursuant to agreement;</li> <li>(iii) public safety agencies for applicants for public employment;</li> <li>(iv) foster care and adoptive agencies;</li> </ul>

Exchange		<p>("Criminal history record information" does not apply to juvenile justice information, criminal justice intelligence information, or correctional status information.)</p> <p>[Records are expunged: (i) pursuant to a court order (§ 19.2-392.2) or (ii) if they apply only to charges dismissed, a nolle prosequi, or a not guilty status.]</p>	<p>(v) public service companies as permitted by federal law;  (vi) the authority responsible for issuing visas;  (vii) the person requesting a copy of his own record;  (viii) administrators of child welfare agencies and family day care as defined by Social Services;  (ix) school divisions of Commonwealth for purposes of employment;  (x) the State Lottery Department;  (xi) licensed nursing homes;  (xii) licensed homes for adults;  (xiii) the Alcohol Beverage Control Board for purposes of § 4.1-103.1; or  (xiv) the State Board of Elections re: registered voters.  Such information is also available when:  (i) required by other state or federal law;  (ii) authorized by a court order, or  (iii) consent has been given in accordance with § 19.2-389 A 11.</p>
Sex Offender Registry	Va. Code § 19.2-390.1	Any information to anyone other than those specifically listed	<p>Sex Offender Registry information may only be disseminated to (i) law-enforcement agencies (including courts), (ii) schools (public or private), (iii) child welfare agencies and (iv) day-care homes.</p> <p>Unclear whether releases allowed under § 19.2-389 apply to this information.</p> <p>[Sex Offender Registry established apart from CCRE, but still within the Department of State Police.]</p>
Expungement of police and court records	Va. Code § 19.2-392.2	<p>Records of anyone charged with a crime following (i) an acquittal, (ii) a <u>nolle prosequi</u>, or (iii) an absolute pardon for an unjust conviction</p> <p>[Person petitions for court-ordered expungement of all police or court records relating to the charge.]</p>	N/A
Disclosure of expunged records	Va. Code § 19.2-392.3	<p>Expunged records</p> <p>[Once such records are</p>	On motion of the Commonwealth, a court may permit a law-enforcement agency to review an expunged record, but not copy it.

		expunged, it is a Class 1 misdemeanor to open or disclose them without an order from the court that declared them expunged.]	
Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments	Va. Code § 19.2-392.4	Expunged criminal records  [ It is a Class 1 misdemeanor to require an applicant for a job, or for admission to any school, or for any public license, permit or service to disclose an expunged record.]	
Child custody proceedings	Va. Code § 20-124.6		Access to both parents in a custody proceeding to the child's academic, medical, hospital or health records unless the court specifically and for good cause orders otherwise.
Children of assisted conception; surrogacy	Va. Code §§ 20-156 through 20-165	All court hearings involving assisted conception and surrogacy (held in camera and are confidential)	Disclosure of records permitted in such cases only as would be allowed in an adoption case under § 63.1-235.  Release by consent not available.
Involuntary detentions and admissions of the mentally ill	Va. Code §§ 37.1-67.2 and 37.1-67.3	Medical records, reports and court documents relating to involuntary detention and commitment proceedings, confidential if so requested by the subject or his counsel	Records if confidentiality not requested by the subject or his counsel.  Such records to the facility or program to which the subject has been admitted.  Commitment order to CCRE, with subject's thumbprint, to be kept confidential and in a separate file and used only for conducting firearms transaction record checks under § 18.2-308.2:2.  Record release by court order for good cause.
Court determination of mental incompetency or restoration of competency	Va. Code § 37.1-129		Judicial determinations of mental incompetency and of restoration of competency which are publicly recorded and indexed in the deed books by the circuit court clerk.  Copy sent to (i) the State Board of Elections (because mentally incompetent persons may not be registered to vote) and (ii) CCRE for use only in firearms transaction record checks.

Occupational Health and Safety Act (OSHA) enforcement	Va. Code § 40.1-49.4 N		All court actions in cases involving enforcement of OSHA regulations and all hearings and records in such cases.
Virginia Public Records Act	Va. Code § 42.1-78	Any record of any public entity, including a court, that is made confidential by statute or court order, even after the record is archived	Records not made confidential by statute or court order.
Probation and parole	Va. Code § 53.1-160	Criminal records of individuals and actions and records of Parole Board staff as related to parole decisions	Decision to grant or not grant parole and reasons to the inmate.  Monthly report of Parole Board decisions to grant or not grant parole for inmates considered that month.  General statistical data on parole grant rates.  Discretionary and mandatory release dates of inmates.  Notice of release delivered by first class mail to the appropriate court and criminal justice agencies, the Commonwealth's attorney and the victim if previously requested in writing.  Information may be released by subpoena.
Criminal records checks for child welfare agencies (applicants for licensure or registration)	Va. Code §§ 63.1-197 and 63.1-198	Sworn statement or affirmation disclosing whether or not the applicant for licensure has ever been convicted or is the subject of pending charges for certain crimes	
Criminal records check (employees and volunteers of child welfare agencies and child day care centers and foster and adoptive parents)	Va. Code §§ 63.1-198.1 and 63.1-198.2	Criminal history record information  Sworn statement or affirmation to the hiring or approving facility disclosing whether or not the prospective employee or volunteer has ever been	Criminal history record information mandatory to (i) child welfare agencies; (ii) licensing representatives; (iii) a federal or state authority or court as required to comply with an express requirement of law; and (iv) an employee or volunteer, if denied employment or approval because of conviction.  [This section is in conflict with the recently amended parental placement law (§ 63.1-236.01 E) which states that "In parental placement adoptions, where the consent to the adoption was executed on or after July 1, 1994,



		convicted of or is the subject of pending charges for certain crimes	the entire adoption record shall be open to the adoptive parents, the adoptee who is eighteen years of age or older, and a biological parent who executed a written consent to the adoption.”
Interdepartmental regulation of residential facilities for children (“CORE”)	VR 615-29-02 Standards §§ 2.29 and 2.30 and Va. Code §§ 22.2-323.2, 37.1-189.1 and 63.1-196.4	Personal identifying information on employees and residents, including but not limited to medical, psychiatric, psychological and personal information	Information only to those legally authorized to have access to the information under federal and state laws.  Licensure certification records of children’s residential facilities to regulators and administrators of agencies participating in the Interdepartmental Regulatory Program when performing in their official capacities.  Certain information available to resident per policy and procedure regulations to protect the confidentiality of records, including the acquiring of information, access, duplication and dissemination of any portion of the records.  DOE, DMHMRSAS and DSS required to cooperate with other state departments in fulfilling their respective regulatory responsibilities
Criminal records checks for child welfare agencies (applicants for licensure or registration)	VR 615-36-01 Sec. 3.1.E; Sec 3.3.B; and Sec 3.3.D	Criminal record reports on applicants for licensure or registration	Information mandatory to licensing representatives and contract representatives.  Information permissible to a child welfare agency licensee, administrator, registered provider, board president, or their designees.
Regulation for Criminal Record Checks for Homes for Adults and Adult Care Centers	VR 615-37-01 Standard 3.1.D	Criminal record reports shall be kept confidential	Disclosure only to a facility administrator, licensee, or board president, or their designees.
Board Standards for juvenile learning centers	VR 690-50-001 Standards §§ 2.36 through 2.47	Juvenile case records, master files, transfer files, and medical files within Department of Youth and Family Services juvenile correctional center system	Standard 2.41 specifically references Code of Virginia § 16.1-300 exceptions.

<p>Records retention and disposition schedule for juvenile correctional centers' records per Virginia State Library and Archives</p>	<p>Specific Schedule number 777-002</p>	<p>Youth case records including education records, medical records and other materials in case files</p>	<p>Youth case records open to inspection as provided in § 16.1-300 until records have been destroyed. [Schedule provides for disposition of records 10 years after juvenile's discharge.]</p> <p>[This is not a conflict with Code of Virginia § 16.1-306, but is not fully consistent. Court records are to be expunged, for juveniles who were convicted of felony offenses, when the individual attains the age of 29. Since the Department may hold juveniles committed to it until they attain 21 years of age, the Department is in these cases required by VSLA rules to retain records until the individual attains the age of 31 years--two years beyond the time when the committing court will have expunged all its records of the case.]</p>
<p>Victims of Crime Act (VOCA)</p>	<p>42 U.S.C. 10601-10605</p>	<p>All information obtained in serving victims</p>	<p>Aggregate information reported, provided no individual victim identified.</p> <p>Information upon consent of victim (42 U.S.C. 10604).</p>

**DEPARTMENT OF MOTOR VEHICLES CUSTOMER AND ACCIDENT RECORDS**

<b>Statute</b>	<b>Citation</b>	<b>Information Restricted</b>	<b>Allowable Combinations</b>
Vehicle Ownership and Lienholder Information	Va. Code §§ 43-33, 43-34, 46.2-633, and 46.2-1200.1 through 46.2-1237	Social security number and driver's license number	Vehicle owners' and lienholders' names and addresses to anyone who needs it to comply with the statutory requirements for handling mechanics' liens, storage liens, repossessions, and abandoned vehicles. [Release also through a subpoena.]
Release of DMV's customer records	Va. Code § 46.2-208	Any information from DMV records	<p>Medical information released only to the Attorney General's Office.</p> <p>Any information on the subject's record to the data subject, parent, legal guardian, or authorized agent of the data subject.</p> <p>Five years of conviction or accident data to motor vehicle leasing or rental companies.</p> <p>Five years of conviction and accident information on insureds or prospective insureds to insurance companies.</p> <p>Any information needed to perform their official functions to law-enforcement agencies, courts, government agencies, and Commonwealth's attorneys.</p> <p>Personal information to businesses only when it is needed to locate the individual for the purpose of pursuing a remedy.</p> <p>Information needed to licensing authorities of other states or foreign countries.</p> <p>Any information needed to the National Driver Register Services and the Commercial Driver License Information System.</p> <p>Driving records to employers and potential employers when they present signed releases from the data subjects (unless the position involves the requirement for a commercial driver's license). The position involved must entail the operation of a motor vehicle, and the requesters get only seven years of data.</p>

			Driving record without the release of the data subject to employer or potential employer of an individual whose position requires operation of a commercial motor vehicle.
Releases for research purposes	Va. Code § 46.2-209	Information which would identify individuals by social security number or license number	All data from DMV's customer records for research purposes and when the Commissioner believes that such releases promote highway safety or the general welfare of the public and recipient agrees in writing to use information only for stated purpose (such releases cannot be used for solicitation).
Titles, registrations, and situs information	Va. Code §§ 46.2-210 & 46.2-211	Lists of registrations and titles and garage locations	Lists of titles, registrations, and garage locations can be provided to local commissioners of revenue who cannot release lists to a third party. Release may also be obtained through a subpoena.
Medical control data (incompetent licensee)	Va. Code § 46.2-322	Medical documentation (except to a licensed physician chosen by the data subject)  Name of treating physician or family member who provides information to DMV which leads to the requirement of a medical examination	Reason for the requirement of a medical examination and name(s) of individuals (other than physician or family member) who supplied DMV with information which led to the medical examination requirement to the driver per his written request. (Release may also be obtained through a subpoena.)
Insurance information	Va. Code §§ 46.2-372, 46.2-380, and 46.2-706	Insurance information contained in accident reports  Insurance information collected through insurance monitoring efforts	Insurance information only to a person involved or injured in the accident, his attorney, or the insurance carrier anticipating civil liability as a consequence of the accident.  Insurance information collected through insurance monitoring efforts only to law-enforcement officials and courts which are involved in cases where proof of insurance is pertinent evidence
Accident reports	Va. Code §§ 46.2-379 and 46.2-380	Accident reports made by investigating officers  Accident reports filed with DMV pursuant to §§ 46.2-372, 46.2-373, 46.2-375, or § 46.2-377	From report, the date, time, and location of the accident and the names and addresses of the drivers, owners, injured persons, witnesses, and one investigating officer to anyone who makes a written request.  Complete copies of accident reports only to someone involved or injured in the accident, his authorized representative, or an insurance carrier anticipating civil liability as a result of the accident.

## EDUCATION RECORDS

(Department of Education and Department of Correctional Education)

Statute	Citation	Information Restricted	Allowable Communications
Special education programs	Va. Code §§ 22.1-213 through 22.1-222  34 C.F.R. 300.560 through 300.576	Educational information and records maintained by the agency on students identified as educationally handicapped and enrolled in special education programs provided by the agency	Same as for scholastic or education records at § 22.1-288.
Regulations Governing Management of the Student's Scholastic Record	Va. Code § 22.1-287  Board of Education VR 270-01-0014	There are different confidentiality/disclosure requirements for each type of record. [The regulations comport with and include provisions from FERPA. These regulations, which reference Category I and II records, are in the process of being revised due to changes in the Virginia Code. However, Category I and II records will be referenced in this document for ease in understanding and identification.] "Category I information" is continuous and current records of significant factual information pertinent to the educational growth and development of individual students as they progress through school. "Category II information" is reports written by	Disclosure of Category I information without consent to (i) students under the age of 18 with certain limitations; (ii) accrediting organizations; (iii) appropriate persons concerned with financial aid; (iv) officers of the United States; (v) state and local officials and authorities of health and social services agencies; (vi) public or private schools, colleges or universities; or (vii) the military. Disclosure of Category I and II information without consent to (i) parents and eligible students; (ii) adult clerical personnel; (iii) appropriate emergency personnel; (iv) governmental and educational auditors, evaluators and researchers; (v) state and local authorities, including correctional facilities, law-enforcement officers, city or county agencies responsible for protective services to children; (vi) organizations and agencies conducting studies; (vii) principal or designee of a school a student plans to attend or appropriate official of post-secondary school; (viii) professional personnel within a school or school division who have a legitimate educational interest; and (ix) the state superintendent of public instruction or a member of his staff. [Directory information may be disclosed to others upon request or at the discretion of the school division unless the parent or eligible student has submitted a written request for nondisclosure.]  Student records accessible by judicial process.  [Expungement: Provides for the retention of certain record data permanently, while other data may be destroyed when no longer educationally useful or five years after the student graduates from a secondary school, completes a program adopted by the Board of Education

		<p>professional staff of the local school division for the express use of other professionals within the school division, e.g., appropriate confidential information from the records of such cooperating individuals or agencies as psychiatrists, child welfare agencies, hospitals or juvenile courts.</p> <p>["Personally identifiable information" in a student's record may be classified as "directory information"; see 20 USC § 1232 g for definitions.]</p>	or leaves school.]
Furnishing information to other schools, etc.	Va. Code § 22.1-288	Names and addresses of students	Student names and addresses to public or private schools, colleges or universities, or private businesses or professional schools or military recruiting representatives for the purpose of informing students of the educational and career opportunities available in the institutions or the military.
Interstate agreement	§ 22.1-289	Scholastic/education records	<p>Education record or a copy of the record transferred to the school division to which the student transfers upon request of the school division. This includes education programs in a local jail or a detention center or a program operated by the Department of Correctional Education. (Parental consent is not required.)</p> <p>Education records to the receiving school district of another state via agreements between Virginia and certain other states and the District of Columbia. Such disclosure shall be made in accordance with the conditions set forth in state and federal law.</p>
Family Educational Rights and Privacy Act (FERPA)	20 USC § 1232 g; 34 C.F.R. Part 99	<p>Certain personally identifiable information</p> <p>["Personally identifiable information" includes, but is</p>	Personally identifiable information from student records by schools without parental or eligible student consent to: (i) teachers, administrators, or other school officials who have legitimate educational interests; (ii) officials of another school, school division or institution of postsecondary education where the student seeks to enroll; (iii) certain

		<p>not limited to, the student's name; the name of the student's parents or other family members; the address of the student or family; a personal identifier, such as the student's social security number or student number; or a list of personal characteristics or other information that would make the student's identity easily traceable.] ["Eligible student" is defined as a student who has reached 18 years of age or is attending an institution of postsecondary education.] [When a student becomes an eligible student, the rights accorded to, and consent required of, parents transfer from the parents to the student.]</p>	<p>federal, state and local officials with some limitations; (iv) officials in connection with financial aid for which a student has applied or received (limitations); (v) organizations conducting studies for, or on behalf of, educational agencies to develop, validate or administer predictive tests, to administer student aid, or to improve instruction (limitations); (vi) accrediting organizations to carry out their accrediting functions; (vii) persons to whom the information is necessary to protect the health or safety of the student or other individuals. (Generally requires that a school obtain prior written consent before disclosing personally identifiable information from a student record.)</p> <p>Personally identifiable information from an education record by an agency only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student. (Some exceptions.)</p> <p>"Directory information" from the student's education record by schools without prior parental or eligible student's consent. [Directory information may include a student's name, address, telephone number, date and place of birth, field of study, sports activities, dates of attendance, and awards received. Schools must notify parents annually of what they consider to be directory information.]</p>
<p>Individuals with Disabilities Education Act (IDEA)</p>	<p>20 U.S.C. §§ 1400-1485; 34 C.F.R. Part 300</p>	<p>Any personally identifiable information not released with parental consent</p> <p>Education records that include information on more than one child</p>	<p>Information to officials of participating agencies collecting or using the information under this part; may not be used for any purpose other than meeting a requirement of this particular regulation. (However, information from education records of an educational agency or institution subject to FERPA may not be released to participating agencies without parental consent unless authorized to do so under FERPA.)</p> <p>POSSIBLE CONFLICT: IDEA states that data may not be released without parental consent. FERPA states that the rights accorded to parents are transferred to the student when the student is 18 years old or attending a postsecondary institution. This appears to state that the right to consent to release of data is transferred to the student.</p> <p>Only the information relating to their child to the parents of such child.</p>

## EMPLOYMENT RECORDS

### (Virginia Employment Commission, Department of Personnel and Training and Worker's Compensation Commission)

Statute	Citation	Information Restricted	Allowable Communications
Freedom of Information Act	Va. Code §§ 2.1-340 through 2.1-346.1	Personnel information as defined by the Privacy Protection Act	All public records not specifically restricted. Employee's name, job title, salary, dates of employment; other restricted information released with consent or subpoena.
Virginia Privacy Protection Act	Va. Code §§ 2.1-377 through 2.1-386	Third party access to personnel information	Personal identification information of an agency employee to a third party acting as an agent of the agency if: (i) there is a legitimate business purpose, (ii) procedures are established to assure that the third party will maintain the confidentiality of the information, and (iii) the employee is notified that the information has been disclosed to the third party.
Confidential records of the Council on Human Rights	Va. Code § 2.1-723	Investigative notes and other correspondence and information collected for an investigation or conciliation process involving an alleged unlawful discriminatory practice	Notes, etc., to U.S. Equal Employment Commission; to the respondent and complainant; or to an agency by interagency agreement. [Agreements have been established with the Department of Commerce-Real Estate Board; the Department of Labor and Industry; the Department of Personnel and Training, the Department for Rights of Virginians with Disabilities; and the Department of Employee Relations Counselors. If a complaint is not within the Council's jurisdiction but possibly within the jurisdiction of an "interagency agreements" agency, the complaint is forwarded to that particular agency.]
Insurance Information and Privacy Protection	Va. Code §§ 38.2-600 through 38.2-620	Personal and privileged information as defined in the act	Insurance companies are permitted to access information on individuals insured by other insurance companies without consent of the individual. All other disclosures are usually limited by requiring the individual's consent or obtaining subpoena.
Virginia Unemployment Compensation Act	Va. Code §§ 60.2-114 and 60.2-623	Claimant/employer information relating to taxation or unemployment claims	Mandatory release of information to the Worker's Compensation Commission and to certain public officials in performance of their duties. Information released by consent or at the discretion of the Commission if not inconsistent with the Act.
Workers' Compensation Act	Va. Code § 65.2-823	Information filed with the State Corporation Commission by an insurance carrier or a rate service organization in connection with an assigned risk	Any individual making such a request referred by the Workers' Compensation Commission to the State Corporation Commission.
Workers' Compensation Act	Va. Code § 65.2-903	Records of the Commission as they refer to accidents, injuries and settlements Information relating to the	Records open only to the parties satisfying the Commission of their interest and right to inspect them.  Files only to parties (employee and employer) and their attorneys to



		terms of compromise settlements, even with consent	<p>review and to discuss with Commission personnel.</p> <p>With a signed, notarized release from the employee, the date a claim was filed, the file number, the type of injury, and the award date. Access to medical reports allowed only if access is specifically requested and authorized by the employee.</p> <p>Awards and judicial opinions.</p> <p>Information that a person has filed a claim and the file number.</p> <p>Pursuant to § 65.2-900, copies of accident reports provided by the Commission to the Department of Labor.</p> <p>Restricted information may be obtained by a subpoena.</p>
Workers' Compensation (Self-insured Employers)	VR 405-01-06 Rule 8	Information concerning the solvency and financial ability of any employer	Such information to be inspected or divulged only by court order so long as the employer continues to be solvent and any compensation legally owed by the employer is paid.
Federal Privacy Protection Act	5 U.S.C. Section 552 et seq.	Dissemination of social security numbers (SSN)	Dissemination of social security numbers if proper disclosures are made to employees, e.g., that SSN disclosure is mandatory or voluntary and for what purpose.
Written agreements with governmental agencies pursuant to cited statute	<p>42 U.S.C. 303 (a)</p> <p>42 U.S.C. 303 (d)</p> <p>42 U.S.C. 303 (h)</p> <p>42 U.S.C. 303 (i)</p> <p>45 U.S.C. 231; 45 U.S.C. 362(f) and 45 U.S.C. 502(c)</p>	Claimant/employer information	<p>Mandatory release to any federal agency charged with administration of public works or assistance through public employment.</p> <p>Mandatory release of information to U.S. Department of Agriculture/state agencies administering food stamps.</p> <p>Mandatory release to the Office of Child Support Enforcement</p> <p>Mandatory release to the U.S. Department of Housing and Urban Development.</p> <p>Mandatory release of information to the Railroad Retirement Board.</p>

Current Employment Statistics (CES)	Bureau of Labor Statistics (BLS) contractual agreement	Employment and wage data that meets either of these criteria: (i) at least three firms fall into sample industry or (ii) less than 80% of sample is from one firm	Data release between state agencies at discretion of the division director and with consent.
Occupational Employment Statistics (OES)	29 C.F.R., Subtitle A, Part 70; BLS Order 3-93	Individual respondent data and data meeting one of these criteria: (i) data reported by fewer than three firms, (ii) 50% or more of the employment was with one firm, or (iii) 75% or more of the occupation's employment was with two firms combined	Mandatory data release to BLS for inclusion in national estimates.

## HEALTH RECORDS

(Department of Aging, Department for the Deaf and Hard of Hearing, Department of Health, Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS), Department of Rehabilitative Services, and Department for the Visually Handicapped)

Statute	Citation	Information Restricted	Allowable Communications
Freedom of Information Act	Va. Code § 2.1-342 B 3	All personally identifiable medical and mental records	Access by the subject to records, except under certain circumstances. Statistical summaries of incidents of patient abuse.
Virginia Freedom of Information Act exemption for certain tests administered.	Va. Code § 2.1-342 B 9	Virginia Quality Assurance Screening (VQAS) assessment materials and individual results for the deaf and hard of hearing	Disclosure (i) in internal agency communications, (ii) of overall program data, including number of VQAS levels awarded and (iii) by consent.
Access to residents, facilities and patients' records by the Office of State Long-Term Care Ombudsman	Va. Code § 2.1-373.1	Records of nursing facilities, licensed adult care residences, and state hospitals operated by DMHMRSAS	Disclosure to personnel designated by the Department of the Aging to investigate complaints referred to any program of the State Long-Term Care Ombudsman pursuant to the Older Americans Act, 42 USC § 3001 et seq. Review of medical or social records by consent, unless the patient is unable to consent and has no legal guardian.
Comprehensive Services Act for At-Risk Youth and Families	Va. Code §§ 2.1-746 through 2.1-759.1	All personally identifiable records of services, treatment or education	Nonidentifying demographic, service and cost information on youths and families receiving services and funding through this Act for reporting and evaluation purposes.  [The agency which refers a youth and family to the family assessment and planning team shall be responsible for obtaining the consent required to share agency client information with the team.]
Psychiatric Inpatient Treatment of Minors Act	Va. Code §§ 16.1-335 through 16.1-348	All personally identifiable medical, mental and legal information	The provisions of Article 12 (§ 16.1-299 et seq.) Chapter 11 of Title 16.1, relating to the confidentiality of files papers and records, apply to proceedings under these sections. Although there are several lists of persons and agencies that may have access to juvenile records in various statutes in Article 12, the section that seems most relevant, § 16.1-305, provides that social, medical and psychiatric or psychological records, including reports, shall be filed in the juvenile's case file. A juvenile's case file shall be open only to: (i) the judge, probation officers and professional staff assigned to serve the relevant juvenile and domestic relations district court; (ii) the representatives of a public or

			<p>private agency or department providing supervision or having legal custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court; (iii) the attorney for any party; (iv) any other person, agency or institution, by order of the court, having a legitimate interest in the case or in the work of the court; or (v) the parties to the proceedings and their attorneys.</p> <p>A copy of a minor's predischarge plan, formulated and explained to the minor, is sent to the minor's parents or, if the minor is in the custody of the local department of social services, to the director. If a minor is admitted to a state facility, the predischarge plan shall be prepared and implemented in accordance with § 37.1-98.2 (wherein there is an exchange of information with the local community services board).</p>
Criminal Procedure: (i) proceedings on question of insanity; (ii) disposition of persons acquitted by reason of insanity; (iii) trial and its incidents; and (iv) sentence, judgment, and execution of sentence	Va. Code Title 19.2	Forensic evaluations and treatment for certain defendants involved in criminal court proceedings by DMHMRSAS or by staff from the community services board who are trained forensic evaluators	Records and reports of such evaluations and treatment released only to the judge, defendant, counsel for the defendant, and/or the attorney for the Commonwealth.
Examination of medical records	Va. Code § 32.1-40	Medical records	State Health Commissioner or his designee may review and examine any medical records for investigation, research, or studies of diseases or deaths of public health importance.
Virginia Hearing Impairment Identification and Monitoring System	Va. Code § 32.1-64.2	Information collected on infants determined to be at risk of hearing impairment or to have hearing loss	<p>Publication only of statistical or other studies which do not identify individuals to other states, national researchers, and others on request.</p> <p>Commissioner may contact the parents of children identified as at risk of hearing impairment or having hearing loss and their physicians to collect relevant data and to provide them with information about available public and private health care and educational resources, including hearing impairment clinics.</p>

Detection and Control of Phenylketonurina and Other Inborn Errors of Metabolism	Va. Code § 32.1-67.1	Information, biomedical research or medical data which identifies any infant having a genetic disease	Information with identifiers accessible only to the Board of Health, the Commissioner of Health or his agents.  Information without personal identifiers may be published and released to health care providers, hospitals, tertiary centers, and other states.
Voluntary Program for Control of Genetic and Metabolic Diseases	Va. Code § 32.1-69	Records maintained as part of any screening program	Results of screening program to (i) the physician of the person tested; (ii) either the parents when the person screened is under age 18 or the person if he is age 18 or over; (iii) the Board of Health, (iv) the Commissioner of Health or his agents, (v) the local health director who is conducting the screening program, (vi) researchers for collective statistical purposes, or (vii) anyone with explicit permission of the person tested (if such person is age 18 or over) or the tested person's parent or guardian (if such person tested is under age 18).
Virginia Congenital Anomalies Reporting and Education System	Va. Code §§ 32.1-69.1 and 32.1-69.2	Data from birth certificates filed with State Registrar of Vital Records and data obtained from hospital records, including information on parent's service in Vietnam, the duration of service and possible exposure to Agent Orange	Data to the Commissioner of Health for collection in the Virginia Congenital Reporting System and to health care providers, hospitals, tertiary centers, and developmental disabilities programs. Nonidentifying data for any statistical or other studies to be published.  The Commissioner of Health may contact parents of children identified as having birth defects and their physicians to collect relevant data and to provide them with information about available public and private health care resources.
Records of hospitals, clinics, and certain laboratories; Statewide Cancer Registry	Va. Code §§ 32.1-70 and 32.1-71	Abstracts of records of persons having malignant tumors or cancers including names, addresses, sex, race, diagnoses and any other pertinent identifying information and information regarding possible exposure to Agent Orange or other defoliants through service in the Vietnam War	Records of patients having malignant tumors or cancers, including names, addresses, sex, race, diagnoses, and other pertinent identifying information available to State Health Commissioner.  Abstracts of records from the Director of Woodrow Wilson Rehabilitation Center to the Commissioner.  Release to public and private health care agencies and other cancer registries.  Abstracts released for statistical or other studies which do not identify individual cases. Under the authority of § 32.1-41, the Commissioner may divulge confidential information for an investigation, research or study.
Emergency Medical Services	Va. Code §§ 32.1-116.1:1	Patient information	Institutional data to the Commissioner or his designees to improve the quality of and appropriate access to emergency medical services.

Patient Care Information System	and 32.1-116.2	<p>Publication of information, research, or medical data which identifies the patient by name or address</p> <p>[Mechanisms for protecting patient data shall be developed and continually evaluated to ascertain their effectiveness.]</p>	<p>Disclosure by a licensed physician or other health care provider to any emergency medical care attendant, technician or another physician of the medical or hospital records of a sick or injured person to whom such attendant, technician or physician is providing or has rendered emergency medical care or assistance for the purpose of promoting the medical education of the specific person who provided such care or assistance.</p>
Emergency Medical Services Patient Care Information System; communicable diseases	Va. Code § 32.1-116.3	<p>Identity and condition of patient judged to present a risk to the transporting personnel or to any patient subsequently transported</p> <p>All personnel involved in any investigation</p>	<p>Condition of patient and types of precautions to be taken to prevent spread of disease, to the attendant in charge of transporting unit.</p> <p>Name of patient, date and time of admittance to the communicable disease liaison officer of the transporting unit if the treating physician determines that a transported patient is positive or diagnosed as suffering from an airborne infectious disease.</p>
Complaints on hospitals and nursing homes	Va. Code § 32.1-138.5	<p>Identity of complainant and identity of the hospital or nursing home patient who is subject of complaint</p>	<p>Disclosure by the Virginia Department of Health (VDH) to the nursing facility of the nature of the complaint or identity of patient who is subject of complaint.</p> <p>Disclosure of the identity of the complainant to the nursing facility within a reasonable time in advance of such hearing, if VDH intends to rely, in whole or in part, on any statements made by the complainant at any administrative hearing brought against the nursing facility.</p>
Reports of sewage disposal violation	Va. Code § 32.1-163.3	<p>Identity of any person reporting an alleged violation of any provision of the Code or any regulation of the Board relating to sewage disposal</p>	<p>The identity of such person may be disclosed (i) to the Commissioner, the members of the Board and personnel of the Virginia Department of Health in the performance of their duties; (ii) when the identity is included in materials which are the subject of a request for information pursuant to the Virginia Freedom of Information Act; (iii) when the matter reported is the subject of a hearing conducted by the State Health Department Sewage Handling and Disposal Appeal Review Board; or (iv) when the matter reported is the subject of litigation.</p>
Reporting of Knowledge of Toxicity by Commercial Establishments	Va. Code § 32.1-244	<p>Confidential information filed with the Virginia Department of Health (VDH)</p>	<p>VDH shall make reasonable efforts to return all confidential business information filed pursuant to the Code article to the owner or operator of the business that reported it; however, if the business no longer exists or the owner or operator cannot be located, VDH may retain the confidential information under the same terms and conditions of confidentiality</p>

	Va. Code § 32.1-244 continued		existing prior to July 1, 1992, or, at the discretion of the Commissioner, purge and destroy such information.
Vital Records	Va. Code § 32.1-271	Birth records less than 100 years old and marriage, death and divorce records less than 50 years old	<p>Records released as authorized by regulation of the Board or when so ordered by a court of the Commonwealth. Regulations specify that, upon request, the State Registrar or the city or county registrar shall disclose data or issue certified copies of birth or death records or information when satisfied that the applicant has a direct and tangible interest in the content of the record and that the information contained therein is necessary for the determination or protection of personal or property rights.</p> <p>Data may be disclosed for and limited to valid and substantial research purposes in accordance with regulations of the Board.</p> <p>Data may be disclosed to federal, state, county or municipal agencies of government which request such data in the conduct of their official duties, except certain records are available only for official purposes to federal, state, county or municipal agencies charged by law with the duty of detecting or prosecuting crime, preserving the internal security of the United States, or for the determination of citizenship.</p>
Investigation of deaths	Va. Code § 32.1-283	Medical records	Notification of death, identity of next of kin reported to Chief Medical Examiner, who is also authorized to inspect and copy pertinent medical records of the decedent.
Rights of patients and residents in a hospital or other facility operated, etc., by DMHMRSAS	Va. Code § 37.1-84.1  § 37.1-98.2	All personally identifiable medical and clinical records	<p>Access to records by patient, consistent with his condition.</p> <p>Community services boards (CSB) and state facilities may, when the individual has refused consent, exchange the information required to prepare and implement a discharge plan as specified in § 37.1-98. The CSB may release without consent to those service providers and human services agencies identified in the predischarge plan only such information as is needed to secure those services specified in the plan. Release of any other information to agencies or individuals not affiliated directly or by contract with the CSBs or facilities shall be subject to rules and regulations promulgated by the Board or by agencies of the United States which govern confidentiality of patient information.</p>

			<p>Reporting statutes in Code of Virginia:</p> <p>§§ 32.1-35 through 32.1-38. Disease reporting and control to various people on need-to-know basis.</p> <p>§ 32.1-40. Medical records by request of the Commissioner of Health for research, etc.</p> <p>§ 37.1-92. Notice and copy of records to U.S. immigration officer of admission of alien to a state hospital or institution.</p> <p>§ 46.2-401. Report to Commissioner of Motor Vehicles if person to be discharged has a mental condition that will prevent him from being competent to drive with safety.</p> <p>§ 54.1-2400.1 Warning to potential victims by mental health providers who have a duty to protect third parties.</p> <p>§ 54.1 -2906. Disciplinary actions against and certain disorders of health professionals reported to appropriate licensure board.</p> <p>§§ 54.1-2966, 54.1-2966.1 and 54.1-296. Physician reporting of disabilities to aircraft pilot licensure boards and DMV and certain wounds to authorities.</p> <p>§§ 63.1-55.2 through 63.1-55.7. Abuse, neglect and exploitation against aged or incapacitated adults..</p> <p>§§ 63.1-248.2 through 63.1-248.17. Child abuse and neglect.</p>
Disclosure of Patient Information to Third Party Payors by Professionals	Va. Code §§ 37.1-225 through 37.1-233	Patient information in the possession of third party payors	Limited disclosure made under certain circumstances with or without patient's consent and by subpoena.
Reporting requirement of state agencies	Va. Code § 46.2-221	Information on blind and visually handicapped citizens	Every state agency having knowledge of the blind or visually handicapped, maintaining any register of the blind, or administering either tax deductions or exemptions for or aid to the blind or visually



with knowledge of the blind or visually handicapped.			<p>handicapped shall report each January to the Department of Motor Vehicles (DMV) the names of all persons so known, registered, or benefiting from such deductions or exemptions, for aid to the blind or visually handicapped.</p> <p>DMV shall report to the Department for the Visually Handicapped and the Department of Rehabilitative Services at least annually the names and addresses of every person who has been refused a driver's license solely or partly because of failure to pass the visual examination.</p>
Spinal cord injury; Central Registry	Va. Code § 51.5-11 C	All information	<p>Information only to, and for administration of programs by, Department of Rehabilitative Services (DRS).</p> <p>Information needed for research purposes available to an organization or individual engaged in research only for purposes directly connected with the administration of programs relating to persons with disabilities with the following assurances: (i) information will be used solely for purpose for which it is provided; (ii) information will not be released to persons not connected with the study; (iii) the final product will not reveal any information that may serve to identify any person without the written consent of the person/representative and DRS.</p>
Register of the Blind	Va. Code §§ 63.1-71 and 63.1-71.1	Names and addresses of persons diagnosed as blind and the condition, cause, capacity for educational and industrial training of each and other facts the Department for the Visually Handicapped deems of value	<p>Each physician, optometrist or other person who, upon examination of the eyes of any person, determines that such person is a blind person shall immediately report the name and address of such person to the Department for the Visually Handicapped.</p> <p>Disclosure for purposes directly connected with the administration of programs or as required by other agencies of the Commonwealth, e.g., related to Department of Rehabilitative Services' determination of disability.</p> <p>Information needed for research purposes released as under "spinal cord injury" (§ 51.1-11).</p>
Regulations Governing Technological Assistive Devices	VR 245-02-01	Applications and other client materials, including award status	<p>Overall program data, including number and types of devices distributed by region.</p> <p>Disclosure through internal agency communications.</p> <p>Restricted information may be released by consent.</p>

<p>Rules and Regulations to Assure the Rights of Clients in Community Programs licensed or funded by the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS)</p>	<p>VR 470-03-03 §§ 2.3 and 2.4</p>	<p>All personally identifiable medical and mental records</p>	<p>Disclosures of records only with the consent of the client or his authorized representative, except in emergencies or as otherwise required or permitted by law. In the case of minors in residential programs, the concurrent consent of a parent with legal custody must also be obtained.</p>
<p>Rules and Regulations to assure the rights of residents of hospitals and other facilities operated by DMHMRSAS</p>	<p>VR 470-03-01, Section XI</p>	<p>All personally identifiable medical and clinical records</p>	<p>Disclosure to (i) any person necessary where an emergency exists in which it is reasonable to believe that delay in disclosure will result in serious bodily injury or death or deterioration of the physical or mental condition of the resident or of another person threatened by the resident, within the next seventy-two hours; (ii) any full or part-time employee, consultant, or agent of the DMHMRSAS as to the extent required for the provision of treatment to the resident, or to obtain reimbursement for the costs of treatment; (iii) the Attorney General; (iv) third party payors ( See §§ 37.1-225 through 37.1-233); (v) human rights committees; and (vi) others authorized by the Commissioner or Director, or by litigation.</p> <p>Release by consent. (The requesting person must provide to the facility (i) suitable identification; (ii) if relying on substitute consent, suitable proof of legal authority of the person making consent; (iii) written documentation of consent; and (iv) a written signed statement that the person or organization receiving the information agrees to refrain from and protect against unauthorized disclosure.)</p>
<p>VDH Medical Records Release Form</p>			<p>Provides a form for patient permission to release information relating to medical, education or psychological records, and/or other information concerning the illness of, and/or treatment of, and handicap of a patient to other agencies or persons participating in the care of the patient.</p>

Confidentiality and Security of Records Policy	Home Health Manual	All records and their contents [kept in a secure place and their whereabouts known]	Release of records or disclosure of information from records only with written permission from the patient/guardian; i.e. by medical release form.
VDH subpoena procedure for confidential information			Upon receipt of subpoenas or other legal papers, VDH units are to notify and provide the appropriate Assistant Attorney General with copies of the papers served. Upon receipt of a subpoena requesting such information, the Assistant Attorney General will immediately seek a court order protecting the information from release. [This policy must be followed especially as it applies to the release of confidential medical or epidemiological information.]
VDH school nurses		Special education records and medical records in the school	Disclosure to health department nurses in the five health districts where contractual arrangements exist between the schools and health departments for health department nurses to provide school health services. In the other districts where no contractual arrangements exist, the health department nurses providing services in the schools may access the records with a signed parental release of information form. The schools receive medical information from the health departments, (i.e., Children's Specialty Clinics, Child Development) with a signed parental release of information form.
VDH Information Security Access Agreement		VDH computer system	In applying for user I.D. to access the VDH computer system, employees must sign a security form agreeing to certain conditions, e.g., will not disclose confidential, restricted or sensitive data.
Drug Abuse Office and Treatment Act; Comprehensive Alcohol and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendment of 1974	21 U.S.C. 1175 and 42 U.S.C. 4582	Identity, diagnosis, prognosis, or treatment of any patient when such information is maintained in connection with a drug or alcohol abuse prevention function conducted, regulated, or assisted by any agency of the United States	Release by consent.

Confidentiality of Alcohol and Drug Abuse Patient Records; federal regulation	42 U.S.C . § 290 dd-3 and ee-3 42 C.F.R., Part 2	Substance abuse-related case records, including any information, whether recorded or not, which identifies a patient as an alcohol or drug abuser	<p>Disclosure without patient consent (i) to medical personnel to meet a medical emergency; (ii) to qualified personnel for research, audit or program evaluation; or (iii) by court order.</p> <p>Disclosure of confidential information by court order only if (i) disclosure is necessary to protect against an existing threat to life or serious bodily injury of another person; (ii) it is to be used to investigate an extremely serious crime; or (iii) the patient brings the matter up in any legal proceedings.</p> <p>Release by consent. [Consent form must be used <u>each</u> time records are released or exchanged, therefore a separate Release of Information Form for Substance Abuse Treatment is used.]</p> <p>If involved individual is under 18 years old, his or her informed written consent is needed before releasing information to others, including the parent/representative.</p>
Americans with Disabilities Act of 1990	42 USC § 12101 et seq.	Information pertaining to a disability	Release of information to employers only with individual's consent. [This information shall routinely relate only to job abilities and job accommodation needs, unless individual stipulates disability-related information may be released.]
Rehabilitation Act of 1973, as amended	C.F.R. 361.49	Personal information on applicants or recipients	<p>Disclosure to provider of rehabilitation services for purposes directly connected with the administration of the vocational rehabilitation program (personal information may <u>not</u> be shared with advisory or other bodies which do not have official responsibility for administration of the program).</p> <p>All information in his case record to the individual or his representative in a timely manner by written request of such individual or his representative. Medical, psychological or other information which the agency believes may be harmful to the individual may not be released directly to the individual but must be provided through his/her representative, a physician or a licensed or certified psychologist.</p> <p>Personal information obtained from another agency or organization released to the individual or his representative only by or under the conditions established by the other agency or organization.</p> <p>Release for audit, evaluation, or research only (i) if purposes are</p>

			<p>directly connected with the administration of the vocational program or (ii) if the information would significantly improve the quality of life for handicapped persons. Assurances of confidentiality must be given.</p> <p>Release to other programs or authorities, i.e., other human services agencies, for their purposes, with the informed written consent of the individual. Additional information may be released (i) with consent, (ii) if required by federal law, (iii) in response to investigations in connection with law enforcement, fraud, or abuse, and in response to a judicial order or (iv) in order to protect the individual or others when the individual poses a threat to his safety or to the safety of others.</p> <p>Closed case information (including demographics, outcome, services, and reasons for closure) reported annually to Rehabilitation Services Administration (RSA).</p> <p>The Department of Rehabilitative Services' practice is to report aggregate information to RSA annually. RSA representatives also review a sample of individual case files on a periodic basis. RSA Commissioner is required to ensure the identity of the client remains confidential.</p>
Letter of Understanding between the Division of Licensing Programs and the Division of Service Programs, regarding investigations of abuse, exploitation or neglect in homes for adults (adult care residences)		Reports, documentary evidence, other information received in adult protective service investigations	<p>Disclosure only to persons (e.g., Division of Licensing Programs staff) recognized as having legitimate interest in confidential information and the information is necessary for investigations, etc.</p> <p>Letter of understanding permits release.</p> <p>Disclosure to the extent that disclosure is required by law.</p>
Public Health Service	42 C.F.R. Part 51	Personal facts and circumstances obtained by the	Disclosure as required by applicable law and for medical audits by the Secretary of the Department of Health and Human Services (HHS).

Maternal and Child Health Block (Title V)	Para 6	project's staff about recipients of services	Disclosure only in summary, statistical, or other form which does not identify particular individuals.
Family Planning Services Grant (Title X)	42 C.F.R. Part 59. Para 59.11		Disclosure as necessary to provide services to the patient or as required by law. Disclosure only in summary, statistical, or other form which does not identify particular individuals
Victims of Crime Act	42 U.S.C. 10604(d)	Research or statistical information furnished under the program by any person and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained in accordance with the act [This includes all conversations between a victim and sexual assault center staff	Disclosure only of information authorized by a victim with a written release. [Confidential information is protected under the law and may not be used in a legal or legislative process without the permission of the victim.]
Childhood Immunization, Tuberculosis, and STD/AIDS Programs	Privacy Act of 1974 (5 U.S.C. 552a)	Information with personal identifiers	The individual's personal information to him.  Provisional information can be disclosed outside the department (i) to audit agencies for auditing, (ii) to the Department of Justice as required for litigation, (iii) to congressional offices, (iv) to federal agencies to establish contracts, and (v) to refine record-keeping systems.
Associate Public Information of the Department of Health and Human Services	45 C.F.R. Part 5	Personal identifiers	Release to any member of the public who requests information regarding grants, e.g., grant applications, program reports, and data resulting from federally funded projects or studies (minus personal identifiers).
Health Facilities Regulations (Licensing/Certification Process)	Health Care Financing Admin. (HCFA) SOM #2715	Information received from residents or family members regarding care provided by the facility	Disclosure to the facility's administrator, his designee, and other invited staff and counsel.
Health Facilities Reg. (Complaints)	HCFA-SOM #3308	Identity of the complainant	Disclosure only to those with need-to-know and acting in official capacity to investigate the complaint or to anyone with waiver by the complainant.

<p>Health Facilities Regulation</p> <p>(Handling public inquiries)</p>	<p>Social Security Act, 42 U.S.C. 301 et seq.</p> <p>42 C.F.R Part 400 Subpart B</p>	<p>Any file, record, report or other writing, or any information concerning a health care facility retained by an agency, institution, or organization (e.g., an intermediary or state agency) and those performing Title XVIII or Title XIX services for such agency, institution, or organization</p>	<p>Release of information relating to Medicare/Medicaid deficiencies which does not identify the patient or complainant, pursuant to HCFA SOM #3308 and #3320.</p>
<p>Memorandum of Understanding on Interagency Collaboration and Confidentiality</p>		<p>Information not authorized by the client to be shared with other agencies</p>	<p>Release to other agencies of client-authorized information, including the specific information to be shared, the purpose for the sharing the information, and the method of sharing.</p>

**PUBLIC ASSISTANCE AND WELFARE RECORDS**

**(Departments of Aging, Medical Assistance Services and Social Services)**

<b>Statute</b>	<b>Citation</b>	<b>Information Restricted</b>	<b>Allowable Communications</b>
Confidentiality of records of the State Long-Term Care Ombudsman	Va. Code § 2.1-373.2	Records required and maintained by the Department of the Aging personnel in connection with specific complaints or investigations	<p>Information may be released on a confidential basis in compliance with regulations promulgated by the Department.</p> <p>The identity of the complainant or resident released with the consent of such person or his legal representation, or by a court order.</p> <p>Long term care facility is notified of the nature and the findings of the Department.</p>
Privacy Protection Act	Va. Code §§ 2.1-377 through 2.1-386	All personal data about an individual	Generally, mandatory disclosure to the individual about whom the information is maintained, except in cases of child abuse and neglect, while the case is also subject to an ongoing criminal prosecution. See subdivision 7 of § 2.1-384.
Authority of Department of Social Services (DSS) to request and receive information from other agencies	Va. Code § 63.1-1.1:1	All personal data about an individual	Disclosure to DSS of information relating to the administration of public assistance programs, including child-support enforcement, requested from or exchanged with other departments, boards, bureaus or agencies if a written statement from the requesting party stating the reason for seeking such record is submitted; the statement is filed with the record sought.
Allowing access to records of DSS and local boards of public welfare	Va. Code § 63.1-53	All social services records pertaining to assistance and services provided to an individual by DSS and local boards of public welfare	<p>Information to persons specified in § 63.1-209 and those having a legitimate interest.</p> <p>Records of local boards to the Commissioners of DSS and the Virginia Department for the Visually Handicapped and their authorized agents and employees.</p> <p>Information to Community Policy Management Team (CPMT) and Family Assessment Planning Team (FAPT) members if client signs release for sharing of information and is invited to meetings.</p>



<p>Child welfare, homes, agencies and institutions</p>	<p>Va. Code § 63.1-209</p>	<p>Records and information learned during the course of a child protective services investigation or during the provision of child protective services to a family</p>	<p>Disclosure to the Commissioner of Social Services and the State Board of Social Services.</p> <p>Disclosure by local social services agencies, without a court order and without consent of the family, to a person having a legitimate interest when it is determined in the judgment of that agency to be in the best interests of the child.</p> <p>“Person having a legitimate interest” includes but is not limited to: (i) persons investigating a report of abuse/neglect or providing services to the family; (ii) agencies monitoring compliance with a court order or a child protective services plan; (iii) school or day-care programs personnel; (iv) persons who would be considered for an alternative placement for the child; (v) multidisciplinary teams or (vi) FAPT teams.</p> <p>Information about a person’s biological parents released to the person if requested by him and those parents’ rights were never completely terminated. If parents’ rights were terminated, the court may order disclosure after notice to the agency and a hearing. [If the person was adopted, the § 63.1-209 procedure does not apply.]</p>
<p>Adoption case records</p>	<p>Va. Code § 63.1-235</p>	<p>Adoption records</p> <p>[Clerks of courts having jurisdiction in adoption cases shall establish a separate order book, file and index for use in those cases.]</p>	<p>Records available to attorneys of record in the case, social service officials and court officials or by court order to other persons as permitted by § 63.1-236 or § 63.1-236.01.</p> <p>[Release by consent is unavailable.]</p>

<p>Disclosure of adoption record information as to identity of biological family and adoptive parents</p>	<p>Va. Code §§ 63.1-236 and 63.1-236.01</p>	<p>Adoption records</p> <p>[Following a final adoption order, the court must transmit all reports concerning an adoption case to the Commissioner of Social Services, who may not disclose them except as allowed in § 63.1-236.]</p>	<p>Nonidentifying information and reports available to the adoptive parents, involved child-placing agencies or adopted person, 18 or older. However, if the adoptive parents are living, the home study of the adoptive parents may not be shown to the adoptee without their written consent.</p> <p>The adoptee, once over 18, may apply to the Commissioner for information that identifies his biological parents and their whereabouts; they may similarly apply for identifying information about the adoptee, once he is over 21. Release by consent permitted, provided all procedural steps in §§ 63.1-236 and/or 63.1-236.01 are complied with.</p> <p>Other release-of-information mechanisms by which identification of the biological family of the adoptee may be disclosed include an administrative proceeding or court order, following notice to the biological family.</p>
<p>Physicians, nurses, teachers, etc., to report certain injuries to children</p>	<p>Va. Code § 63.1-248.3</p>	<p>Information pertaining to abuse or neglect cases</p>	<p>Suspected abuse or neglect of children reported to the local department of social services or to the Virginia Department of Social Services.</p> <p>[Social Services' policy is to report this information even if the individual shares this information in confidence, but the complaint does not have to be part of the individual's case record until the complaint is substantiated. The counselor may note in the case record that a complaint has been filed and may list any documents forwarded to Social Services. The complaint is filed, through the counselor's supervisor, with the local social services department in the locality in which the individual resides.]</p>
<p>Child abuse and neglect</p>	<p>Va. Code § 63.1-248.6 E 5 and E 9</p>	<p>All reports and records when abuse or neglect is suspected to involve certain criminal offenses or death</p>	<p>The local department of social services mandated to report and make available this information to the Commonwealth's attorney and the local law-enforcement agency, and to the medical examiner in case of a death.</p>
<p>Child abuse and neglect</p>	<p>Va. Code § 63.1-248.6 F</p>	<p>Information on families who are the subject of a review by a multidisciplinary team</p>	<p>Information to other teams, via agreements between such teams, for the purposes of investigation and disposition of complaints of abuse and neglect and delivery of services; this shall not be considered to be a violation of § 63.1-53 or § 63.1-209.</p>

<p>Child abuse and neglect</p> <p>Central registry</p>	<p>Va. Code § 63.1-248.8 and VR 615-45-1</p>	<p>Information on founded cases (maintained from 3 to 18 years based on severity of harm; one year for reason-to-suspect cases)</p>	<p>Disclosure in accordance with State Board and Department regulations; may be made for check of certain volunteers.</p> <p>A central registry search and release may be made:</p> <ul style="list-style-type: none"> <li>(i) to anyone who submits a legitimate consent form</li> <li>(ii) if named individual authorizes release with a signed, notarized release, to prospective employers in child care or for the purposes of a home study for custody of a child; or</li> <li>(iii) to a local department of social services conducting a child protective services investigation to identify prior complaints (it must provide positive identification of staff seeking the information.).</li> </ul> <p>Local departments of social services must report all founded reports involving military families to the Family Advocacy Program and may report any complaints if in the best interests of the child.</p>
<p>Minimum standards for licensed child day centers serving children of preschool age or younger</p> <p>Minimum standards for licensed child day centers serving school age children</p>	<p>VR 175-08-01 §§ 2.4 and 2.16 A</p> <p>VR 175-09-01 §§ 2.4 and 2.16 A</p>	<p>Child and personnel records</p> <p>Same as preschool age or younger</p>	<p>Mandatory disclosure of all financial books and records of licensed child day centers to the DSS Commissioner or his agents at all reasonable times.</p> <p>Permissible disclosure of child's records available to the custodial parent upon request.</p> <p>Same as preschool age or younger.</p>

Homes for Adults Regulations	VR 615-22-02 Sec. 2.11.B.4; Sec. 2.14.A.2; Sec. 5.4; Sec 5.9; and Sec. 5.10	Personal information of residents, e.g., health information, progress reports, assessments, service plans, aftercare recommendations, resident/facility agreements, and personal and social data	Permissible disclosure to (i) the facility staff responsible for resident care and (ii) responsible parties.  Mandatory disclosure to (i) licensing representatives, (ii) the long-term care ombudsman, and (iii) adult protective services.  Disclosure by (i) written agreement between divisions; (ii) written consent that specifies records to be disclosed and party to whom disclosure may be made; (iii) subpoena; (iv) need for emergency medical care by resident when he cannot or will not consent to release; or (v) as otherwise required by law.
Homes for Adults Regulations	VR 615-22-02 Sec. 2.11.B.6 in accordance with Va. Code § 63.1-55.3	Reports of suspected abuse, neglect, or exploitation of residents	Mandatory disclosure to local departments of social services.
Homes for Adults Regulations	VR 615-22-02 Sec. 3.21	Resident records upon transfer or discharge to another facility	Disclosure to receiving care-giving facility.
Homes for Adults Regulations	VR 615-22-02 Sec. 4.10.B	Individual identities	Statistical information only about residents to persons conducting human subject experimentation or research in accordance with applicable laws and in compliance with professional standards.
Homes for Adults Regulations	VR 615-22-02 Sec. 2.11.B.4; Sec. 2.14.A.2; Sec. 5.4	Employee records	Disclosure to agency and other personnel when needed for resident care.  Mandatory disclosure to licensing representatives.

<p>Minimum standards for licensed child care institutions</p>	<p>VR 615-24-01, Part VI, C and D</p>	<p>All information on placed children and their families</p>	<p>Disclosure of only information relative to needs of others working with the child or to those having legal right to the information as specified in § 63.1-209.</p> <p>Disclosure also by consent of legal guardian or through court order.</p> <p>[FOIA requires that a licensed institution's files be open to the public, but Privacy Act requires identity of certain persons to remain confidential. Usually, persons requesting information on completed complaint can determine who the complainant is and who the interviewees are by the information provided. This inhibits full disclosure by those being interviewed.]</p>
<p>Minimum standards for licensed family day homes</p>	<p>VR 615-25-01:1 §§ 7.1 and 7.4</p>	<p>Personnel and health records of family day home providers and records, forms, reports, or correspondence containing names of enrolled children or their parents</p>	<p>Information mandatory to representatives of DSS to determine initial/continued eligibility and for program administration.</p> <p>Disclosure to local medical or police personnel during emergency situations.</p> <p>Disclosure by written parental consent for emergency situations; the consent specifies type of information, purpose of disclosed information, and to whom the information may be disclosed.</p>
<p>Minimum standards for licensed family day care systems</p>	<p>VR 615-26-01, Part VI, C 4;  Part V, C 6;  Part VI, C 1,3 and 5d;</p>	<p>Records, reports, correspondence or forms containing names of children referred to system homes</p> <p>Records, reports and correspondence pertaining to child abuse or neglect investigations involving enrolled children</p> <p>Family day care system and member homes' personnel, programs, and financial records/reports</p>	<p>Mandatory disclosure for review by representatives of family day care systems and DSS for administration and monitoring purposes.</p> <p>Mandatory internal program communications pertaining to child abuse or neglect allegations and investigations involving enrolled children with the DSS regional licensing office and the local department of social services.</p> <p>Mandatory disclosure for review by DSS for purposes directly connected with determining initial/continued eligibility for licensure or for monitoring purposes.</p>

Minimum standards for licensed child-placing agencies	VR 615-27-02, §§ 8.1 and 8.3	Information in child, birth parents, and adoptive or foster parent records	Records are available to licensing representatives.  Home study, child's history and adjustment, and birth parent's history only to other licensed or authorized child-placing agencies.
Voluntary registration of family day care homes; requirements for contracting organizations	VR 615-34-01 § 2.7 A  § 2.7 B	Records, reports, correspondence or forms containing names of enrolled children or their parents  Records, reports, and correspondence pertaining to child abuse or neglect investigations involving enrolled children  Contracting organization personnel information or financial audit reports  Reports on program inspections or complaint investigations that are still active	Active applications, and related materials or documentation, for a certificate of registration mandatory to DSS.  Mandatory internal program communications pertaining to child abuse or neglect allegations and investigations involving enrolled children to DSS, the Division of Licensing Programs, and DSS, Division of Service Programs.  Contracting organization information to DSS for purposes directly connected with the implementation of voluntary registration.  Information to DSS, Division of Service Programs; the Virginia Department of Health; the Department of State Police; resource and referral agencies; U.S.D.A. Food Sponsors; and contracting organizations.
Voluntary registration of family day homes; requirements for providers	VR 615-35-01, §§ 2.7 (A&B) and 2.8 (A)  § 2.8 (D)  § 2.8 (F)	Provider's records, including personnel and health records on family day home providers and records, forms, reports, or correspondence containing names of enrolled children or their parents	Disclosure mandatory to representatives of the contracting organization or DSS to determine initial/continued eligibility, and for program administration.  Emergency contact information available to a physician, hospital or emergency care unit in the event of a child's illness or injury.  Information pertaining to suspected child abuse to the local department of social services and information pertaining to incidents involving emergency situations to the contracting organization.

<p>Child day care information confidentiality</p>	<p>Service Programs Manual, Vol. VII, Section I, Chapter B, pages 12-13; and Vol. I, Chapter A (Admin. Manual)</p> <p>Same citations that apply to the Title IV-A AFDC program</p>	<p>Child day care records</p>	<p>Information to the Commissioner, employees of local social service agencies and local Boards without permission from the client. Client providers or their representatives may read information about themselves contained in their own records, except mental reports if the physician recommends against it. Information can be shared for the administration of other federal programs providing case or in-kind services on the basis of need (such as Headstart).</p> <p>With certain exceptions, the client must give written permission before information may be obtained from other sources.</p> <p>In situations when parents select a provider for whom there are Child Protective Service (CPS) concerns, agencies must weigh the provider's right to confidentiality with the parents' right to be informed and the children protected.</p>
<p>Procedures for making information available to consumer reporting agencies</p>	<p>45 C.F.R. 303.105 and 305.53</p>	<p>Amount of overdue support owed by noncustodial parent after complying with due process requirements</p>	<p>Mandatory disclosure of information by a child-support agency to a consumer-reporting agency upon request when owed support exceeds \$1,000; permissible release of information when owed support is less than \$1,000.</p> <p>Consent of noncustodial parent not required, but agency must give notice of proposed release and information.</p>
<p>Refugee Resettlement Program</p>	<p>45 C.F.R. 400.27</p> <p>45 C.F.R. 205.50 (A)</p>	<p>Information about or obtained from an individual and in possession of any agency providing assistance or services</p>	<p>Provision of information to a voluntary agency as to whether an individual has applied for or is receiving cash assistance, and his address and telephone number, during his first 36 months in the U.S.</p> <p>Other information same as AFDC and Medicaid.</p>

<p>Child Abuse Prevention and Treatment Act (CAPTA)</p>	<p>45 C.F.R. 1340.14</p>	<p>All records of reports of child abuse and neglect (These confidentiality guidelines are part of the eligibility requirements for receipt of federal funds through CAPTA.) [The identity of any person reporting suspected child abuse must be protected from disclosure.]</p>	<p>States may allow disclosure to: (i) agencies investigating abuse or neglect; (ii) multidisciplinary teams; (iii) courts; (iv) grand juries; (v) agencies officially providing services to a child or family; (vi) physician seeing a child who may be abused; (vii) person authorized to place a child in protective custody; (viii) subjects of an investigation; (ix) appropriate administrators; (x) appropriate researchers; and (xi) prospective employers for background screening.</p>
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**STATE CORPORATION COMMISSION RECORDS**

Statute	Citation	Information Restricted	Allowable Communications
General provisions (banking and finance)	Va. Code § 6.1-1.1	(i) Reports of examination of regulated institutions; (ii) information which, if disclosed, could endanger the soundness of a bank, savings institution, or credit union; (iii) personal financial information (retained by the Bureau of Financial Institutions only in connection with applications for certificates and licenses, or as such information is indicative of an institution's soundness or its compliance with applicable laws and regulations.)	Reports of examinations to the institution examined. Personal financial information is not disclosed to anyone, other than the person to whom the information relates; such information is not disclosed to anyone else except pursuant to court order  Information to (i) members and employees of the Commission in performance of their duties, (ii) principals of examined entities or their designees, (iii) other government agencies deemed proper recipients, or (iv) others pursuant to court process and protective order.
Federal Freedom of Information Act and regulations as applicable to banking	5 U.S.C. § 552 (b) (8)	Information contained in reports of examinations of state banks and savings institutions made by federal agencies responsible for the supervision of financial institutions, i.e., Federal Reserve, FDIC and Office of Thrift Supervision	Copies of federal reports to the Bureau of Financial Institutions (BFI). These reports are given only upon assurances made by BFI that their contents will not be divulged and that the reports will be returned upon request.
SCC records generally	Va. Code § 12.1-19, sub-division 2	Certain information by (i) statutory requirements; (ii) SCC protective orders; or (iii) agreements between staff and another party in a case to treat information confidential	Records, documents, papers and files open to public examination to the same extent as records and files of the courts of the Commonwealth. [Statutory fee for copied work, per § 13.1- 617.]

SCC complaint, etc., sessions and hearings; general orders; rules and regulations	Va. Code §§ 12.1-26 and 12.1-28		SCC findings, decisions and judgments rendered in any proceeding and all general orders, rules and regulations that it promulgates are public information.
Criminal Justice Information System as applicable to the Motor Carrier Division	Va. Code § 9-195	Criminal history information to any agency or person in violation of Title 9 or Title 19.2 The Motor Carrier Division must keep confidential criminal background checks on applicants for a certificate of convenience and necessity. Information is destroyed at the conclusion of the proceeding. Criminal background checks are not made part of the public record.	
Securities Act	Va. Code § 13.1-518 B	Information obtained or prepared by a Commission employee in the course of an investigation/ examination under the Act Privileged information (e.g., attorney/ client, work product, etc.)	Disclosure of the findings, decisions, orders, judgments or opinions of the SCC (i) to the public by publication; (ii) for use in proceedings by or before the Commission or a hearing examiner appointed by the Commission; (iii) to any quasi-governmental entity substantially associated with law enforcement or the securities or investment advisory business approved by rule of the Commission; (iv) to any governmental entity approved by rule of the Commission; (v) to any attorney for the Commonwealth; or (vi) to the Attorney General  Information released by request of the defendant in a Commission proceeding, subpoena and/or protective order issued by a tribunal.  Information to an entity specified in SCC order SEC880059 upon request and/or assurance of confidentiality from such entity.
Securities Act	Va. Code § 13.1-520.1		The record of any proceeding or complaint concerning a violation of the Act to (i) the appropriate Commonwealth's attorney (ii) the Attorney General and (iii) the other entities enumerated in the SEC880059 order dated June 30, 1988.

Securities Act	Va. Code § 13.1-524		Information contained or filed with any registration statement (pertaining to securities); application for registration (for securities agents, broker-dealer firms, investment advisor representatives and investment advisor firms); or report to (i) the public, (ii) the Virginia Attorney General and (iii) the other entities enumerated in SEC880059 order dated June 30, 1988.
Retail Franchising Act	Va. Code § 13.1-567	Information obtained or prepared by a Commission employee in the course of an investigation/examination under the Act	Same as Securities Act in § 13.1-518.
Retail Franchising Act	Va. Code § 13.1-569.1		Same as Securities Act in § 13.1-520.1.
Retail Franchising Act	Va. Code § 13.1-573		Same as Securities Act in § 13.1-524.
Insurance policies and contracts	Va. Code § 38.2-317 D		Policy and endorsement forms referred to in the section open to public inspection.
Reports, reserves and examinations, insurance holding companies	Va. Code § 38.2-1301.1	Insurer's material transaction disclosure reports concerning material acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements; not subject to subpoena	Disclosure to (i) insurance departments of other states and (ii) the National Association of Insurance Commissioners (NAIC) or the general public by written consent of the insurer.  Commission may publish all or any part of a report if it determines, after giving the insurer notice and opportunity to be heard, that the interest of policyholders, shareholders or the public will be served by publication.

<p>Reports, reserves and examinations, insurance holding companies</p>	<p>Va. Code § 38.2-1306</p>	<p>Special reports (All reports/special reports kept on file for 3 years.) [By staff interpretation, "special report" means reports, other than routine filings of relative and basic financial data, which may (i) be peculiar to a particular insurer, (ii) have a limited and specific function, or (iii) provide extra or additional information of a particularly technical, sophisticated, sensitive or uncommon nature.]</p>	<p>Copies of annual statement convention blanks and quarterly financial statements of companies required to file with NAIC and comparable financial statements of financial condition of companies not required to file with NAIC which are routinely filed with the Commission are available for public inspection</p> <p>Disclosure of special reports (i) by consent of insurer filing the information; (ii) among regulators who agree to treat the "special report" in a similar nonpublic manner; (iii) by statute or (iv) by SCC order, rule or regulation.</p>
<p>Financial analyses, ratios, and examination synopses</p>	<p>Va. Code § 38.2-1306.1 A</p> <p>§ 38.2-1306.1 B</p>	<p>All regulatory or financial analyses, ratios and examination synopses concerning insurance companies that are submitted to the Commission by NAIC for use by regulators</p> <p>Financial analyses and test ratios generated by the Commission pursuant to NAIC financial and insurance regulatory computer systems and financial computer systems</p>	<p>Disclosure to other regulatory officials provided those officials are required under their laws to maintain confidentiality.</p>

Filing of report on examination	Va. Code § 38.2-1320.3 C	Nonadversarial, investigatory proceeding/hearing by the Commission in order to resolve inconsistencies, discrepancies or disputed issues apparent upon the face of the examination report or raised by or as a result of the Commission review of relevant work papers or by written submission of the company (Hearing must be requested/noticed in timely fashion and shall be confidential only to the extent that it is investigatory.)	<p>This provision does not apply to examinations concerning the conduct of business in the marketplace. (See § 38.2-1317.1 A.)</p> <p>The right to a confidential hearing does not extend to controversy surrounding an examination report which has become final due to the passage of time.</p>
Publications and use of examination papers	Va. Code § 38.2-1320.4	Preliminary examination reports and the content of any report of examination which has not become final, except as provided in § 38.2-1320.3, held private and confidential for 10 days	<p>Disclosure to other regulatory officials.</p> <p>After 10-day period, final examination reports are treated as public documents. (Proposed examination reports become "final" after they are disclosed to the insurer, unless they are disputed within statutorily prescribed timeframes.) This does not apply to examinations concerning the conduct of business in the marketplace. (See § 38.2-1317.1 A.)</p>
Confidentiality of ancillary information	Va. Code § 38.2-1320.5	Working papers, recorded information, related documents and copies thereof produced by, obtained by or disclosed to the Commission or any other person during the course of an examination; not subject to subpoena	<p>Access to NAIC or regulatory officials, provided the insurer consents in writing or the party granted access agrees in writing to maintain confidentiality. (Excludes marketplace examinations, see § 38.2-1317.1 A.)</p>

Insurance holding companies	Va. Code § 38.2-1324 A 2	If requested by the person filing an application for approval of the acquisition of control of an insurer, the identity of the lender that provides funds to be used as consideration in the acquisition or merger, provided the loan is being made in the lender's ordinary course of business	Information available if confidentiality not requested by the person filing the application.
Insurance holding companies	Va. Code § 38.2-1333	Required information reported as part of an insurer's registration statement (§ 38.2-1329) and all working papers and recorded information obtained during a holding company examination of any member of an insurance holding company (§ 38.2-1332), if filed in the registration statement	Disclosure (i) to insurance departments in other states; (ii) by consent of the affected insurer; (iii) by publication by the Commission after notice and hearing, if the Commission determines the interest of policyholders or the public will be served.
VA Life, Accident and Sickness Insurance Guaranty Association	Va. Code § 38.2-1708 C	Reports and recommendations of the Guaranty Association's Board to the Commission germane to solvency, liquidation, rehabilitation or conservation of an insurer	Association's annual reports and the reports of examination conducted by the Commission pursuant to § 38.2-1711 are considered public documents.

VA Life, Accident and Sickness Insurance Guaranty Association	Va. Code § 38.2-1708 E	Preliminary reports of examination of member insurers and the Association's request for such examination shall not be open to public inspection prior to the release of the examination report to the public. Any examination ordered by the Commission shall receive the same treatment as accorded other Commission examinations (See Chart §§ 38.2-1320.3, 38.2-1320.4, 38.2-1320.5 and 38.2-1333)	For disclosure, see this Chart's listings for §§ 38.2-1320.3, 38.2-1320.4, 38.2-1320.5 and 38.2-1333.
Insurance agents	Va. Code § 38.2-1810	Reports of acts of any insurance agent or surplus lines broker deemed larceny under § 18.1-111 reported by an insurer to the Commissioner	Commission to inform the appropriate attorney for the Commonwealth of each statement filed.
Insurance Agents	Va. Code § 38.2- 1833 B		Licensed agent's appointment record is public information.
Privacy Protection Act as applicable to insurance agents	Va. Code § 2.1-384 sub-division 5 (See Bureau of Insurance guidelines for providing insurance agent names and addresses)	Insurance agent's name and address	Names and addresses of persons applying for or possessing a license to engage in the practice of a professional occupation regulated by a state agency may be disseminated, upon written request to a person engaged in the business of offering professional educational materials or courses, provided the agency is reasonably assured that the use of the information will be so limited.

Regulation of rates	Va. Code § 38.2-1905.1 D		Copy of the competition report (Report on the Level of Competition, Availability and Affordability of Certain Insurance) to the Attorney General's Office is a matter of public record.
Regulation of rates	Va. Code § 38.2-1907		Rate filings open to public inspection. Where feasible, SCC is to compile and make available to the public the list of rates charged by insurers in connection with certain policies.
Regulation of rates	Va. Code § 38.2-1916.1 M	Until formal proceedings are instituted, all evidence, testimony, documents, or other results of the Attorney General's investigation of suspected violations of § 38.2-1916 (e.g., monopolies and rate agreements between insurance companies)	Disclosure by the Attorney General to the Commissioner of Insurance, the SCC or to any federal or state law-enforcement authority that has restrictions governing confidentiality
Liability insurance policies, (medical malpractice claims)	Va. Code § 38.2-2228	At the option of the insurer, the date and the amount of the initial reserve as well as the reserve value at the end of the current calendar year  Individual open-claim reports  Identity of parties involved in medical malpractice claims reported annually to the Commissioner of Insurance	Statistical summaries of medical malpractice claim reports and individual closed-claim reports.
Liability Insurance Policies	Va. Code § 38.2-2228.1	Identity of parties in annual reports to Commissioner of Insurance	Liability claim reports to the SCC, without party identity, a matter of public record.
Examination of insurers and availability and maintenance of CPA work papers	Insurance Regulation 39 at § 15 (Annual Audited Financial Reports)	Investigations by the Commission's examiners of work papers and communications of an insurer's accountant, and any such work papers or communications obtained during the course of the investigation	See Chart's listings for §§ 38.2-1320.3, 38.2-1320.4, 38.2-1320.5 and 38.2-1333



<p>Licensure of drivers; assignment of insurance risks</p>	<p>Va. Code § 46.2-468</p> <p>§ 46.2-469</p>	<p>Information filed with the Commission by an insurance carrier in connection with a motor vehicle assigned risk policy not to be disclosed to any person, including an applicant, policyholder, or any other insurance carrier</p> <p>SCC's reasons for refusing, rejecting, canceling or nonrenewing a motor vehicle assigned risk policy or application</p>	
<p>Public Service Taxation Records</p>	<p>Various provisions of §§ 58.1-2600 through 58.1-2690 and Va. Code § 12.1-19, sub-division 2; and § 58.1-400.1, subsection C</p>		<p>Records, documents, papers and files open to public inspection to the same extent as court records and files, including: (i) annual reports of property and gross receipts filed by telegraph and telephone companies and water, heat, light and power corporations pursuant to § 58.1-2628; (ii) annual reports of rolling stock filed by motor vehicle carriers pursuant to § 58.1-2654; (iii) gross receipts filed by railroads and the VA Pilots Association for the special regulatory revenue tax imposed pursuant to §§ 58.1-2660 to 58.1-2665; (iv) assessments for state license tax on gross receipts and for the special regulatory revenue tax on gross receipts, and (v) certification to the Department of Taxation pursuant to subsection C of 58.1-400.1 of telecommunication companies' gross receipts.</p>
<p>Rolling stock tax and property valuation of railroads</p>	<p>Va. Code § 58.1-2658</p>		<p>SCC to certify to Comptroller the amounts of rolling stock tax imposed on certificated motor vehicle carriers. [Commission's interpretation of this provision has been to provide Comptroller and localities information on the assessed value of the rolling stock of all carriers and the allocation of rolling stock tax to each county and city in which the carrier operates.]</p>
<p>Virginia Trademark and Service Mark Act</p>	<p>Va. Code §§ 59.1-85 and 59.1-94</p>		<p>Register of trademarks, case marks and service marks registered under the Act and the marks and devices on bottles, crates, tins, kegs, etc., and laundry marks for public examination.</p>

<p>Division of Railroad Regulation</p>	<p>Rules for contract rate filings.</p> <p>Standards and procedures governing intrastate rail rates in VA</p>	<p>Contract rates to persons other than parties to the contract and authorized SCC personnel</p>	<p>Contract summary available from the Division of Railroad Regulation.</p> <p>Information by informal discovery and/or SCC decision.</p>
<p>Records of the Division of Energy under protective orders and nondisclosure agreements</p>		<p>Trade secrets, proprietary information, etc.</p>	<p>Records of the Division of Energy by regulation generally held to be public information except in instances where the Commission issues protective orders or staff has executed a nondisclosure agreement.</p>

**TAX 1 JRDS**

**(Virginia Department of Taxation and Department of Social Services)**

<b>Statute</b>	<b>Citation</b>	<b>Information Restricted</b>	<b>Allowable Communications</b>
Taxation	Va. Code §§ 58.1-3 and 58.1-109	All federal and state tax information excluding (i) that required to be entered on a public assessment roll, (ii) information disclosed in the performance of lawful duties, (iii) information provided to a duly constituted committee of the General Assembly pertaining to an inquiry or investigation of real estate assessments, and (iv) the sale price, date of construction, physical character of real estate or any information required for a building permit	Release to (i) the subject taxpayer; (ii) local tax officials; (iii) the Department of Social Services; (iv) state and local agencies generally (name and address only); (v) the Virginia Employment Commission; (iv) the State Lottery Department; and (vi) tax officials of other states and the United States pursuant to written agreements. Release (i) by proper judicial order, i.e., information is provided under seal to be opened only upon a judge's determination that the information is of such importance that the ends of justice require that secrecy and confidentiality of tax returns be violated and (ii) by consent with power of attorney.
Setoff Debt Collection Act	Va. Code §§ 58.1-520 through 58.1-535	Taxpayer records or identifiable information in the matching program used to recoup payments or delinquent debts under federal and state benefit programs	All information exchanged among the Department of Taxation, the claimant agencies and the debtor shall be lawful, notwithstanding any other provision of law prohibiting disclosure by the Department of Taxation and the claimant agencies.
Confidentiality and exchange of IRS information	VR 615-70-17 Part VIII	Information from the Internal Revenue Service to anyone outside the department	Disclosure of information from the IRS permissible to a local department of social services, but the source of information may not be released.
Taxation	20 U.S.C. 6103	All federal tax return information, "wrap around information," i.e., information also required on a state return may be released in accordance with applicable state statutes	Release: (i) to a subject taxpayer; (ii) by proper judicial order, i.e., information is provided under seal to be opened only upon a judge's determination that the information is of such importance that the ends of justice require that secrecy and confidentiality of tax returns be violated; and (iii) by consent with power of attorney.
Confidentiality and disclosure of federal tax returns	IRC §§ 6103, 7213 and 7431	Disclosure of federal tax return information by the Internal Revenue Service	Release of federal tax return information permissible to certain federal, state and local agencies in response to a written request signed by the head of the requesting agency.

**DEPARTMENT OF VETERANS' AFFAIRS RECORDS**

<b>Statute</b>	<b>Citation</b>	<b>Information Restricted</b>	<b>Allowable Communications</b>
Medical Records	Va. Code §§ 2.1-377 through 2.1-386 and 38 U.S.C. 7332	Medical records of the Department of Veterans' Affairs	Disclosure to: (i) medical personnel to meet a bona fide medical emergency; (ii) qualified personnel for conducting scientific research and audit of the program; and (iii) public health authorities charged with protecting public health, concerning HIV records. Release by consent permitted if consistent with regulations adopted by the Secretary of Veterans' Affairs.
Claims	38 U.S.C. 5701	All records pertaining to any claim, and the names and addresses of present and former members of the armed forces and their dependents retained by the Department of Veterans' Affairs	Claim information to: (i) claimant or authorized agent unless Secretary determines it will be injurious to the physical or mental health of claimant and (ii) independent medical experts for advisory opinions, for certain legal proceedings including the judgment of mental competence.
Recognition of representatives of organizations to prepare, present and prosecute claims	38 U.S.C. 5902-5905	Information pertaining to claims	Claims information to persons recognized by the Secretary of Veterans' Affairs, including representatives of the American Red Cross, the American Legion, the Disabled American Veterans, the United Spanish War veterans, and the Veterans of Foreign Wars.  Name and address to (i) an organization if the release is directly connected with the conduct of programs; (ii) law-enforcement agencies charged with protecting health or safety if a qualified representative of the agency has made a written request that the name and address be provided for a purpose authorized by law; and (iii) consumer reporting agencies under certain conditions.

**Appendix D**  
**Confidentiality and Disclosure Laws Enacted by the 1995 General Assembly**

**Criminal Records**

Freedom of Information Act; State Employee Fraud, Waste and Abuse Hotline	§ 2.1-342 Ch. 362 (SB1119)	Provides that information disclosed from the records of completed investigations by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline shall include, but is not limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. However, the bill provides that in the event an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of that person. The bill retains current Code provisions that prohibit disclosure of information from the records of such completed investigations in a form that reveals the identity of complainants, persons supplying information, or other individuals involved in the investigation.
Freedom of Information Act; Parole Board exemption	§ 2.1-345 Ch. 588 (HB2585)	Limits the exemption for activities of the Parole Board from the provisions of the Freedom of Information Act and provides that certain information about inmates decided by the Parole Board shall be subject to disclosure under FOIA.
Privacy Protection Act of 1976	§ 2.1-382 Ch. 400 (HB2422)	Provides that a data subject has a right to inspect a list of the names of recipients of personal information about such data subject; however, if the recipient has obtained the information as part of an ongoing criminal investigation such that disclosure of the investigation would jeopardize law-enforcement action, then no disclosure of such access shall be made to the data subject.
Notice of juvenile arrest	§§ 16.1-260 and 22.1-288.2 and § 16.1-305.2 Ch. 429 (HB1380)	Requires the intake officer to give notice to the school division superintendent whenever a juvenile is taken into custody and charged with a delinquent act involving death, weapons, drugs, assaults, woundings, arson or burglary.
Law enforcement records; juvenile	§ 16.1-301 Ch. 752 (HB2124)	Allows law-enforcement agencies to exchange information other than that which is specifically designated as confidential because it relates to juveniles.
Access to juvenile records	§ 16.1-305 Ch. 430 (HB1443)	Clarifies that United States Probation and Pretrial Services Officers may review juvenile criminal records without a court order, in the same manner as state probation and parole officers are authorized.

Juvenile records; exception to confidentiality	§ 16.1-309.1 Chs. 558/804 (HB1525/SB886)	Allows the court to make available the name and address of a juvenile 14 or older charged with a delinquent act which would be an "act of violence" as defined in § 19.2-297.1 (1994 three-strikes-and--you're-out legislation) if the release would be in the public interest.
Stalking; notice required	§ 18.2-60.3 Ch. 824 (SB1056)	Provides that the Department of Corrections, sheriff or regional jail director, upon written request, must give notice, prior to release or upon escape of an offender incarcerated for stalking, to the victim or any person designated by the victim. All information related to those who receive or may receive notice is to be kept confidential.
Forsenic cases	§§ 19.2-174.1, 19.2-175, and 19.2-178 Ch. 645 (HB2565)	Requires the committing court or special justice to provide certain background information on forsenic patients transferred to the care of the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services for evaluation and treatment. The bill allows the Commissioner to receive the preliminary evaluation information and other background information about the crime for which the person is currently committed to the criminal justice system. The Commissioner is granted access to Central Criminal Records Exchange (CCRE) data on accused and convicted persons committed to his custody.
Parole Review	§§ 19.2-299 and 53.1-155 Ch. 778 (SB 611)	Provides that the victim of a crime for which the prisoner is incarcerated may elect to be notified of a parole review only if the Parole Board is inclined to grant parole.
Domestic violence report	§ 19.1-81.3 Ch. 413 (SB826)	Requires an officer investigating a complaint who has reason to believe that a family or household member assault has occurred to make available a copy of the report he is required to file to the alleged victim.

### DMV Records

DMV records	§ 46.2-208 Chs. 686/676 (HB2172/SB956)	Allows disclosure of certain information in DMV records to compliance agents of private security services businesses.
DMV records	§§ 46.2-208 and 46.2-409 Ch. 118 (HB1947)	Allows disclosure of privileged information in DMV records to insurance company representatives and allows release of DMV data for research purposes.
Driver's licenses	§ 46.2-342 Chs. 372/350 (HB1768/SB775)	Provides for new, renewal, or replacement licenses issued on or after September 1, 1995, for use of driver's license number other than the licensee's social security number if he requests that his social security number not appear on the license.

### Education Records

Reports by school personnel of certain incidents	§ 22.1-280.1 Ch. 759 (HB2215)	Requires school principals or their designees to report incidents occurring on school property involving weapons, drugs or intentional wounding to local law-enforcement officials.
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### Election Records

Voter registration; residence requirements	§§ 24.2-405 and 24.2-406 Ch. 314 (HB1976)	Prohibits the publication on registered voter lists of the residence street address of any federal, as well as state or local, law-enforcement officer. The officer must furnish a post office box address for his residence which will then be used in lieu of his residence street address on such lists.
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### Health Records

Privileged communications	§ 8.01-581.17 Ch. 500 (SB921)	Makes confidential any information obtained and provided in conjunction with the process of applying for (i) professional staff privileges at a hospital or (ii) participation as a provider in an HMO or PPO.
Predischarge plan	§ 16.1-346.1 Ch. 304 (HB1818)	Requires that a copy of any mental health predischarge plan for treatment be provided to the juvenile's parents. In addition, if the juvenile is housed in a detention home a copy goes to the superintendent of the detention home, or if the juvenile is committed to the Department of Social Services, to the Department or to the court.
Release of medical records to employer	§ 32.1-36 Ch. 534 (HB2529)	Allows Commissioner of Health to disclose, to the extent permitted by law, the identity and disease of a patient to the patient's employer if the Commissioner determines that (i) the patient's employment responsibilities require contact with the public and (ii) the nature of the patient's disease and nature of contact with the public constitute a threat to the public health. The bill requires the confidentiality of information disclosed by the Commissioner to the patient's employer, and provides penalties for the unlawful disclosure of such information.
Immunization of children against certain diseases	§ 32.1-46 Chs. 729/ 742 (HB1673/HB1916)	Authorizes, with written parental consent, the sharing of immunization and child locator information by physicians, licensed institutional providers, local and district health departments, and the Department of Health. The shared information may include the month, day, and year of each administered immunization, and the child's name, address, telephone number, birth date, social security number and parents' names.
Medical records; access by patient	§§ 32.1-127.1:02 and 54.1-2403.3 Ch. 754 (HB2147)	Clarifies that health care providers own their patients' medical records and delineates the circumstances under which providers may release copies of medical records; outlines the procedure for responding to requests for medical records, including those which involve patients who are deceased or those incapable of making an informed decision; and includes provisions which allow

		the denial of access by the patient to his medical records if the person's physician or clinical psychologist has documented that such access would be harmful to the patient.
Involuntary commitment	Ch. 844 (HB1960) § 37.1-67.3	Requires that a tape or other audio recording of an involuntary commitment hearing be made and submitted to the clerk of the appropriate district court and retained in a confidential file for the sole purpose of documenting and answering questions concerning the judge's conduct of the hearing.
Confidentiality of information used in disciplinary proceedings for dentists and dental hygienists	§ 54.1-2708.1 Ch. 623 (HB1913)	Establishes procedures for the maintenance of confidentiality and investigative materials used in disciplinary proceedings for dentists and dental hygienists.

#### **Welfare Records**

Child Protective Services	§§ 16.1-241 and 63.1-248.6:1 Ch. 7 (HB465)	Provides that parties to an administrative appeal regarding a founded disposition of child abuse and neglect may petition the Juvenile and Domestic Relations Court to compel production of documents relating to the case and attendance of witnesses.
Omnibus child support enforcement	§ 63.1-250.1 Ch. 595 (SB 1032)	Authorizes the Division of Child Support Enforcement to obtain copies of state and federal tax returns of persons suspected of being delinquent in their support obligations.

#### **Tax Records**

Secrecy of Information	§ 58.1-3 Ch. 38 (HB1423)	Allows state and local tax officials, upon written request, to provide to the public the name and address of any person, firm or corporation transacting business under a fictitious name.
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