

**REPORT OF THE VIRGINIA FREEDOM OF
INFORMATION ADVISORY COUNCIL**

**Report of the Senate Bill 324
(2024) Work Group
(Chapter 669, 2024)**

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



SENATE DOCUMENT NO. 9

**COMMONWEALTH OF VIRGINIA
RICHMOND
2024**

Report of the Senate Bill 324 (2024) Work Group to the Virginia Freedom of Information Advisory Council

December 2024

I. Introduction

Pursuant to the third enactment clause of Senate Bill 324 (Roem, 2024) (Appendix A, below) the Freedom of Information Advisory Council (Council) convened a work group "to examine the current FOIA [Virginia Freedom of Information Act] provisions on charges and make recommendations on ways to amend such provisions to make the assessment of charges by public bodies for the production of public records more uniform, more transparent, easier to understand, and less costly." The bill sets forth the following directives for the completion of the study:

- The work group "shall complete its meetings by November 30, 2024, and present its findings and recommendations for consideration by the FOIA Council at its meeting in December 2024."
- After the work group completes its work, the "chairman of the FOIA Council shall submit to the Division of Legislative Automated Systems an executive summary of the work group's findings and recommendations with any additional comments by the FOIA Council no later than the first day of the 2025 Regular Session of the General Assembly."
- Finally, the "executive summary shall state whether the FOIA Council intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website."

See Part II of this report for an Executive Summary of the issues considered and the final recommendations made by the work group. Part III provides a recap of each of the meetings held by the work group. Appendix A is Senate Bill 324 in full as enacted by the 2024 Session of the General Assembly (2024 Acts of Assembly, c. 669); Appendix B is the "Best Practices for Making Requests for Public Records" guide recommended by the work group; Appendix C is the proposed legislation considered by the work group and presented to the FOIA Council at its final meeting; and Appendix D is a list of those who participated in the study. Additional meeting materials and videos of each meeting are available on the FOIA Council [website](#) 2024 Subcommittees [webpage](#).

II. Executive Summary

The SB 324 Work Group (the Work Group) met seven times from July through November 2024 to study the provisions for charges as directed by Senate Bill 324 (Roem, 2024). Meetings were conducted virtually and facilitated by staff of the Council. As there was no specific membership of the Work Group, decisions were made by consensus and without objection rather than by taking formal votes; points and issues discussed on which consensus was not reached are stated

herein. All participation was voluntary and there were generally about 30 to 35 participants present at each meeting. Senator Danica A. Roem, patron of SB 324, participated in all of the Work Group meetings. Other participants included Council members Delegate Elizabeth B. Bennett-Parker, Lola Rodriguez Perkins, and Maria J.K. Everett;¹ interested citizens and representatives from the Virginia Press Association (VPA), Virginia Coalition for Open Government (VCOG), Virginia Association of Broadcasters, Virginia Municipal League (VML), Virginia Association of Counties (VACo), Virginia School Boards Association (VSBA), Virginia Association of School Superintendents, Virginia Sheriffs' Association, Virginia Association of Chiefs of Police, Virginia State Police, Virginia Association of Commonwealth's Attorneys, Local Government Attorneys of Virginia, Commissioners of the Revenue Association of Virginia, State Council of Higher Education for Virginia, Virginia Department of Transportation, Virginia Department of Agriculture and Consumer Services, Virginia State Bar, Virginia Association of Planning District Commissions, and representatives from various local governments and law-enforcement agencies. See Appendix D below for a full list of participants.

The Work Group began its study by adopting a study plan (available on the Council website). At its first meeting the Work Group reviewed current law, considered prior studies on charges under FOIA, and looked at how other jurisdictions address costs. The Work Group then decided to approach the study by examining costs from the perspective of the request process itself, beginning with the procedure for making requests, followed by the procedure for processing requests, negotiating between requesters and public bodies to reach agreements on the terms of requests, and concluding with an examination of broader FOIA issues that may affect costs. Among other specific issues, the Work Group considered fee waivers as used in other jurisdictions, whether to establish separate cost schemes for particular types of records such as scholastic records and criminal investigative files, setting a fee cap on the hourly rate that may be charged at a specific dollar amount, and establishing specific requirements for FOIA officers, but decided not to proceed further with these concepts at this time. Instead, at the conclusion of its study the Work Group recommended a guidance document, "Best Practices for Making Requests for Public Records" (Appendix B) and proposed a legislative draft (Appendix C).

In summary, the Best Practices for Making Requests for Public Records provides practical tips for requesters and public bodies alike following the steps of the request process, starting with pre-request research, how to make a request and phrase it clearly, and finally, how to handle any back-and-forth discussions between a requester and a public body, while emphasizing the FOIA policy that public bodies and requesters should work together to reach agreements on the production of public records. At the conclusion of the study, there was general consensus from the Work Group participants to proceed with the Best Practices guide.

The proposed draft legislation considered by the Work Group limits the fees charged for producing public records to the median hourly rate of pay of employees of the public body or the actual hourly rate of pay of the person performing the work, whichever is less, and provides that a public body may petition a court for relief from this fee limit if there is no one who can process the request at the median hourly rate of pay or less. The proposed draft makes corresponding amendments to the required statement on charges in the notice of rights and responsibilities that must be posted on a public body's website. The proposed draft also amends existing law

¹ Note that no more than two Council members participated at the same time in any given Work Group meeting in order to prevent the work group meetings from becoming Council meetings due to the members' participation.

providing that a public body may petition a court for additional time to respond to a request for public records to allow such petitions to be heard in either general district or circuit court, to give such petitions priority on the court's docket, and to toll the response time while such a petition is pending before a court. The proposed draft makes technical amendments, including moving provisions regarding charges for the production of public records into a separate section of FOIA. However, at the conclusion of the study, consensus was not reached regarding the proposed legislative draft, as several participants representing various groups either expressed continuing concerns with the draft language or stated that their groups had not taken any position on the draft and a citizen participant expressed his opposition as well.

The Best Practices guide, the draft legislation considered by the Work Group and the draft version of this Executive Summary and Report were presented to the Council at its meeting on December 4, 2024. Unfortunately, a quorum of Council members was not physically present at that meeting so the Council was unable to vote.² However, in discussing the Best Practices Guide, the members present generally agreed with a suggestion from Mr. Reid to amend the existing version by moving cross-references to the "Access to Public Records" and "FOIA Charges Guide" that appeared at the end of the guide to the Introduction section instead so they would be seen earlier by the reader; the amended version of the Best Practices Guide appears as Appendix B of this report. Staff reviewed the draft legislation that was considered by the Work Group and the Council discussed its provisions but took no position on it due to the lack of a quorum. There were two public comments received about the legislative draft, one suggesting an amendment to allow public bodies to represent themselves in general district court without being represented by legal counsel and the other expressing opposition to the draft and proposing an alternative version. The written comments submitted are available on the FOIA Council website,³ but again, the Council took no action on these suggestions due to the lack of a quorum.

III. Meetings of the Work Group

July 8, 2024

The first meeting of the Work Group began by having the participants introduce themselves and the organizations they represent, if any. Staff presented a proposed study plan that addressed the scope of work, participants to be invited, and a suggested meeting schedule and asked the participants present for their feedback. Next, staff provided a brief overview of the current law on charges for public records requests and presented some of the issues that had been considered and actions taken during prior FOIA studies, such as the volume of public records, scope of requests, search time involved, and redaction of exempt portions of public records. After discussions, Work Group participants adopted an amended version of the proposed study plan presented by Council staff. The Work Group considered breaking into smaller groups to study particular issues but instead decided to address the issues as a group and in the same order as a request is processed. Examples of fee waivers used in other states were presented as an optional approach because under current Virginia law each public body may decide whether to charge but FOIA has no specific fee waiver provisions. After considering examples used in other

² Six Council members were present in person and one was present virtually, but seven members were needed in person to establish a quorum.

³ See "Comments from Joshua Heslinga" and "Memo from Ramin Seddiq" available on the FOIA Council Meetings webpage of the Council website as materials for the December 4, 2024 Council meeting.

jurisdictions, the Work Group chose to forgo further consideration of fee waivers. Issues specific to processing requests for criminal records and scholastic records were also raised but the Work Group decided not to consider establishing separate fee provisions for specific types of records because of the additional complexity involved. Participants expressed a general preference to treat FOIA requesters equally rather than make carve-outs for specific types of requesters or specific types of requests. The Work Group by consensus decided to focus future agendas on specific areas to include the initial request and negotiation on the scope of a request, processing requests, and larger, overarching structural issues that may affect costs. The Work Group also agreed without objection to hold the remainder of its meetings virtually on Mondays at 10 a.m.

July 29, 2024

The Work Group began its second meeting with introduction of the participants and agreement on a revised study plan (available on the Council website). Next, staff presented a memo prepared by a legislative intern on "Multi-State Research Into Funding and Resource Allocation for Open Record Law Requests" (available on the Council website). The research involved contacting other states that have entities similar to the FOIA Council in states that either do not allow charges at all or only allow limited charges in order to ask how those states account for the costs involved in processing requests for public records. The responses indicated that other states generally do not have special provisions to recoup the costs for producing public records but instead incorporate those costs into the general budget of each public body. Participants also provided links to "United States Department of Justice Court Decisions on the Adequacy of Search" and "Multistate Research on FOIA Fees prepared by the Virginia Coalition for Open Government" (VCOG) (both available on the Council website). The Work Group next discussed the "reasonable specificity" of a request and how the process for negotiating on scope of request and terms of production of the request itself affects the resulting search process and search time, who conducts the search, and the resulting charges incurred. Participants also described how it is difficult to plan budget and staffing needs since requests vary in number, scope, and frequency. Considering technology that is generally available, the Work Group agreed that it is a good idea to post frequently requested records online, and noted that there are various commercial software packages available that facilitate both making requests and posting records online. Citizen participant Ramin Seddiq submitted a memo with suggestions based on federal FOIA (available on the Council website). After further discussion, the Work Group directed staff to prepare a new guide to best practices for making requests for public records rather than putting any of the items discussed today into future legislation.

August 19, 2024

After the participants introduced themselves, staff presented the draft best practices guide as directed by the Work Group at its prior meeting. The Work Group decided to hold the draft for consideration at its next meeting so that members would have more time to review it and suggest any changes. Senator Roem asked that the various organizations present that represent multiple public bodies, such as the Virginia Municipal League (VML), Virginia Association of Counties (VACo), and Virginia School Boards Association (VSBA), would share the final version of the best practices guide with their members in lieu of creating a legislative mandate, to which the various representatives agreed. The Work Group next discussed cost estimates, challenges facing particular public bodies that may not have adequate staff to process requests in a timely fashion, how some time periods are busier than others, such as near election times for electoral boards

and registrars, and problems posed by the sheer volume of electronic records, such as email. The Work Group also discussed various provisions that are in SB 324, such as fee caps on the hourly rate that may be charged, and other budget considerations. Senator Roem indicated that she intends to file legislation next session based on the results of this study, but it will not necessarily be the same as SB 324, and she would be willing to introduce one or more budget amendments to help cover costs incurred by public bodies if it helps reduce the costs charged to requesters. The Work Group concluded the meeting by suggesting items to be addressed at the next meeting, including what would be an appropriate dollar amount for fee caps, whether any particular requesters such as students or journalists should be exempt from paying fees, and whether any particular custodians of records such as attorneys should be exempt from fee caps.

September 9, 2024

Staff again presented the draft best practices guide as directed by the Work Group. By consensus, the Work Group agreed to the guide with one edit and agreed it would be shared as discussed at the prior meeting once the final version was complete. Staff suggested that the final edited version be presented to the Council at its meeting on September 16 and that the best practices guide would then be published unless the Council had any further changes. The Work Group then turned to the questions posed at the end of the prior meeting regarding what would be an appropriate dollar amount for fee caps, whether any particular requesters such as students or journalists should be exempt from paying fees, and whether any particular custodians of records such as attorneys should be exempt from fee caps. Specific issues considered included costs involved in reviewing criminal investigative files due to the complicated nature of the files, the need to involve attorneys and higher-level officials in the review process, and how scholastic records differ from others, particularly when federal laws such as the Family Educational Rights and Privacy Act (FERPA) are implicated as well as FOIA. Senator Roem suggested that the Work Group consider York County's policy that uses a median hourly rate of pay as a fee cap as one possible alternative that might be acceptable to different public bodies. After further discussion, the Work Group directed staff to prepare language based on the median hourly rate fee cap in the form of legislation and as best practices language to be considered at the next meeting. The Work Group decided that the rate should be calculated as of July 1 each year to reflect the fiscal year and that the calculation should include full- and part-time employees but not temporary employees. The Work Group decided to consider the remaining additional items from today's agenda at its next meeting.

September 30, 2024

Staff reported that three versions of the best practices guide were presented to the Council at its meeting on September 16: (i) the version from the Work Group; (ii) a shortened version of the same guide presented by VCOG; and (iii) another version of the shortened VCOG guide as edited by Council member Ken Reid. Because the Work Group had not seen the latter two versions, the Council directed staff to present all three to the Work Group for its recommendation. After discussing all three versions, the Work Group recommended the shortened VCOG version be presented as the final version, and that cross-references be included in two other guides published by the Council, "Access to Public Records" and the "FOIA Charges Guide." Staff agreed to update all three guides and present them to the Work Group at its next meeting. The Work Group next considered the alternative draft best practices guides and draft legislation that would establish different fee caps. The Work Group decided to proceed with

consideration of an amended legislative draft that would set the fee cap at the median hourly rate of pay or actual rate of pay, whichever is less. The rate of pay would be determined on July 1 each fiscal year based on the rates of full- and part-time employees, but not including temporary employees. The draft would also allow for the rate to be determined separately for different departments or divisions within the same public body. The new language would also be included in the mandatory quote about charges in the rights and responsibilities statement required by FOIA.⁴ Next, the Work Group turned to broader structural issues in FOIA that may affect costs, starting with the role of FOIA officers and how the increasing involvement of attorneys in processing requests leads to increased charges. The Work Group raised the issue of whether there should be additional legislation on who can and cannot serve as a FOIA officer, but decided to defer the issue. The Work Group next turned to budget issues. Senator Roem indicated she would be willing to introduce budget amendments as needed, but she would need the participants to let her know details such as whether they would need one-time expenditures for technology upgrades, ongoing expenditures for increased staff, or other costs to be covered. The Work Group next discussed the procedure for petitioning a court for additional time to respond when the statutory limit (five working days plus invoking seven additional work days for a total of 12 working days) is not enough and negotiations with the requester are unsuccessful. After discussion, the Work Group directed staff to amend the proposed draft to include provisions to allow such petitions for additional time to be heard by either general district or circuit courts, to provide for expedited hearings, and to toll the statutory time limit for responding to the underlying request while such a petition is pending. Citizen participant Ramin Seddiq submitted a second memorandum for the Work Group's consideration (available on the Council website).

October 21, 2024

Staff presented proofed versions of the "Best Practices for Making Requests for Public Records," "Access to Public Records," and "FOIA Charges Guide" for review. The Work Group did not have any further edits or revisions, except a suggestion to post all guidance documents in multiple formats (HTML, Word, and PDF) to make it easier to view the guides on different devices. With the Work Group's agreement, staff reported that the guides would be published on the FOIA Council website and Work Group members stated they would share them with their respective organizations. Next, the Work Group discussed the legislative draft on fee caps and petitions for additional time to respond and agreed to consider an amended draft. The draft as amended would include the provisions for a fee cap set at the median hourly rate of pay or actual hourly rate of pay, whichever is less, and make the amendments to the petition process as discussed at the Work Group's last meeting. It would also move all the provisions on charges from the current Code section (§ 2.2-3704) into a new Code section and include a mechanism to petition for relief from the fee cap that would allow a court to decide the appropriate fee, up to the actual cost as the upper limit in accord with current law. Senator Roem again asked participants to send her information regarding any state budget amendments that might be needed next year. Citizen participant Ramin Seddiq submitted a third memorandum for the Work Group's consideration (available on the Council website). Today's meeting was the last one scheduled under the revised study plan adopted by the Work Group. The Work Group directed staff to send the amended draft and a draft version of the executive summary and final report to

⁴ Subdivision A 6 of § 2.2-3704.1 of the Code of Virginia.

the participants and to set a possible meeting date of November 18, said meeting to be held only if participants felt it was necessary before presenting the results of the study to the Council at the Council's meeting scheduled for December 4, 2024. After the October 21 meeting, the Virginia School Boards Association contacted staff to state that it was not in a position to consent to or endorse a consensus on the proposed language of the legislative draft and therefore was unable to continue involvement in the Work Group. The Virginia Sheriffs' Association also contacted staff after the October 21 meeting to state that their members were divided and therefore took no position on the draft, as they had continuing concerns about how "FOIA responsibilities take an enormous amount of time, personnel, and often expertise in technological or confidential information areas" and that "the fee caps in the draft bill are effectively unfunded mandates that drain resources and fail to consider FOIA abuses that aim to burden or even harass public bodies and officials rather than seek transparency." Other participants also contacted staff to indicate they would like to hold the November 18 meeting.

November 18, 2024

The Work Group met a final time to review and amend the draft legislation and draft executive summary and report prepared by staff. Although the Work Group had previously agreed to the Best Practices guide by general consensus, staff asked whether anyone present wished to object, abstain, or take any different position to be reported; there were none stated. The Work Group then discussed the proposed draft legislation. No opposition or edits were expressed regarding the technical changes or change to the language of the rights and responsibilities statement. While discussing petitions for additional time, the Work Group observed that there is currently no single source for data on how often such petitions are filed. For that reason, the Work Group recommended that the Council request that public bodies report to the Council whenever they file such petitions. The Work Group also recommended that such reporting be voluntary rather than a legislative mandate. Council member Lola Rodriguez Perkins also submitted written suggestions for amendments to the legislative draft ("LRP Suggested Revisions - Draft Legislation 11.18.24," available on the Council website). After discussion of the suggestions, the Work Group decided to amend the draft legislation to state that the time to respond would be tolled until final disposition of a petition for additional time, including any appeals, but did not adopt the other suggestions. The Work Group also decided to amend the draft legislation to clarify additional language about petitioning for relief from the limit on the hourly rate of pay without further substantive changes. As the Work Group operated by consensus and without objection, staff asked any participants who wished to object or abstain from the consensus to state their position to be included in the Executive Summary and Report, noting that silence would indicate assent. Mr. Seddiq stated specific opposition to lines 230-251 of the draft legislation and general objection to lines 220-285 for the reasons stated in the three memoranda he submitted previously (available on the Council website). Elizabeth Hobbs stated that the Virginia Sheriffs' Association members were divided on the legislative draft, so the Association was neither in support or opposition at this time but that position might change. Jim Hingeley reported that he was personally in support of the amended draft legislation but that the Virginia Association of Commonwealths' Attorneys would not take a position on any legislation until January. Martin Crim stated that he also supported the amended draft legislation personally but the Local Government Attorneys of Virginia had not taken a position. Jeremy Bennett stated that the Virginia Association of Counties was in a similar position of neither support nor opposition. Steve Skinner abstained on behalf of Richmond City Council. Meredith Harlow similarly stated

that the City of Hampton had taken no position on the draft legislation. There were no other stated abstentions or objections to the draft legislation. Staff asked that if there were any participants who wished to state a different position but were not heard today, including for any technical reasons, that they please contact staff by the following day to state their position so that staff could finalize this report, but no participants did so.

CHAPTER 669

An Act to amend and reenact § 2.2-3704 of the Code of Virginia, relating to Virginia Freedom of Information Act; charges for production of public records; report.

[S 324]

Approved April 8, 2024

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3704 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc.

A. Except as otherwise specifically provided by law, all public records shall be open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall be provided by the custodian in accordance with this chapter by inspection or by providing copies of the requested records, at the option of the requester. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.
2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.
3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.
4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall

have an additional seven work days or, in the case of a request for criminal investigative files pursuant to § 2.2-3706.1, 60 work days in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. 1. Except with regard to scholastic records requested pursuant to subdivision A 1 of § 2.2-3705.4 that must be made available for inspection pursuant to the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and such requests for scholastic records by a parent or legal guardian of a minor student or by a student who is 18 years of age or older, a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost, *except that (i) for the first hour of the first request made by a requester to a public body during a calendar year, a public body shall not charge a requester for any costs incurred during the first hour spent accessing, duplicating, supplying, or searching for the requested records and (ii) for any additional time spent accessing, duplicating, supplying, or searching for such records, or for any additional record requests, the public body shall not charge an hourly rate for accessing, duplicating, supplying, or searching for the records exceeding the lesser of the hourly rate of pay of the lowest-paid individual capable of fulfilling the request or \$40 per hour.*

2. With regard to clause (ii) of subdivision 1, a public body may petition the appropriate court for relief from the fee cap imposed by such clause upon showing by a preponderance of the evidence that there is no qualified individual capable of fulfilling the request for \$40 per hour or less. Any such petition shall be heard within seven days of the date when the same is made, provided that the public body has sent and the requester has received a copy of the petition at least three working days prior to filing. The hearing on any petition made outside of the regular terms of the circuit court of a locality that is included in a judicial circuit with another locality or localities shall be given precedence on the docket of such court over all cases that are not otherwise given precedence by law. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between the requester's receipt of a copy of the petition and a final disposition of the court. A public body shall not pass along to the requester or otherwise incorporate into allowable charges any court costs or fees resulting from such petition.

3. The Office of the Attorney General and any local public body, including local school boards, are exempt from the fee cap imposed by clause (ii) of subdivision 1 and from the provisions of subdivision 2.

4. *A public body shall document all requests for electronic public records that take longer than 30 minutes to fulfill and shall include the number of hours spent accessing or searching for the requested records.*

5. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. The public body shall provide the requester with a cost estimate if requested. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. Any costs incurred by the public body in estimating the cost of supplying the requested records shall be applied toward the overall charges to be paid by the requester for the supplying of such requested records. Any local public body that charges for the production of records pursuant to this section may provide an electronic method of payment through which all payments for the production of such records to such locality may be made. For purposes of this subsection, "electronic method of payment" means any kind of noncash payment that does not involve a paper check and includes credit cards, debit cards, direct deposit, direct debit, electronic checks, and payment through the use of telephonic or similar communications.

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost *and the costs permitted to be charged by a public body* in accordance with *the provisions of* subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available

format to another shall not be deemed the creation, preparation, or compilation of a new public record.

H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

J. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

2. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2025 Session of the General Assembly.

3. That the Virginia Freedom of Information Advisory Council (the FOIA Council) shall study whether the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) allowing public bodies to charge requesters for the production of public records should be permanently amended to make access to public records easier for requesters. In conducting its study, the FOIA Council shall convene a work group consisting of citizens of the Commonwealth, representatives of state and local government entities, broadcast, print, and electronic media sources, open government organizations, and other interested parties, to examine the current FOIA provisions on charges and make recommendations on ways to amend such provisions to make the assessment of charges by public bodies for the production of public records more uniform, more transparent, easier to understand, and less costly. Technical assistance shall be provided to the FOIA Council by the Division of Legislative Services. All agencies of the Commonwealth shall provide assistance to the FOIA Council for this study, upon request. The work group shall complete its meetings by November 30, 2024, and present its findings and recommendations for consideration by the FOIA Council at its meeting in December 2024.

The chairman of the FOIA Council shall submit to the Division of Legislative Automated Systems an executive summary of the work group's findings and recommendations with any additional comments by the FOIA Council no later than the first day of the 2025 Regular Session of the General Assembly. The executive summary shall state whether the FOIA Council intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Best Practices for Making Requests for Public Records

I. Introduction

This guide offers helpful tips for people requesting public records under the Virginia Freedom of Information Act (FOIA) and the public bodies responding to those requests. It follows the steps of the request process, starting with pre-request research, how to make a request and phrase it clearly, and finally, how to handle any back-and-forth discussions between a requester and a public body. Note that FOIA encourages public bodies to work reasonably with requesters to agree on how to provide the requested records.

For more information on the procedural rules for requesting and responding to requests for public records, see the separate guide "Access to Public Records Under the Virginia Freedom of Information Act" available on the FOIA Council website.

Further detailed guidance regarding charges for the production of public records is provided in a separate document entitled "FOIA Charges Guide," which can be found on the FOIA Council website.

II. Preliminary Research and First Contact

Before making your request:

- Since each public body in Virginia manages its own records and there is no central location where all public records are stored, the requester will need to contact the specific public body that is most likely to have the desired records.
- Start by considering which public body is most likely to have the desired records and what those records might be called. Keep in mind that different public bodies may use different terms for records that serve similar purposes.
- Review the records retention schedules on the Library of Virginia's website, lva.virginia.gov, for ideas.
- Check the websites of public bodies for ideas about what records they have or whether the information is already posted online or otherwise available.
- Familiarize yourself with the procedures in § 2.2-3704 of the Code of Virginia and other publications of the FOIA Council available on its website, foiacouncil.dls.virginia.gov.
- Find the public body's FOIA contact on the public body's website or call the public body to ask for the FOIA contact. In addition, the FOIA Council maintains a list of FOIA officers on its website, and each public body is required to publish a statement of FOIA rights and responsibilities as well as contact information for their FOIA officer(s).

III. Making the Request

General tips:

- A requester may ask for records orally (in person, over the phone, etc.) but it's a best practice to put the request in writing (email, letter, fax) so that the requester and the public body FOIA officers are literally on the same page. A paper trail will also be helpful if disagreements or disputes arise later.
- Be respectful.
- Be direct and clear.
- Avoid getting personal, editorial, or adversarial.
- Ask for records, not answers to questions or explanations, since FOIA is a process for accessing records that already exist.
- Do not assume that all public bodies handle their FOIA processes the same way as others. Be flexible and when in doubt contact the public body and ask questions.

The request itself:

- Reducing the number of search terms, the length of time frames, and/or the number of people involved should save both time and money.
- If the public body has the right technology, use Boolean search terms when possible (e.g., "zoning application AND denied" or "zoning application AND residential NOT industrial").
- Avoid terms like "any and all" or "included but not limited to," which can broaden the scope of the request beyond what you really want.
- Similarly, avoid terms that may be open to interpretation, such as "related to" or "associated with," as these terms may be interpreted differently in different situations and by different people.

If you are unsure about what records a public body has or how it manages them, contact the public body first to discuss your request. This helps avoid using vague or broad language in your request, ensuring important records are not missed.

Many of these tips are aimed at reducing the number of potential records the search will yield because fewer records should save time and money. A narrower search might miss some desired records, but you can make follow-up requests based on what you learn in your first request.

- Keep in mind, broad requests like those used in the litigation process (discovery) are more likely to result in lots of duplicate records or records you do not want and do not want to pay to retrieve.

IV. Negotiating the Terms of Production of Records

FOIA's policy statement in § 2.2-3700 of the Code of Virginia encourages requesters and public bodies to work together. Clear communication is beneficial to all involved.

Some specific items to consider when negotiating the terms of production:

- Volume of records to be searched
- Time frame covered by the request
- Time frame of response and costs to be charged (as points of negotiation rather than statutory limits, such as allowing a public body additional time to respond in exchange for reduced costs)
- Subject matter of request
- Keyword searches
- Limiting request based on involvement of specified individuals (as authors, senders, recipients, or otherwise)

After the request:

- Continue to work with the FOIA officer to get the desired records.
- Be flexible, offer alternatives, and be willing to negotiate if it will help you get the desired records.
- Avoid making repeated requests for the same record. Multiple requests might be needed if a record you've previously requested has been changed or updated, but if there have been no changes or updates, asking for the same record over and over will likely result in getting the same record over and over.

Virginia Freedom of Information Advisory Council

Contact Information

Alan Gernhardt
Executive Director

Joseph Underwood
Senior Attorney

General Assembly Building
201 North 9th Street
Richmond, VA 23219

Telephone: (804) 698-1810
Toll-Free: 1-866-448-4100

Email: foiacouncil@dls.virginia.gov
Website: <http://foiacouncil.dls.virginia.gov>

Advisory opinions of the FOIA Council are available on the FOIA Council [website](#).

Appendix C: Proposed Legislative Draft Re: Charges and Petitions for Additional Time

SENATE BILL NO. _____ **HOUSE BILL NO.** _____

A BILL to amend and reenact §§ 2.2-2007, 2.2-3704, 2.2-3704.1, 2.2-3714, 2.2-3806, 16.1-77, and 17.1-275 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-3704.02, relating to the Virginia Freedom of Information Act; procedure for responding to requests; charges; posting of notice of rights and responsibilities.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2007, 2.2-3704, 2.2-3704.1, 2.2-3714, 2.2-3806, 16.1-77, and 17.1-275 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-3704.02 as follows:

§ 2.2-2007. Powers of the CIO.

A. The CIO shall promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter. The CIO shall also develop policies, standards, and guidelines for the planning, budgeting, procurement, development, maintenance, security, and operations of information technology for executive branch agencies. Such policies, standards, and guidelines shall include those necessary to:

1. Support state and local government exchange, acquisition, storage, use, sharing, and distribution of data and related technologies.

2. Support the development of electronic transactions including the use of electronic signatures as provided in § 59.1-496.

3. Support a unified approach to information technology across the totality of state government, thereby assuring that the citizens and businesses of the Commonwealth receive the greatest possible security, value, and convenience from investments made in technology.

4. Ensure that the costs of information technology systems, products, data, and services are contained through the shared use of existing or planned equipment, data, or services.

5. Provide for the effective management of information technology investments through their entire life cycles, including identification, business case development, selection, procurement, implementation, operation, performance evaluation, and enhancement or retirement. Such policies, standards, and guidelines shall include, at a minimum, the periodic review by the CIO of agency Commonwealth information technology projects.

6. Establish an Information Technology Investment Management Standard based on acceptable technology investment methods to ensure that all executive branch agency technology expenditures are an integral part of the Commonwealth's performance management system, produce value for the agency and the Commonwealth, and are aligned with (i) agency strategic plans, (ii) the Governor's policy objectives, and (iii) the long-term objectives of the Council on Virginia's Future.

B. In addition to other such duties as the Secretary may assign, the CIO shall:

1. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to § 2.2-2023.

2. Report annually to the Governor, the Secretary, and the Joint Commission on Technology and Science created pursuant to § 30-85 on the use and application of information technology by executive branch agencies to increase economic efficiency, citizen convenience, and public access to state government.

3. Prepare annually a report for submission to the Secretary, the Information Technology Advisory Council, and the Joint Commission on Technology and Science on a prioritized list of Recommended Technology Investment Projects (RTIP Report) based upon major information technology projects submitted for business case approval pursuant to this chapter. As part of the RTIP Report, the CIO shall develop and regularly update a methodology for prioritizing projects based upon the allocation of points to defined criteria. The criteria and their definitions shall be presented in the RTIP Report. For each project recommended for funding in the RTIP Report, the CIO shall indicate the number of points and how they were awarded. For each listed project, the CIO shall also report (i) all projected costs of ongoing operations and maintenance activities of the

project for the next three biennia following project implementation; (ii) a justification and description for each project baseline change; and (iii) whether the project fails to incorporate existing standards for the maintenance, exchange, and security of data. This report shall also include trends in current projected information technology spending by executive branch agencies and secretariats, including spending on projects, operations and maintenance, and payments to VITA. Agencies shall provide all project and cost information required to complete the RTIP Report to the CIO prior to May 31 immediately preceding any budget biennium in which the project appears in the Governor's budget bill.

4. Provide oversight for executive branch agency efforts to modernize the planning, development, implementation, improvement, operations and maintenance, and retirement of Commonwealth information technology, including oversight for the selection, development and management of enterprise information technology.

5. Develop statewide technical and data standards and specifications for information technology and related systems, including (i) the efficient exchange of electronic information and technology, including infrastructure, between the public and private sectors in the Commonwealth and (ii) the utilization of nationally recognized technical and data standards for health information technology systems or software purchased by an executive branch agency.

6. Direct the compilation and maintenance of an inventory of information technology, including but not limited to personnel, facilities, equipment, goods, and contracts for services.

7. Provide for the centralized marketing, provision, leasing, and executing of licensing agreements for electronic access to public information and government services through the Internet, wireless devices, personal digital assistants, kiosks, or other such related media on terms and conditions as may be determined to be in the best interest of the Commonwealth. VITA may fix and collect fees and charges for (i) public information, media, and other incidental services furnished by it to any private individual or entity, notwithstanding the charges set forth in ~~§ 2.2-3704~~ [2.2-3704.02](#), and (ii) such use and services it provides to any executive branch agency or local government. Nothing in this subdivision authorizing VITA to fix and collect fees for

providing information services shall be construed to prevent access to the public records of any public body pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). VITA is authorized, subject to the approval by the Secretary of Administration and any other affected Secretariat, to delegate the powers and responsibilities granted in this subdivision to any agency within the executive branch.

8. Periodically evaluate the feasibility of outsourcing information technology resources and services, and outsource those resources and services that are feasible and beneficial to the Commonwealth.

9. Have the authority to enter into and amend contracts, including contracts with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the provision of information technology services.

C. Consistent with § 2.2-2012, the CIO may enter into public-private partnership contracts to finance or implement information technology programs and projects. The CIO may issue a request for information to seek out potential private partners interested in providing programs or projects pursuant to an agreement under this subsection. The compensation for such services shall be computed with reference to and paid from the increased revenue or cost savings attributable to the successful implementation of the program or project for the period specified in the contract. The CIO shall be responsible for reviewing and approving the programs and projects and the terms of contracts for same under this subsection. The CIO shall determine annually the total amount of increased revenue or cost savings attributable to the successful implementation of a program or project under this subsection and such amount shall be deposited in the Virginia Technology Infrastructure Fund created in § 2.2-2023. The CIO is authorized to use moneys deposited in the Fund to pay private partners pursuant to the terms of contracts under this subsection. All moneys in excess of that required to be paid to private partners, as determined by the CIO, shall be reported to the Comptroller and retained in the Fund. The CIO shall prepare an annual report to the Governor, the Secretary, and General Assembly on all contracts under this subsection, describing

each information technology program or project, its progress, revenue impact, and such other information as may be relevant.

D. Executive branch agencies shall cooperate with VITA in identifying the development and operational requirements of proposed information technology systems, products, data, and services, including the proposed use, functionality, and capacity, and the total cost of acquisition, operation, and maintenance.

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; transfer of records for storage, etc.

A. Except as otherwise specifically provided by law, all public records shall be open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth during the regular office hours of the custodian of such records. Access to such records shall be provided by the custodian in accordance with this chapter by inspection or by providing copies of the requested records, at the option of the requester. The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.

4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days or, in the case of a request for criminal investigative files pursuant to § 2.2-3706.1, 60 work days in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate [general district or circuit](#) court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. [The period within which the public body shall respond under this section shall be tolled while such petition is pending before the court. The hearing on any such petition made outside of the regular terms of the court of a locality that is included in a judicial circuit with another locality or localities shall be given precedence on the docket of such court over all cases that are not otherwise given precedence by law.](#) Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection ~~G~~[F](#), no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

~~F. Except with regard to scholastic records requested pursuant to subdivision A 1 of § 2.2-3705.4 that must be made available for inspection pursuant to the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and such requests for scholastic records by a parent or legal guardian of a minor student or by a student who is 18 years of age or older, a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. The public body shall provide the requester with a cost estimate if requested. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. Any costs incurred by the public body in estimating the cost of supplying the requested records shall be applied toward~~

~~the overall charges to be paid by the requester for the supplying of such requested records. Any local public body that charges for the production of records pursuant to this section may provide an electronic method of payment through which all payments for the production of such records to such locality may be made. For purposes of this subsection, "electronic method of payment" means any kind of noncash payment that does not involve a paper check and includes credit cards, debit cards, direct deposit, direct debit, electronic checks, and payment through the use of telephonic or similar communications.~~

~~G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases~~ public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and the public body, including the payment of reasonable costs in accordance with § 2.2-3704.02. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

~~H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.~~

~~I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.~~

J-G. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

§ 2.2-3704.02. Charges for the production of public records.

A. Except with regard to scholastic records requested pursuant to subdivision A 1 of § 2.2-3705.4 that must be made available for inspection pursuant to the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and such requests for scholastic records by a parent or legal guardian of a minor student or by a student who is 18 years of age or older, a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication.

B. If the public body chooses to charge, any charges for staff time shall be calculated based on the median hourly rate of pay of employees of the public body as of the previous July 1 or the actual hourly rate of pay of the employee who is accessing, duplicating, supplying, or searching for the requested records, whichever is the lesser amount. The hourly rate of pay calculated shall not include the cost of fringe benefits or any overhead costs. When calculating the median hourly rate of pay, the hourly rate of pay of full-time and part-time employees shall be included, but the hourly rate of pay of temporary employees shall not be included. A public body that has multiple departments or divisions may calculate separately the median hourly rate of pay for each such department or division based on the hourly rate of pay of employees of that department or division.

With regard to this subsection, a public body may petition the appropriate court for relief from the fee cap imposed by such clause upon showing by a preponderance of the evidence that there is no qualified individual capable of fulfilling the request at the median hourly rate of pay or less. Upon hearing such petition, the court in its discretion may set the hourly rate to be charged not to exceed the actual cost incurred by the public body. Any such petition shall be heard within seven days of the date when the same is made, provided that the public body has sent and the requester has received a copy of the petition at least three working days prior to filing. The hearing on any petition made outside of the regular terms of the circuit court of a locality that is included

in a judicial circuit with another locality or localities shall be given precedence on the docket of such court over all cases that are not otherwise given precedence by law. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between the requester's receipt of a copy of the petition and a final disposition of the court. A public body shall not pass along to the requester or otherwise incorporate into allowable charges any court costs or fees resulting from such petition.

C. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, that encompass a contiguous area greater than 50 acres.

D. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. The public body shall provide the requester with a cost estimate if requested. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. Any costs incurred by the public body in estimating the cost of supplying the requested records shall be applied toward the overall charges to be paid by the requester for the supplying of such requested records.

E. Any local public body that charges for the production of records pursuant to this section may provide an electronic method of payment through which all payments for the production of such records to such locality may be made. For purposes of this subsection, "electronic method of payment" means any kind of noncash payment that does not involve a paper check and includes

credit cards, debit cards, direct deposit, direct debit, electronic checks, and payment through the use of telephonic or similar communications.

F. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with this section.

G. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

H. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council.

A. All state public bodies subject to the provisions of this chapter, any county or city, any town with a population of more than 250, and any school board shall make available the following information to the public upon request and shall post a link to such information on the homepage of their respective official public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;

2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;

3. A general description, summary, list, or index of the types of public records maintained by such public body;

4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;

5. Any policy the public body has concerning the type of public records it routinely withholds from release as permitted by this chapter or other law;

6. The following statement:

"A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication.

If the public body chooses to charge, any charges for staff time shall be calculated based on the median hourly rate of pay of employees of the public body as of the previous July 1 or the actual hourly rate of pay of the employee who is accessing, duplicating, supplying, or searching for the requested records, whichever is the lesser amount. The hourly rate of pay calculated shall not include the cost of fringe benefits or any overhead costs. When calculating the median hourly rate of pay, the hourly rate of pay of full-time and part-time employees shall be included, but the hourly rate of pay of temporary employees shall not be included. A public body that has multiple departments or divisions may calculate separately the median hourly rate of pay for each such department or division based on the hourly rate of pay of employees of that department or division.

Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in

accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records as set forth in ~~subsection F of § 2.2-3704~~ 2.2-3704.02 of the Code of Virginia."; and

7. A written policy (i) explaining how the public body assesses charges for accessing or searching for requested records and (ii) noting the current fee charged, if any, for accessing and searching for such requested records.

B. Any state public body subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall post a link on its official public government website to the online public comment form on the Freedom of Information Advisory Council's website to enable any requester to comment on the quality of assistance provided to the requester by the public body.

C. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.

§ 2.2-3714. Violations and penalties.

A. In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3704.02, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3706.1, 2.2-3707, 2.2-3708.2, 2.2-3708.3, 2.2-3710, 2.2-3711, or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of this chapter because such officer, employee, or member altered or destroyed the requested public records with the intent to avoid the provisions of this chapter with respect to such request prior to the expiration of the applicable record retention period set by

the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court may impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund.

C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a public body voted to certify a closed meeting in accordance with subsection D of § 2.2-3712 and such certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of § 2.2-3712, the court may impose on the public body, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$1,000, which amount shall be paid into the Literary Fund. In determining whether a civil penalty is appropriate, the court shall consider mitigating factors, including reliance of members of the public body on (i) opinions of the Attorney General, (ii) court cases substantially supporting the rationale of the public body, and (iii) published opinions of the Virginia Freedom of Information Advisory Council.

§ 2.2-3806. Rights of data subjects.

A. Any agency maintaining personal information shall:

1. Inform an individual who is asked to supply personal information about himself whether he is legally required, or may refuse, to supply the information requested, and also of any specific consequences that are known to the agency of providing or not providing the information.

2. Give notice to a data subject of the possible dissemination of part or all of this information to another agency, nongovernmental organization or system not having regular access authority, and indicate the use for which it is intended, and the specific consequences for the individual, which are known to the agency, of providing or not providing the information. However documented permission for dissemination in the hands of the other agency or organization shall satisfy the requirement of this subdivision. The notice may be given on applications or other data collection forms prepared by data subjects.

3. Upon request and proper identification of any data subject, or of his authorized agent, grant the data subject or agent the right to inspect, in a form comprehensible to him:

a. All personal information about that data subject except as provided in subdivision 1 of § 2.2-3705.1, subdivision A 1 of § 2.2-3705.4, and subdivision 1 of § 2.2-3705.5.

b. The nature of the sources of the information.

c. The names of recipients, other than those with regular access authority, of personal information about the data subject including the identity of all persons and organizations involved and their relationship to the system when not having regular access authority, except that 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.

4. Comply with the following minimum conditions of disclosure to data subjects:

a. An agency shall make disclosures to data subjects required under this chapter, during normal business hours, in accordance with the procedures set forth in subsections B and C of § 2.2-3704 for responding to requests under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or within a time period as may be mutually agreed upon by the agency and the data subject.

b. The disclosures to data subjects required under this chapter shall be made (i) in person, if he appears in person and furnishes proper identification, or (ii) by mail, if he has made a written request, with proper identification. Copies of the documents containing the personal information sought by a data subject shall be furnished to him or his representative at reasonable charges for document search and duplication in accordance with ~~subsection F of § 2.2-3704~~ 2.2-3704.02.

c. The data subject shall be permitted to be accompanied by a person of his choosing, who shall furnish reasonable identification. An agency may require the data subject to furnish a written statement granting the agency permission to discuss the individual's file in such person's presence.

5. If the data subject gives notice that he wishes to challenge, correct, or explain information about him in the information system, the following minimum procedures shall be followed:

a. The agency maintaining the information system shall investigate, and record the current status of that personal information.

b. If, after such investigation, the information is found to be incomplete, inaccurate, not pertinent, not timely, or not necessary to be retained, it shall be promptly corrected or purged.

c. If the investigation does not resolve the dispute, the data subject may file a statement of not more than 200 words setting forth his position.

d. Whenever a statement of dispute is filed, the agency maintaining the information system shall supply any previous recipient with a copy of the statement and, in any subsequent dissemination or use of the information in question, clearly note that it is disputed and supply the statement of the data subject along with the information.

e. The agency maintaining the information system shall clearly and conspicuously disclose to the data subject his rights to make such a request.

f. Following any correction or purging of personal information the agency shall furnish to past recipients notification that the item has been purged or corrected whose receipt shall be acknowledged.

B. Nothing in this chapter shall be construed to require an agency to disseminate any recommendation or letter of reference from or to a third party that is a part of the personnel file of any data subject nor to disseminate any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

As used in this subsection, "test or examination" includes (i) any scoring key for any such test or examination and (ii) any other document that would jeopardize the security of the test or examination. Nothing contained in this subsection shall prohibit the release of test scores or results as provided by law, or to limit access to individual records as provided by law; however, the subject of the employment tests shall be entitled to review and inspect all documents relative to his performance on those employment tests.

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

C. Neither any provision of this chapter nor any provision of the Freedom of Information Act (§ 2.2-3700 et seq.) shall be construed to deny public access to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any public officer, official or employee at any level of state, local or regional government in the Commonwealth. The provisions of this subsection shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

D. Nothing in this section or in this chapter shall be construed to require an agency to disseminate information derived from tax returns prohibited from release pursuant to § 58.1-3.

§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of (i) any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, when the amount of such claim does not exceed \$4,500, exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees, and (ii) any action for injury to person, regardless of theory, and any action for wrongful death as provided for in Article 5 (§ 8.01-50 et seq.) of Chapter 3 of Title 8.01 when the amount of such claim does not exceed \$4,500, exclusive of interest and

any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$50,000, exclusive of interest and any attorney fees. However, the jurisdictional limit shall not apply with respect to distress warrants under the provisions of § 8.01-130.4, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the court shall order transfer of the matter to the circuit court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$25,000 exclusive of interest and any attorney fees.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease or guarantee of such lease.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code.

(5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

(7) Jurisdiction to try and decide any cases pursuant to § 55.1-1819 of the Property Owners' Association Act (§ 55.1-1800 et seq.) or § 55.1-1959 of the Virginia Condominium Act (§ 55.1-1900 et seq.).

(8) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional limits of the general district court. Any party that disagrees with an order by a general district court granting an application to compel arbitration may appeal such decision to the circuit court pursuant to § 8.01-581.016.

[\(9\) Jurisdiction to try and decide any cases pursuant to § 2.2-3704 of the Virginia Freedom of Information Act \(§ 2.2-3700 et seq.\) for additional time to respond to a request for public records.](#)

For purposes of this section, the territory served by a county general district court expressly authorized by statute to be established in a city includes the general district court courtroom.

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. [Repealed.]

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, \$18 for an instrument or document consisting of 10 or fewer pages or sheets; \$32 for an instrument or document consisting of 11 to 30 pages or sheets; and \$52 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of \$17 per page or sheet shall be charged with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. Three dollars and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, \$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage pursuant to § 20-25, \$25 to be paid by the petitioner.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all necessary oaths and writing proper affidavits, \$3.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

8. For making out a copy of any paper, record, or electronic record to go out of the office, which is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record, each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For purposes of this section, the costs of making out the copies authorized under this section shall include costs included in the lease and maintenance agreements for the equipment and the technology needed to operate electronic systems in the clerk's office used to make out the copies, but shall not include salaries or related benefits. The costs of copies shall otherwise be determined in accordance with § ~~2.2-3704~~ [2.2-3704.02](#). However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional \$0.50.

10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee of \$150 for each felony conviction and each felony disposition under §

18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.

11. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund as provided in § 17.1-275.8.

12. Upon the defendant's being required to successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

13. In all civil actions that include one or more claims for the award of monetary damages the clerk's fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the time of filing the petition.

14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the

cost of registered or certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.

15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, \$10.

16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

17. For docketing and indexing a judgment from any other court of the Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.

18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony.

19, 20. [Repealed.]

21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, \$1.

22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

23. For preparation and issuance of a subpoena duces tecum, \$5.

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

25. For providing court records or documents on microfilm, per frame, \$0.50.

26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person presenting such credit or debit card a reasonable convenience fee for the processing of such credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the transaction or a flat fee of \$2 per transaction. The clerk may set a lower convenience fee for electronic filing of civil or criminal proceedings pursuant to § 17.1-258.3. Nothing herein shall be construed to prohibit the clerk from outsourcing the processing of credit and debit card transactions to a third-party private vendor engaged by the clerk. Convenience fees shall be used to cover operational expenses as defined in § 17.1-295.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit or debit card issuer that payment will not be made for any

reason, the clerk may collect a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 4 and 5 of § 63.2-1210, an additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Virginia Birth Father Registry Fund pursuant to § 63.2-1249.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.2-1023, 33.2-1024, and 33.2-1027, a fee of \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.2-1021, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9, a fee of \$20.

33. [Repealed.]

34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55.1-653 et seq.), the fees shall be as prescribed in that Act.

35. [Repealed.]

36. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of \$10.

37. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

38. For lodging, indexing, and preserving a will in accordance with § 64.2-409, a fee of \$5.

39. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed under § 8.9A-525.

40. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under § 8.9A-525.

41. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed under § 8.9A-525.

42. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

43. For issuing any execution, and recording the return thereof, a fee of \$1.50.

44. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of \$1.50, in accordance with subdivision A 44.

B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

F. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

#

Appendix D: List of Participants

<p>FOIA Council Delegate Elizabeth B. Bennett-Parker</p>	<p>FOIA Council Lola Rodriguez Perkins Surry County Attorney</p>
<p>Senate (Patron of SB 324) Senator Danica A. Roem</p>	<p>FOIA Council Maria J.K. Everett</p>
<p>Virginia Press Association Betsy Edwards Executive Director, VPA Steve Weddle Aimee Seibert Commonwealth Strategy Group Henry Watkins Commonwealth Strategy Group</p>	<p>Virginia Coalition for Open Government Megan Rhyne Executive Director</p>
<p>Virginia Association of Counties Phyllis Errico General Counsel Jeremy Bennett Director of Intergovernmental Affairs</p>	<p>Virginia Association of Broadcasters Jonathan Williams</p>
<p>Virginia Municipal League Michelle Gowdy Executive Director</p>	<p>Commissioners of the Revenue Association of Virginia Eric Maybach</p>
<p>State Council of Higher Education for Virginia Alan Edwards Interim Director</p>	<p>Interested Citizen Ramin Seddiq</p>
<p>Virginia School Boards Association Lesley Rigney, Director Legal and Policy Services</p>	<p>Virginia Association of School Superintendents Scott Brabrand Executive Director</p>
<p>Virginia Sheriffs' Association John W. Jones Executive Director Elizabeth Hobbs Chief Legal and Policy Officer</p>	<p>Virginia Association of Chiefs of Police Dana G. Schrad Executive Director James Lewis Sgt Fairfax City Police Department</p>
<p>Virginia Association of Commonwealth's Attorneys James Hingeley Albemarle County Commonwealth's Attorney</p>	<p>Virginia State Police First Sergeant William K. Shipman Office of Legal Affairs</p>
<p>Local Government Attorneys of Virginia, Inc. Martin Crim</p>	<p>Virginia Department of Transportation Holly Jones</p>
<p>Virginia Department of Agriculture and Consumer Services Kevin Schmidt - Director Office of Policy, Planning, and Research</p>	<p>Virginia State Bar Janet Van Cuyk Deputy Executive Director</p>

Richmond City Council Steven R. Skinner Council Public Information Manager	Hampton City Attorney's Office Meredith C. Harlow Deputy City Attorney
Virginia Association of Planning District Commissions David Blount Executive Director	City of Alexandria Cheran Ivery City Attorney
City of Charlottesville Michael P. Kochis Chief of Police	Town of Herndon Maggie A. DeBoard Chief of Police
Interested Citizen Bob McWhirter	Town of Warrenton Stephen Clough Town Clerk
Interested Citizen Andy Cortez	Fairfax County Public Schools Michael A. Molloy Director, Gov't Relations

