

**Virginia Code Commission  
Meeting Materials  
September 20, 2021**

# VIRGINIA CODE COMMISSION

***Monday, May 17, 2021 - 10:00 a.m.***

*Electronic Meeting*

**DRAFT**

## **Meeting Minutes**

**Members Present:** John S. Edwards; Rita Davis; Christopher R. Nolen; Charles S. Sharp; Leslie L. Lilley; Marcus B. Simon; Nicole S. Cheuk; Samuel T. Towell; Malfourd W. Trumbo; Ward L. Armstrong; Don L. Scott, Jr.

**Members Absent:** Jennifer L. McClellan

**Staff Present:** Amigo Wade, Scott Meacham, Anne Bloomsburg, Nikki Clemons, Karen Perrine, Stephanie Kerns, Andrew Kubincanek, Division of Legislative Services (DLS); Maryann Horch, Senate Technology

**Others Present:** Tom Lisk, Chair, Administrative Law Advisory Committee

**Call to order:** Senator Edwards, chair, called the meeting to order at 10:07 a.m. Pursuant to Item 4-0.01 of Chapter 1289 of the 2020 Acts of Assembly and due to the COVID-19 pandemic state of emergency, the meeting was held electronically over Zoom. Senator Edwards explained the procedures for voting for the meeting.

**Approval of minutes:** The minutes of the December 7, 2020, meeting of the Commission, as distributed to the members, were approved on motion of Delegate Simon and second by Mr. Towell.

**Code Commission Work plan for 2021:** Karen Perrine reviewed the proposed work plan for 2021. The first item on the work plan was the recodification of Title 32.1, Health. This recodification was to be completed for presentation of a bill in the 2022 Session of the General Assembly, but the events and circumstances of the last year and a half made this goal impossible. The proposal was to begin recodification of Title 32.1 later this year, when DLS staff would be able to present an outline and recommend members of the workgroup for the Commission's approval. The recodification would carry into 2022. Title 24.2, Elections, is the next title planned for recodification based on a previous decision of the Commission; however, delays in redistricting and the responsibility for campaign finance reform has significantly compromised DLS staff time resulting in a postponement of work in this title until late 2022 or perhaps 2023.

The next item on the 2021 work plan was review of obsolete laws and sections not set out. The Commission has an obligation under § 30-151 of the Code of Virginia to periodically review the Code of for obsolete sections and make recommendations to the General Assembly to amend or repeal the sections. DLS staff proposes the following titles for obsolete law reviews: Titles 12.1, State Corporation Commission; 34, Homestead and Other Exemptions; 42.1, Libraries; 52, Police (State); and possibly Titles 22.1, Education, and 37.2, Health. In addition, the Commission has an ongoing project to review Code sections that currently are codified but the text is not set out in the Code. About 22 Code sections remain to be reviewed.

The next item on the work plan was the continued effort to restructure § 54.1-3408 of the Code of Virginia and related sections, regarding prescribing, dispensing or administering controlled substances. DLS staff recommended restructuring and clarification to provisions in these sections and has been working with the Board of Pharmacy and other stakeholders to complete this restructuring in 2021.

Delegate Simon moved that the work plan be approved, which was seconded by Mr. Ward. The motion passed unanimously.

**Report on the 2021 Code Commission bills:** Ms. Perrine reported that the two bills the Code Commission sponsored for the 2021 General Assembly session were enacted: recodification of Title 45.1 as Title 45.2 and repeal of § 5.1-178 of the Code, which had become obsolete. Senator Edwards thanked the DLS staff and workgroups that worked on each bill.

**Other business:**

- Report on Section 1 bills and enactment clauses assigned Code of Virginia numbers. Ms. Perrine stated that the Commission's Executive Committee, during the prepublication review of the Code of Virginia, determined that the Section 1 bills and enactment clauses listed in the chart in the meeting materials be placed in the Code of Virginia rather than remaining as Section 1 bills or enactment clauses. Ms. Perrine stated that no substantive changes were made. No action was required of the Commission.

- Approval to obtain hard bound copy of "Revision of Titles 45.1 and 67 of the Code of Virginia" (Senate Document No. 8, 2020). Ms. Perrine requested a motion to authorize a hard bound version of the recodification report made for Scott Meacham and David Barry as a gift of thanks and appreciation. Senator Edwards thanked both Mr. Meacham and Mr. Barry for their work on the project. Delegate Simon made a motion to approve the hard bound copy, seconded by Mr. Towell, and the motion passed unanimously.

**Administrative Law Advisory Committee (ALAC) reappointment of members:** Due to technical difficulties, Mr. Lisk was unable to present this item. In his absence, Ms. Perrine explained to the Commission that ALAC members are appointed by the Commission to assist the Commission in matters arising concerning the Administrative Process Act.

Mr. Towell asked how the members of ALAC are selected. Ms. Perrine stated that under § 30-155 of the Code, ALAC members are from state agencies, the Supreme Court, consumer or other public interest groups, local government, the State Bar, or the academic community. Each member serves a two-year term and often recommends replacements upon the member's departure. DLS staff may also seek out appropriate members.

Delegate Simon made a motion to approve the reappointment of the 2021 recommended reappointment members, seconded by Mr. Nolen, and the motion passed unanimously. Delegate Simon made a motion to approve the recommended new members. Mr. Nolen seconded the motion, and the motion passed unanimously.

Ms. Davis asked if the members of ALAC were racially diverse. Mr. Towell said they were not. Ms. Davis recommended that diversity be a priority for future appointments and reappointments.

**Public comment, adjournment:** Senator Edwards opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting adjourned at 10:39 a.m.

**Next meeting:** Monday, July 19, 2021, at 10:00 a.m.

<b>Commonwealth of Virginia</b>		
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<b>Administrative Law Advisory Committee</b>		

## 2021 Work Plan Administrative Law Advisory Committee

### **Electronic Records of Final Orders**

ALAC will study requested legislation related to the storage of digital copies of final orders. In addition, the work group will review other sections of the Virginia Administrative Process Act where similar language could be incorporated.

### **Executive Review Process**

The existing ALAC work group will continue to discuss recommendations on ensuring the efficiency and effectiveness of the executive review process for rules and regulations.

### **Hearing Officer Deskbook**

ALAC will form a work group to update the Hearing Officer Deskbook to account for any recent changes.

Thomas A. Lisk, Chair  
 John Daniel  
 Michelle Gowdy  
 Paul Kugelman

Eric M. Page  
 Jeffrey S. Palmore  
 Karen Perrine  
 Mike Quinan

Alexander F. Skirpan, Jr.  
 Brooks Smith  
 Jennifer Williamson  
 Kristi S. Wright

**Virginia Code Commission Recommendations for  
Sections Not Set Out in Title 63.2**

**Title 63.2  
Welfare (Social Services)**

**CHAPTER 14. UNIFORM ACT ON ADOPTION  
AND MEDICAL ASSISTANCE.**

**§ 63.2-1400. Findings and purposes.**

A. The legislature finds that locating adoptive families for children for whom state assistance is desirable pursuant to the Virginia State Adoption Assistance Law, and ensuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state. Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

B. The purposes of this Act are to authorize the Governor to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Department and to provide procedures for interstate children's adoption assistance payments, including medical payments.

(2002, c. 747.)

**RECOMMENDATION: Repeal this section by way of a bill. This section does not create substantive law, but rather states the findings of the General Assembly related to adoption and provision of medical assistance on behalf of children in the Commonwealth and the purpose of the Uniform Act on Adoption and Medical Assistance. The purpose of the Uniform Act on Adoption and Medical Assistance is clearly established by the substantive provisions of Chapter 14 (§ 63.2-1400 et seq.) that follow this section.**

**If this section is not repealed, it can be set out as shown below.**

**§ 63.2-1400. Findings and purposes.**

A. The legislature finds that locating adoptive families for children for whom state assistance is desirable ~~pursuant to the Virginia State Adoption Assistance Law,~~ and ensuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state. Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

B. The purposes of this ~~Act~~ [chapter](#) are to authorize the Governor to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Department and to provide procedures for interstate children's adoption assistance payments, including medical payments.

(2002, c. 747.)

## CHAPTER 15. CHILD ABUSE AND NEGLECT.

### Article 1. General Provisions.

#### **§ 63.2-1500. Policy of the Commonwealth.**

The General Assembly declares that it is the policy of the Commonwealth to require reports of suspected child abuse and neglect for the purpose of identifying children who are being abused or neglected, of assuring that protective services will be made available to an abused or neglected child in order to protect such a child and his siblings and to prevent further abuse or neglect, and of preserving the family life of the parents and children, where possible, by enhancing parental capacity for adequate child care.

(2002, c. 747.)

**RECOMMENDATION: Repeal this section by way of a bill. This section does not create substantive law, but rather states the policy of the Commonwealth. That policy is clearly established by the substantive provisions of Chapter 15 (§ 63.2-1500 et seq.) that follow this section.**

**If this section is not repealed, it can be set out as currently written.**

**Virginia Code Commission**  
**Recommendations for Sections Not Set Out in Title 13.1**

**Title 13.1.**

**Corporations.**

CHAPTER 3

COOPERATIVE ASSOCIATIONS.

Article 2.

Agricultural Cooperative Associations

§ 13.1-312. ~~Declaration of Policy~~ Construction of chapter.

It is the declared policy of this ~~State~~ Commonwealth, as one means of improving the economic position of agriculture, to encourage the organization of producers of agricultural products into effective non-profit co-operative associations under the control of such producers, and to that end this Act ~~should~~ act shall be liberally construed.

**RECOMMENDATION:** § 13.1-312 should be set out in the Code under the current section number as amended. This section is the first section under Article 2 (Agricultural Cooperative Associations) of Title 13.1 (Corporations). Although the section reflects a policy statement, the instruction that the act should be "liberally construed" is substantive. Recommend revising this section to read as more of a "public interest" introductory statement rather than merely legislative intent/policy. Further, changing the catchline of the section to "construction of chapter" rather than "declaration of policy" indicates how the chapter should be interpreted, rather than what its background was.

CHAPTER 7  
PROFESSIONAL CORPORATIONS.

**§ 13.1-542. Legislative intent.**

It is the legislative intent to provide for the incorporation of an individual or group of individuals to render the same professional service to the public for which such individuals are required by law to be licensed or to obtain other legal authorization from the Commonwealth of Virginia.

**RECOMMENDATION:**

**Repeal this section by way of a bill because this section does not create substantive law. This section merely states the intent of the law, which is evident from the remainder of the chapter.**

**Virginia Code Commission**  
**Recommendations for Sections Not Set Out in Title 56**  
**Title 56.**  
**Public Service Companies.**

CHAPTER 17.

STATE OPERATION OF PUBLIC UTILITIES.

§ 56-509. Uninterrupted functioning and operation of public utilities essential to the public welfare, health, and safety.

The continuous, uninterrupted and proper functioning and operation of public utilities engaged in the business of furnishing water, light, heat, gas, electric power, transportation, ~~or~~ communication, or any one or more of them, to ~~the people of Virginia~~ residents of the Commonwealth are hereby declared to be essential to ~~their~~ the public welfare, health and safety.

It is contrary to the public policy of the ~~State~~ Commonwealth to permit any substantial impairment or suspension of the operation of any such utility, and it is the duty of the ~~Government of the State~~ Commonwealth to exercise all available means and every power at its command to prevent the same so as to protect its citizens from any dangers, perils, calamities or catastrophes which would result therefrom. ~~It is therefore further declared that~~ Further, such utilities are ~~clothed with a~~ declared to be of vital public interest, and ~~to protect the same as such,~~ it is necessary that impairment or suspension of the operation of any such utility for any reason be prevented to the extent and by the means hereinafter provided.

**RECOMMENDATION:** § 56-509 should be set out as amended. § 56-509 is the first section of Chapter 17, which covers state operation of public utilities. This section contains aspects of substantive law, such as identifying which utility services are considered essential, obligating the state to respond to associated disasters, and mandating avoidance of impairment or suspension of these utility services.

CHAPTER 20.  
VIRGINIA HIGHWAY CORPORATION ACT OF 1988.

§ 56-537. ~~Policy~~ Construction of highways and use of public funds in the public interest.

The General Assembly finds that there is a compelling public need for rapid construction of safe and efficient highways for the purpose of travel within the Commonwealth, and that it is in the public interest to encourage construction of additional, safe, convenient and economic highway facilities by private parties, provided that adequate safeguards are provided against default in the construction and operation obligations of the operators of roadways. The public interest shall include without limitation the relative speed of the construction of the project and the relative cost efficiency of private construction of the project. The General Assembly further finds that the use of public funds for the purposes set forth in this section is in the public interest. Accordingly, the General Assembly finds that this chapter is necessary for the public convenience, safety and welfare.

**RECOMMENDATION:**

**§ 56-537 should be set out. This section contains substantive elements, such as articulating that encouraging construction is in the public interest, not just maintenance of existing highways; and that the use of public funds is appropriate for implementing provisions of the chapter. This section also directs using speed and cost efficiency as the primary factors for determining public interest.**

# **Virginia Code Commission**

## **Obsolete Laws**

### **Title 12.1**

#### **State Corporation Commission**

Title 12.1 establishes the State Corporation Commission and sets out its powers and duties, consistent with the powers and duties granted in Article IX of the Virginia Constitution. Chapter 1 includes general provisions such as definitions, the Commission's annual report, and offices of the Commission. Chapter 2 explains requirements for Commissioners and the process for their appointment. Chapter 4 governs the Commission's subordinate employees, and Chapter 5 covers administrative proceedings before the Commission and appeals.

No obsolete laws have been identified in Title 12.1 at this time.

## TITLE 34: HOMESTEAD AND OTHER EXEMPTIONS

### Chapter 1. General Provisions

SECTION	CATCHLINE	LAST AMENDED	CROSS-REFS	RECOMMENDATION
§ 34-1	Definitions	1990	§ 34-4	Not obsolete: No changes recommended
§ 34-2	Injunction restraining sale of exempted property or garnishment of wages	1919	§ 34-29	Not obsolete: No changes recommended
§ 34-3	Articles not exempt from taxes or levies or for their purchase price	1996	§§ 34-4, 34.4.1, 34-26, 34-27, 34-29, 55.1-2810, 64.2-311	Not obsolete: No changes recommended
§ 34-3.1	Property specified in Bankruptcy Reform Act not exempt	1979		Not obsolete: No changes recommended

### Chapter 2. Homestead Exemption of Householder

SECTION	CATCHLINE	LAST AMENDED	CROSS-REFS	RECOMMENDATION
§ 34-4	Exemption created	2020	§§ 23.1-707, 34-26, 34-27, 34-29, 64.2-311	Not obsolete: No changes recommended
§ 34-4.1	Additional exemption for certain veterans	2009	§§ 34-4, 34-6, 34-14, 34-26, 34-27, 34-29, 64.2-311	Not obsolete: No changes recommended
§ 34-4.2	Additional exemption for parents of dependent children	2009	§§ 8.01-512.4, 20-108.1, 34-4, 34-4.1, 34-26, 34-27, 34-29, 64.2-311	Not obsolete: No changes recommended
§ 34-5	To what debts exemptions shall not apply	2010		Not obsolete: No changes recommended

§ 34-6	How exemption of real estate secured; form to claim exemption of real property	2020	§§ 34-4, 34-4.1	Not obsolete: No changes recommended
§ 34-7	Real estate, subject to encumbrances, may be set apart; if sold, how surplus disposed of	1919	§ 34-4	Not obsolete: No changes recommended
§ 34-8	Partition or sale of real estate held as exempt by joint tenant, etc.	1919	§ 8.01-96 et seq.	Not obsolete: No changes recommended
§ 34-9	How real estate set apart as exempt may be encumbered or aliened	1919		Not obsolete: No changes recommended
§§ 34-10 through 34-12	Repealed	1981		N/A
§ 34-13	Householder may set apart exemption in personal estate	1993	§§ 34-4, 34-4.1, 34-14, 34-26, 34-27, 34-29, 64.2-311	Not obsolete: No changes recommended
§ 34-14	How set apart in personal estate; form to claim exemption of personal property	2020	§§ 34-4, 34-4.1, 34-13	Not obsolete: No changes recommended
§§ 34-15, 34-16	Repealed	1981		N/A
§ 34-17	When exemption may be set apart; garnished wages	2020		Not obsolete: No changes recommended
§ 34-18	Rents and profits exempt; increase in value of estate set apart	1990		Not obsolete: No changes recommended
§ 34-19	How excess in value set apart subjected to debts	1990		Not obsolete: No changes recommended
§ 34-20	Proceeds of sale of estate exempt; how evidenced	1919	§§ 34-6, 34-14	Not obsolete: No changes recommended
§ 34-21	When householder's right to exemption is exhausted	2020	§§ 34-4, 34-4.1, 34-13	Not obsolete: No changes recommended
§ 34-22	Waiver of exemption; its effect; form of waiver	1919	§§ 34-26, 34-27, 34-29	Not obsolete: No changes recommended

§ 34-23	How claim enforced when exemption waived, etc.	1981		Not obsolete: No changes recommended
§ 34-24	When the exemption ceases; lien of judgment or decree against householder	1981	§§ 34-4, 64.2-309 et seq.	Not obsolete: No changes recommended
§ 34-25	When homestead waived judgments and executions to so state	1919		Not obsolete: No changes recommended

### Chapter 3. Other Articles Exempt

SECTION	CATCHLINE	LAST AMENDED	CROSS-REFS	RECOMMENDATION
§ 34-26	Poor debtor's exemption; exempt articles enumerated	2015	§ 34-4 et seq.	Not obsolete: No changes recommended
§ 34-27	Additional articles exempted to householder engaged in agriculture	1993	§ 34-26	Not obsolete: No changes recommended
§ 34-28	Deed of trust, etc., on such property void	2002	§ 34-26	Not obsolete: No changes recommended
§ 34-28.1	Personal injury and wrongful death actions exempt; exceptions	2003	§§ 8.01-26, 8.01-66.2 et seq., 54.1-3932 et seq., 63.2-1900 et seq.	Not obsolete: No changes recommended
§ 34-28.2	Spousal and child support exempt	2015		Not obsolete: No changes recommended
§ 34-28.3	Emergency relief payments exempt	2020, Sp. Sess. I	§§ 6.2-100, 8.01-512.4, 34-17	Not obsolete: No changes recommended

## Chapter 4. Wages Exempt

SECTION	CATCHLINE	LAST AMENDED	CROSS-REFS	RECOMMENDATION
§ 34-29	Maximum portion of disposal earnings subject to garnishment	2021, Sp. Sess. I	§ 40.1-28.10	Not obsolete: No changes recommended
§ 34-30	Repealed	1970		N/A
§ 34-31	Revocation of such exemption	1974		Not obsolete: No changes recommended
§ 34-32	Illegal to garnish such exempt wages out of Commonwealth, etc.	2005	§ 34-29	Not obsolete: No changes recommended
§ 34-33	Exemption of wages of minor from garnishment process	1919		Not obsolete: No changes recommended
§ 34-34	Certain retirement benefits exempt	2007	§§ 34-17, 63.2-1900 et seq.	Not obsolete: No changes recommended

Chart of Title 37.2 Obsolete Statutes Recommended for Repeal

Section	Catchline	Last Amended	Cross-References	Recommend	Reasoning & Notes	Stakeholders
§ 37.2-315	Comprehensive State Plan for Behavioral Health and Developmental Services	2017	None	Repeal	<p>This statute no longer serves a useful purpose.</p> <p>Section 37.2-315 was added to the Code in 1998. Since that time, the Department of Behavioral Health and Developmental Services has biennially produced and updated a comprehensive six-year plan as required by § 37.2-315. However, since 1998, other reporting requirements that render the report required by § 37.2-315 obsolete have been adopted. Examples of other existing report requirements include the annual report required pursuant to § 37.2-304(12); the annual strategic plan, information technology strategic plan, and operating plan; annual reports on the implementation of SB 260 (2014) and implementation of System Transformation, Excellence and Performance (STEP-VA); the biennial executive progress report to the Department of Planning and Budget; and quarterly reports on the implementation of the state training center closure plan and transition of residents to the community.</p> <p>If § 37.2-315 is repealed, §§ 37.2-308, 37.2-504 and 37.2-605 must be amended to address cross-references.</p>	Department of Behavioral Health and Developmental Services

## Chart of Title 37.2 Obsolete Statutes Recommended for Repeal

### **§ 37.2-315. Comprehensive State Plan for Behavioral Health and Developmental Services.**

The Department, in consultation with community services boards, behavioral health authorities, state hospitals and training centers, individuals receiving services, families of individuals receiving services, advocacy organizations, and other interested parties, shall develop and update biennially a six-year Comprehensive State Plan for Behavioral Health and Developmental Services. The Comprehensive State Plan shall identify the needs of and the resource requirements for providing services and supports to persons with mental illness, developmental disabilities, or substance abuse across the Commonwealth and shall propose strategies to address these needs. The Comprehensive State Plan shall be used in the development of the Department's biennial budget submission to the Governor.

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact §§ 37.2-308, 37.2-504, and 37.2-605 of the Code of Virginia and to repeal  
2 § 37.2-315 of the Code of Virginia, relating to Comprehensive State Plan for Behavioral Health  
3 and Developmental Services.

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

5 **1. That §§ 37.2-308, 37.2-504, and 37.2-605 of the Code of Virginia are amended and reenacted as**  
6 **follows:**

7 **§ 37.2-308. Data reporting on children and adolescents.**

8 A. The Department shall collect and compile the following data:

9 1. The total number of licensed and staffed inpatient acute care psychiatric beds for children under  
10 the age of 14 and adolescents ages 14 through 17; and

11 2. The total number of licensed and staffed residential treatment beds for children under the age of  
12 14 and adolescents ages 14 through 17 in residential facilities licensed pursuant to this title, excluding  
13 group homes.

14 B. The Department shall collect and compile data obtained from the community policy and  
15 management team pursuant to subdivision 16 of § 2.2-5206 and each community services board or  
16 behavioral health authority pursuant to § 37.2-507 and subdivision ~~18~~ 17 of § 37.2-605. The Department  
17 shall ensure that the data reported is not duplicative.

18 C. The Department shall report this data on a quarterly basis to the Chairmen of the House  
19 Committee on Appropriations and the Senate Committee on Finance and Appropriations and to the  
20 Virginia Commission on Youth.

21 **§ 37.2-504. Community services boards; local government departments; powers and duties.**

22 A. Every operating and administrative policy community services board and local government  
23 department with a policy-advisory board shall have the following powers and duties:

24           1. Review and evaluate public and private community mental health, developmental, and substance  
25 abuse services and facilities that receive funds from it and advise the governing body of each city or county  
26 that established it as to its findings.

27           2. Pursuant to § 37.2-508, submit to the governing body of each city or county that established it  
28 a performance contract for community mental health, developmental, and substance abuse services for its  
29 approval prior to submission of the contract to the Department.

30           3. Within amounts appropriated for this purpose, provide services authorized under the  
31 performance contract.

32           4. In accordance with its approved performance contract, enter into contracts with other providers  
33 for the delivery of services or operation of facilities.

34           5. In the case of operating and administrative policy boards, make policies or regulations  
35 concerning the delivery of services and operation of facilities under its direction or supervision, subject to  
36 applicable policies and regulations adopted by the Board.

37           6. In the case of an operating board, appoint an executive director of community mental health,  
38 developmental, and substance abuse services, who meets the minimum qualifications established by the  
39 Department, and prescribe his duties. The compensation of the executive director shall be fixed by the  
40 operating board within the amounts made available by appropriation for this purpose. The executive  
41 director shall serve at the pleasure of the operating board and be employed under an annually renewable  
42 contract that contains performance objectives and evaluation criteria. For an operating board, the  
43 Department shall approve the selection of the executive director for adherence to minimum qualifications  
44 established by the Department and the salary range of the executive director. In the case of an  
45 administrative policy board, the board shall participate with local government in the appointment and  
46 annual performance evaluation of an executive director of community mental health, developmental, and  
47 substance abuse services, who meets the minimum qualifications established by the Department, and  
48 prescribe his duties. The compensation of the executive director shall be fixed by local government in  
49 consultation with the administrative policy board within the amounts made available by appropriation for  
50 this purpose. In the case of a local government department with a policy-advisory board, the director of

51 the local government department shall serve as the executive director. The policy-advisory board shall  
52 participate in the selection and the annual performance evaluation of the executive director, who meets  
53 the minimum qualifications established by the Department. The compensation of the executive director  
54 shall be fixed by local government in consultation with the policy-advisory board within the amounts  
55 made available by appropriation for this purpose.

56 7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the  
57 jurisdiction or supervision of the board and establish procedures for the collection of those fees. All fees  
58 collected shall be included in the performance contract submitted to the local governing body or bodies  
59 pursuant to subdivision 2 and § 37.2-508 and shall be used only for community mental health,  
60 developmental, and substance abuse services purposes. Every board shall institute a reimbursement  
61 system to maximize the collection of fees from individuals receiving services under its jurisdiction or  
62 supervision, consistent with the provisions of § 37.2-511, and from responsible third party payors. Boards  
63 shall not attempt to bill or collect fees for time spent participating in commitment hearings for involuntary  
64 admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

65 8. Accept or refuse gifts, donations, bequests, or grants of money or property from any source and  
66 utilize them as authorized by the governing body of each city or county that established it.

67 9. Seek and accept funds through federal grants. In accepting federal grants, the board shall not  
68 bind the governing body of any city or county that established it to any expenditures or conditions of  
69 acceptance without the prior approval of the governing body.

70 10. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in  
71 accordance with such regulations as may be established by the governing body of each city or county that  
72 established it.

73 11. Apply for and accept loans as authorized by the governing body of each city or county that  
74 established it.

75 12. Develop joint written agreements, consistent with policies adopted by the Board, with local  
76 school divisions; health departments; boards of social services; housing agencies, where they exist; courts;  
77 sheriffs; area agencies on aging; and regional offices of the Department for Aging and Rehabilitative

78 Services. The agreements shall specify the services to be provided to individuals. All participating  
79 agencies shall develop and implement the agreements and shall review the agreements annually.

80 13. ~~Develop and submit to the Department the necessary information for the preparation of the~~  
81 ~~Comprehensive State Plan for Behavioral Health and Developmental Services pursuant to § 37.2-315.~~

82 14. Take all necessary and appropriate actions to maximize the involvement and participation of  
83 individuals receiving services and family members of individuals receiving services in policy formulation  
84 and services planning, delivery, and evaluation.

85 ~~15-14.~~ Institute, singly or in combination with other community services boards or behavioral  
86 health authorities, a dispute resolution mechanism that is approved by the Department and enables  
87 individuals receiving services and family members of individuals receiving services to resolve concerns,  
88 issues, or disagreements about services without adversely affecting their access to or receipt of appropriate  
89 types and amounts of current or future services from the community services board.

90 ~~16-15.~~ Notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder,  
91 release data and information about each individual receiving services to the Department so long as the  
92 Department implements procedures to protect the confidentiality of that data and information.

93 ~~17-16.~~ In the case of administrative policy boards and local government departments with policy-  
94 advisory boards, carry out other duties and responsibilities as assigned by the governing body of each city  
95 or county that established it.

96 ~~18-17.~~ In the case of an operating board, have authority, notwithstanding any provision of law to  
97 the contrary, to receive state and federal funds directly from the Department and act as its own fiscal agent,  
98 when authorized to do so by the governing body of each city or county that established it.

99 By local agreement between the administrative policy board and the governing body of the city or  
100 county that established it, additional responsibilities may be carried out by the local government, including  
101 personnel or financial management. In the case of an administrative policy board established by more than  
102 one city or county, the cities and counties shall designate which local government shall assume these  
103 responsibilities.

104 B. Every policy-advisory community services board, with staff support provided by the director  
105 of the local government department, shall have the following powers and duties:

106 1. Advise the local government regarding policies or regulations for the delivery of services and  
107 operation of facilities by the local government department, subject to applicable policies and regulations  
108 adopted by the Board.

109 2. Review and evaluate the operations of the local government department and advise the local  
110 governing body of each city or county that established it as to its findings.

111 3. Review the community mental health, developmental, and substance abuse services provided  
112 by the local government department and advise the local governing body of each city or county that  
113 established it as to its findings.

114 4. Review and comment on the performance contract, and performance reports, ~~and~~  
115 ~~Comprehensive State Plan information~~ developed by the local government department. The board's  
116 comments shall be attached to the performance contract, and performance reports, ~~and Comprehensive~~  
117 ~~State Plan information~~ prior to their submission to the local governing body of each city or county that  
118 established it and to the Department.

119 5. Advise the local government as to the necessary and appropriate actions to maximize the  
120 involvement and participation of individuals receiving services and family members of individuals  
121 receiving services in policy formulation and services planning, delivery, and evaluation.

122 6. Participate in the selection and the annual performance evaluation of the local government  
123 department director employed by the city or county.

124 7. Carry out other duties and responsibilities as assigned by the governing body of each city or  
125 county that established it.

126 **§ 37.2-605. Behavioral health authorities; powers and duties.**

127 Every authority shall be deemed to be a public instrumentality, exercising public and essential  
128 governmental functions to provide for the public mental health, welfare, convenience, and prosperity of  
129 the residents and such other persons who might be served by the authority and to provide behavioral health  
130 services to those residents and persons. An authority shall have the following powers and duties:

131 1. Review and evaluate public and private community mental health, developmental, and substance  
132 abuse services and facilities that receive funds from the authority and advise the governing body of the  
133 city or county that established it as to its findings.

134 2. Pursuant to § 37.2-608, submit to the governing body of the city or county that established the  
135 authority an annual performance contract for community mental health, developmental, and substance  
136 abuse services for its approval prior to submission of the contract to the Department.

137 3. Within amounts appropriated for this purpose, provide services authorized under the  
138 performance contract.

139 4. In accordance with its approved performance contract, enter into contracts with other providers  
140 for the delivery of services or operation of facilities.

141 5. Make and enter into all other contracts or agreements as the authority may determine that are  
142 necessary or incidental to the performance of its duties and to the execution of powers granted by this  
143 chapter, including contracts with any federal agency, any subdivision or instrumentality of the  
144 Commonwealth, behavioral health providers, insurers, and managed care or health care networks on such  
145 terms and conditions as the authority may approve.

146 6. Make policies or regulations concerning the delivery of services and operation of facilities under  
147 its direction or supervision, subject to applicable policies and regulations adopted by the Board.

148 7. Appoint a chief executive officer of the behavioral health authority, who meets the minimum  
149 qualifications established by the Department, and prescribe his duties. The compensation of the chief  
150 executive officer shall be fixed by the authority within the amounts made available by appropriation for  
151 this purpose. The chief executive officer shall serve at the pleasure of the authority's board of directors  
152 and be employed under an annually renewable contract that contains performance objectives and  
153 evaluation criteria. The Department shall approve the selection of the chief executive officer for adherence  
154 to minimum qualifications established by the Department and the salary range of the chief executive  
155 officer.

156 8. Authorize the chief executive officer to maintain a complement of professional staff to operate  
157 the behavioral health authority's service delivery system.

158 9. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the  
159 jurisdiction or supervision of the authority and establish procedures for the collection of those fees. All  
160 fees collected shall be included in the performance contract submitted to the local governing body pursuant  
161 to subdivision 2 and § 37.2-608 and shall be used only for community mental health, developmental, and  
162 substance abuse services purposes. Every authority shall institute a reimbursement system to maximize  
163 the collection of fees from individuals receiving services under the jurisdiction or supervision of the  
164 authority, consistent with the provisions of § 37.2-612, and from responsible third party payors.  
165 Authorities shall not attempt to bill or collect fees for time spent participating in commitment hearings for  
166 involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

167 10. Accept or refuse gifts, donations, bequests, or grants of money or property or other assistance  
168 from the federal government, the Commonwealth, any municipality thereof, or any other sources, public  
169 or private; utilize them to carry out any of its purposes; and enter into any agreement or contract regarding  
170 or relating to the acceptance, use, or repayment of any such grant or assistance.

171 11. Seek and accept funds through federal grants. In accepting federal grants, the authority shall  
172 not bind the governing body of the city or county that established it to any expenditures or conditions of  
173 acceptance without the prior approval of that governing body.

174 12. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in  
175 accordance with applicable regulations.

176 13. Apply for and accept loans in accordance with regulations established by the board of directors.

177 14. Develop joint written agreements, consistent with policies adopted by the Board, with local  
178 school divisions; health departments; local boards of social services; housing agencies, where they exist;  
179 courts; sheriffs; area agencies on aging; and regional offices of the Department for Aging and  
180 Rehabilitative Services. The agreements shall specify the services to be provided to individuals. All  
181 participating agencies shall develop and implement the agreements and shall review the agreements  
182 annually.

183 15. ~~Develop and submit to the Department the necessary information for the preparation of the~~  
184 ~~Comprehensive State Plan for Behavioral Health and Developmental Services pursuant to § 37.2-315.~~

185 ~~16.~~ Take all necessary and appropriate actions to maximize the involvement and participation of  
186 individuals receiving services and family members of individuals receiving services in policy formulation  
187 and service planning, delivery, and evaluation.

188 ~~17.~~16. Institute, singly or in combination with community services boards or other behavioral  
189 health authorities, a dispute resolution mechanism that is approved by the Department and enables  
190 individuals receiving services and family members of individuals receiving services to resolve concerns,  
191 issues, or disagreements about services without adversely affecting their access to or receipt of appropriate  
192 types and amounts of current or future services from the authority.

193 ~~18.~~17. Notwithstanding the provisions of § 37.2-400 and regulations adopted thereunder, release  
194 data and information about each individual receiving services to the Department, so long as the  
195 Department implements procedures to protect the confidentiality of that data and information. Every  
196 authority shall submit data on children and youth in the same manner as community services boards, as  
197 set forth in § 37.2-507.

198 ~~19.~~18. Fulfill all other duties and be subject to applicable provisions specified in the Code of  
199 Virginia pertaining to community services boards.

200 ~~20.~~19. Make loans and provide other assistance to corporations, partnerships, associations, joint  
201 ventures, or other entities in carrying out any activities authorized by this chapter.

202 ~~21.~~20. Transact its business, locate its offices and control, directly or through stock or nonstock  
203 corporations or other entities, facilities that will assist the authority in carrying out the purposes and intent  
204 of this chapter, including without limitations the power to own or operate, directly or indirectly, behavioral  
205 health facilities in its service area.

206 ~~22.~~21. Acquire property, real or personal, by purchase, gift, or devise on such terms and conditions  
207 and in such manner as it may deem proper and such rights, easements, or estates therein as may be  
208 necessary for its purposes and sell, lease, and dispose of the same or any portion thereof or interest therein,  
209 whenever it shall become expedient to do so.

210 ~~23.~~22. Participate in joint ventures with persons, corporations, partnerships, associations, or other  
211 entities for providing behavioral health care or related services or other activities that the authority may

212 undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent  
213 of this chapter.

214 ~~24.~~23. Conduct or engage in any lawful business, activity, effort, or project that is necessary or  
215 convenient for the purposes of the authority or for the exercise of any of its powers.

216 ~~25.~~24. As a public instrumentality, establish and operate its administrative management  
217 infrastructure in whole or in part independent of the local governing body; however, nothing in the chapter  
218 precludes behavioral health authorities from acquiring support services through existing governmental  
219 entities.

220 ~~26.~~25. Carry out capital improvements and bonding through existing economic or industrial  
221 development authorities.

222 ~~27.~~26. Establish retirement, group life insurance, and group accident and sickness insurance plans  
223 or systems for its employees in the same manner as cities, counties, and towns are permitted to do under  
224 § 51.1-801.

225 ~~28.~~27. Provide an annual report to the Department of the authority's activities.

226 ~~29.~~28. Ensure a continuation of all services for individuals during any transition period.

227 **2. That § 37.2-315 of the Code of Virginia is repealed.**

228 #

**CHAPTER 1. State Library and Library Board**

***Article 4. Historical Material Relating to World War II***

<b>Section</b>	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Notes</b>
§ 42.1-30	Virginia World War II History Commission abolished; duties transferred to Librarian of Virginia.	1998	Repeal	All duties and documents have been transferred from the Virginia World War II History Commission to the Library of Virginia, and such documents are accessible by the public.
§ 42.1-31	Counties and cities may submit material.	1998	Repeal	This is something the Library of Virginia accepts as a matter of course.
§ 42.1-32	Reserved.		Repeal	

***Article 5. Networking***

<b>Section</b>	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Notes</b>
§ 42.1-32.1	Declaration of intent.	1983	Repeal	All of Article 5 is completely obsolete. It was added to the Code in 1983, when library automation was just getting off the ground and the hope was that the state would fund creation of a library and information network that all libraries would become part of.  That funding didn't materialize and the technology evolved and changed and libraries pursued local or regional solutions to get connected to the Internet. That is why the
§ 42.1-32.2	Grants for establishment of library network.	1983	Repeal	
§ 42.1-32.3	Standards for networking.	1983	Repeal	
§ 42.1-32.4	Computer programs and databases property of the Commonwealth.	1983	Repeal	

§ 42.1-32.5	Board to establish standards for grants.	1983	Repeal	State Networking Users Advisory Board ceased as well.
§ 42.1-32.6	Establishment and operation of communication centers and other networking services.	1983	Repeal	

## CHAPTER 2. Local and Regional Libraries

Section	Catchline	Last Amended	Recommendation	Notes
§ 42.1-36.1	Power and duty of library boards and certain governing bodies regarding acceptable Internet use policies.	2012	Amend cross reference for the definition of "child pornography"	The definition of "child pornography" was amended and moved from § 18.2-374.1:1 to § 18.2-374.1 in 2007 (cc. 759 and 823, 2007 Acts of Assembly)
§ 42.1-43	Appropriation for free library or library service conducted by company, society, or organization.	1970	Amend cross reference for accuracy	Amended reference to §§ 13.1-801 through 13.1-980 to say "Chapter 10 (§ 13.1-801 et seq.) of Title 13.1"

## CHAPTER 4. Law Libraries

Section	Catchline	Last Amended	Recommendation	Notes
§ 42.1-60	State Law Library managed by Supreme Court.	1977	Amend	<p>The Supreme Court of Virginia maintained a Clerk's Office and law library in Staunton for decades beginning in the mid-19th century; although the court discontinued sessions at Staunton in 1971, the Virginia State Law Library continued to maintain the law library to serve the legal research needs of the Hon. George M. Cochran.</p> <p>Following Justice Cochran's retirement in</p>

				1987, via a court order issued in February 1988, the existing law library collection was transferred in its entirety to the Augusta County, Staunton, and Waynesboro Law Library to be maintained by the local bar and the Virginia State Law Library ceased all financial support of the Staunton library collection.
§ 42.1-61	Books constituting State Law Library.	1970	Amend	Removes references to the law library branch in Staunton and broadens the definition of “books” to more closely parallel the definition used by the Library of Virginia.
§ 42.1-63	Regulation of State Law Library.	1989		<p>This section includes the phrase “the use of computer research services,” which was added in 1989. The law library has never maintained a subscription to Lexis’ or Westlaw’s online legal research databases, and has never offered computer research services.</p> <p>Select library staff are provided access to a legal research database (currently Westlaw Edge) as “users” pursuant to the judicial branch’s statewide contract; however, the terms of the contract do not permit the law library to “share” such access with library patrons. Law Library staff are only able to utilize the database for purposes of responding to reference requests received from justices, judges, and other judicial branch staff.</p>
§ 42.1-65	Local law libraries in charge of circuit court clerks; computer research services; expenses.	2009		The State Law Library does not offer “computer research services” to which local and regional libraries may have access. The cost of offering such services would far exceed the entire allocation of the library’s budget; thus, these services were never and

				<p>have never been offered.</p> <p>Since the State Law Library has never offered “computer research services,” the last sentence of subsection C (“Such libraries, pursuant to rules of the Supreme Court and at costs to such libraries, may have access to computer research services of the State Law Library.”) applies to a service that has never existed.</p>
§ 42.1-70	Assessment for law library as part of costs in civil actions; contributions from bar associations.	2009		<p>The last sentence in § 42.1-65 subsection C (above) also appears in the second paragraph of this section: “Such libraries, pursuant to rules of the Supreme Court and at costs to such libraries, may have access to computer research services of the State Law Library.” So, if this sentence is removed from the above section, it also should be removed from this section as well.</p>

**CHAPTER 7. Virginia Public Records Act**

<b>Section</b>	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Notes</b>
§ 42.1-77	Definitions.	2006	Amend to delete unused terms.	“Archival quality” and “metadata” are not used anywhere in the chapter. “Private record” is also unused, but is relevant for the understanding of what a “public record” is not; thus, the definition was integrated with the definition of “public record.”

## Other Changes to Consider

### § 42.1-56 Meaning of term “books.”

- The definition of “books” is outdated.
- **Option #1:** Replace the word "books" wherever it appears in this chapter with the word "collections."
  - The term "~~books~~" "collections" as used in this chapter may be interpreted in the discretion of the Board to mean books, magazines, newspapers, ~~appropriate~~ audiovisual materials ~~and~~, other printed matter, digital subscriptions, and databases.
- **Option #2:** The term "books" as used in this chapter may be interpreted in the discretion of the Board to mean books, magazines, newspapers, monographs, ~~appropriate~~ audiovisual materials, and other printed or digital matter, including database subscriptions.

### § 42.1-74.1 “Book or other library property” defined.

- The definition of books should include more electronic media than just data processing records.
- The terms "book or other library property" as used in this chapter shall include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic ~~data processing records or digital media~~, artifacts, or other documentary, written, or printed material, regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any library, museum, repository of public or other records institution as specified in § 42.1-72.

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact §§ 42.1-36.1, 42.1-43, 42.1-60, 42.1-61, 42.1-63, 42.1-65, 42.1-70, and  
2 42.1-77 of the Code of Virginia and to repeal Articles 4 (§§ 42.1-30, 42.1-31, and 42.1-32) and 5  
3 (§§ 42.1-32.1 through 42.1-32.6) of Chapter 1 of Title 42.1 of the Code of Virginia, relating to  
4 Title 42.1; obsolete provisions of law.

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

6 **1. That §§ 42.1-36.1, 42.1-43, 42.1-60, 42.1-61, 42.1-63, 42.1-65, 42.1-70, and 42.1-77 of the Code of**  
7 **Virginia are amended and reenacted as follows:**

8 **§ 42.1-36.1. Power and duty of library boards and certain governing bodies regarding**  
9 **acceptable Internet use policies.**

10 A. Every (i) library board established pursuant to § 42.1-35 or (ii) governing body of any county,  
11 city, or town that, pursuant to § 42.1-36, has not established a library board pursuant to § 42.1-35, shall  
12 establish an acceptable use policy for the Internet designed to (a) prohibit use by library employees and  
13 patrons of the library's computer equipment and communications services for sending, receiving, viewing,  
14 or downloading illegal material via the Internet, (b) prevent access by library patrons under the age of 18  
15 to material that is harmful to juveniles, and (c) establish appropriate measures to be taken against persons  
16 who violate the policy. For libraries established under § 42.1-33, the policy shall also require the selection,  
17 installation, and activation of, on those computers that are accessible to the public and have Internet access,  
18 a technology protection measure to filter or block Internet access through such computers to child  
19 pornography as defined in § ~~18.2-374.1~~ 18.2-374.1, obscenity as defined in § 18.2-372, and, with respect  
20 to minors, materials deemed harmful to juveniles as defined in § 18.2-390. Such policy shall provide that  
21 a person authorized by the library board shall disable or otherwise bypass the technology protection  
22 measure required by this section at the request of a patron to enable access for bona fide research or other  
23 lawful purposes. The policy required by this section shall be posted online; however, if the library does  
24 not have a website, the policy shall be available to the public upon request.

25           The library board or the governing body may include such other terms, conditions, and  
26 requirements in the library's policy as it deems appropriate, such as requiring written parental authorization  
27 for Internet use by juveniles or differentiating acceptable uses between elementary, middle, and high  
28 school students.

29           B. The library board or the governing body shall take such steps as it deems appropriate to  
30 implement and enforce the library's policy, which may include, but are not limited to, (i) the use of  
31 software programs designed to block access by (a) library employees and patrons to illegal material ~~or~~,  
32 (b) library patrons under the age of 18 to material that is harmful to juveniles, or (c) both; (ii) charging  
33 library employees to casually monitor patrons' Internet use; or (iii) installing privacy screens on computers  
34 that access the Internet. For libraries established under § 42.1-33, the library board or governing body  
35 shall direct such libraries to select and install on those computers that are accessible to the public and have  
36 Internet access a technology protection measure as required by the policy established pursuant to  
37 subsection A. No state funding shall be withheld and no other adverse action taken against a library by  
38 the Librarian of Virginia or any other official of state government when the technology protection measure  
39 fails, provided that such library promptly has taken reasonable steps to rectify and prevent such failures  
40 in the future.

41           **§ 42.1-43. Appropriation for free library or library service conducted by company, society,  
42 or organization.**

43           The governing body of any county, city, or town in which no free public library system as provided  
44 in this chapter ~~shall have~~ has been established, may, ~~in its discretion,~~ appropriate such sums of money as  
45 ~~to it seems proper~~ determines is appropriate for the support and maintenance of any free library or library  
46 service operated and conducted in such county, city, or town by a company, society, or association  
47 organized under the provisions of ~~§§ 13.1-801 through 13.1-980~~ Chapter 10 (§ 13.1-801 et seq.) of Title  
48 13.1.

49           **§ 42.1-60. State Law Library managed by Supreme Court.**

50           There shall be a State Law Library at Richmond, ~~with a branch thereof at Staunton,~~ maintained as  
51 at present, which shall be managed by the Supreme Court. The Court shall appoint the librarian and other

52 employees to hold office ~~during at~~ the pleasure of the Court; ~~provided, however, that the clerk at Staunton~~  
53 ~~shall act as law librarian there without additional compensation therefor.~~

54 **§ 42.1-61. Books constituting State Law Library.**

55 The State Law Library shall consist of the books, periodicals, audiovisual materials, and other  
56 media now in the law ~~libraries~~ library at Richmond ~~and Staunton~~, with such additions as may be made  
57 thereto.

58 **§ 42.1-63. Regulation of State Law Library.**

59 The Supreme Court shall have the power to make and enforce such rules and orders for the  
60 regulation of the State Law Library, and the use thereof, as ~~may to it seem proper~~ determines is appropriate.  
61 ~~Such rules and orders may provide for the assessment and collection of fees for the use of computer~~  
62 ~~research services other than for valid state uses, which shall include official use by attorneys for the~~  
63 ~~Commonwealth and public defenders, and their assistants. Such fees shall be assessed in the amount~~  
64 ~~necessary to cover the expenses of such services and those collected and hereby appropriated to the Court~~  
65 ~~to be paid as part of the cost of maintaining such computer research capabilities.~~

66 **§ 42.1-65. Local law libraries in charge of circuit court clerks; computer research services;**  
67 **expenses.**

68 A. If the members of the bar practicing in any county or city of the Commonwealth shall procure  
69 by voluntary contribution a law library ~~of the~~ with a value of at least \$500, ~~at the least~~, for the use of the  
70 courts held in such county or city, and of the bar practicing therein, it shall be the duty of the circuit court  
71 of such county or city to require its clerk to take charge of the law library so contributed and to keep ~~the~~  
72 ~~same~~ the law library in the courthouse or clerk's office building according to the rules prescribed by the  
73 bar and approved by the court. In addition, all or a portion of such law library may be housed in the local  
74 public library with the approval of and subject to the management and control of the local public library.

75 B. If the members of the bars practicing in two or more adjoining counties or cities of the  
76 Commonwealth shall jointly procure by voluntary contribution a law library ~~of the~~ with a value of at least  
77 \$500, ~~at the least~~, for the joint use of the courts held in such counties and cities, and of the bars practicing  
78 therein, it shall be the joint duty of the circuit courts of such counties and cities to require one of its clerks

79 to take charge of the law library so contributed and to keep the ~~same~~ law library in the most convenient  
80 courthouse or clerk's office building according to the rules jointly prescribed by the bars and jointly  
81 approved by the courts.

82 C. Such local and regional law libraries may purchase or lease computer terminals for the purpose  
83 of retrieving available legal reference data, and if so, the library rules shall provide for the assessment and  
84 collection of fees, which may include use of a flat rate or fee structure, for the use of computer research  
85 services other than for official use of the courts, attorneys for the Commonwealth and public defenders,  
86 and their assistants, and counties and cities serviced by such libraries, which fees shall be sufficient to  
87 cover the expenses of such services. ~~Such libraries, pursuant to rules of the Supreme Court and at costs to~~  
88 ~~such libraries, may have access to computer research services of the State Law Library.~~

89 **§ 42.1-70. Assessment for law library as part of costs in civil actions; contributions from bar**  
90 **associations.**

91 Any county, city<sub>2</sub> or town may, through its governing body, assess<sub>7</sub> as part of the costs incident to  
92 each civil action filed in the courts located within its boundaries<sub>7</sub> a sum not in excess of ~~four dollars~~ \$4.

93 The imposition of such assessment shall be by ordinance of the governing body, which ordinance  
94 may provide for different sums in circuit courts and district courts, and the assessment shall be collected  
95 by the clerk of the court in which the action is filed<sub>7</sub> and remitted to the treasurer of such county, city<sub>2</sub> or  
96 town and held by such treasurer subject to disbursements by the governing body for the acquisition of (i)  
97 law books, law periodicals and computer legal research services, and computer terminals for offsite  
98 placement to maximize access to the law library by the public<sub>7</sub> and (ii) equipment for the establishment,  
99 use<sub>2</sub> and maintenance of a law library ~~which that~~ shall be open for the use of the public at hours convenient  
100 to the public. In addition to the acquisition of law books, law periodicals and computer legal research  
101 services<sub>2</sub> and equipment, the disbursements may include compensation to be paid to librarians and other  
102 necessary staff for the maintenance of such library and acquisition of suitable quarters for such library.  
103 The compensation of such librarians and the necessary staff and the cost of suitable quarters for such  
104 library shall be fixed by the governing body and paid out of the fund created by the imposition of such  
105 assessment of cost. ~~Such libraries, pursuant to rules of the Supreme Court and at costs to such libraries,~~

106 ~~may have access to computer research services of the State Law Library.~~ Disbursements may be made to  
107 purchase or lease computer terminals for the purpose of retaining such research services. The assessment  
108 provided for ~~herein in this section~~ shall be in addition to all other costs prescribed by law, but shall not  
109 apply to any action in which the Commonwealth or any political subdivision thereof or the federal  
110 government is a party and in which the costs are assessed against the Commonwealth, ~~or any~~ political  
111 subdivision thereof, ~~or the~~ federal government. The governing body is authorized to accept contributions  
112 to the fund from any bar association.

113 Any such library established in the County of Wythe shall be located only in a town ~~which that~~ is  
114 the seat of the county government.

115 **§ 42.1-77. Definitions.**

116 As used in this chapter, unless the context requires a different meaning:

117 "Agency" means all boards, commissions, departments, divisions, institutions, and authorities, ~~or~~  
118 and parts thereof, of the Commonwealth or its political subdivisions and includes the offices of  
119 constitutional officers.

120 "Archival quality" means a quality of reproduction consistent with established standards specified  
121 by state and national agencies and organizations responsible for establishing such standards, such as the  
122 Association for Intelligent Information ~~and Image~~ Management, the American National Standards  
123 Institute, and the National Institute of Standards and Technology.

124 ~~"Archival record" means a public record of continuing and enduring value useful to the citizens of~~  
125 ~~the Commonwealth and necessary to the administrative functions of public agencies in the conduct of~~  
126 ~~services and activities mandated by law that is identified on a Library of Virginia approved records~~  
127 ~~retention and disposition schedule as having sufficient informational value to be permanently maintained~~  
128 ~~by the Commonwealth.~~

129 "Archives" means the program administered by The Library of Virginia for the preservation of  
130 archival records.

131 "Board" means the State Library Board.

132 "Conversion" means the act of moving electronic records to a different format, especially data  
133 from an obsolete format to a current format.

134 "Custodian" means the public official in charge of an office having public records.

135 "Disaster plan" means the information maintained by an agency that outlines recovery techniques  
136 and methods to be followed in case of an emergency that impacts the agency's records.

137 "Electronic record" means a public record whose creation, storage, and access require the use of  
138 an automated system or device. Ownership of the hardware, software, or media used to create, store, or  
139 access the electronic record has no bearing on a determination of whether such record is a public record.

140 "Essential public record" means records that are required for recovery and reconstruction of any  
141 agency to enable it to resume its core operations and functions and to protect the rights and interests of  
142 persons.

143 "Librarian of Virginia" means the State Librarian of Virginia or his designated representative.

144 "Lifecycle" means the creation, use, maintenance, and disposition of a public record.

145 ~~"Metadata" means data describing the context, content, and structure of records and their~~  
146 ~~management through time.~~

147 "Migration" means the act of moving electronic records from one information system or medium  
148 to another to ensure continued access to the records while maintaining the records' authenticity, integrity,  
149 reliability, and usability.

150 "Original record" means the first generation of the information and is the preferred version of a  
151 record. Archival records should to the maximum extent possible be original records.

152 "Preservation" means the processes and operations involved in ensuring the technical and  
153 intellectual survival of authentic records through time.

154 ~~"Private record" means a record that does not relate to or affect the carrying out of the~~  
155 ~~constitutional, statutory, or other official ceremonial duties of a public official, including the~~  
156 ~~correspondence, diaries, journals, or notes that are not prepared for, utilized for, circulated, or~~  
157 ~~communicated in the course of transacting public business.~~

158 "Public official" means all persons holding any office created by the Constitution of Virginia or  
159 by any act of the General Assembly, the Governor and all other officers of the executive branch of the  
160 state government, and all other officers, heads, presidents, or chairmen of boards, commissions,  
161 departments, and agencies of the state government or its political subdivisions.

162 "Public record" or "record" means recorded information that documents a transaction or activity  
163 by or with any public officer, agency, or employee of an agency. Regardless of physical form or  
164 characteristic, the recorded information is a "public record" if it is produced, collected, received, or  
165 retained in pursuance of law or in connection with the transaction of public business. The medium upon  
166 which such information is recorded has no bearing on the determination of whether the recording is a  
167 "public record."

168 For purposes of this chapter, "public record" ~~shall~~ does not include (i) nonrecord materials,  
169 meaning materials made or acquired and preserved solely for reference use or exhibition purposes, extra  
170 copies of documents preserved only for convenience or reference, ~~and or~~ stocks of publications or (ii)  
171 records that are not related to or affect the carrying out of the constitutional, statutory, or other official  
172 ceremonial duties of a public official, including the correspondence, diaries, journals, or notes that are not  
173 prepared for, utilized for, circulated, or communicated in the course of the transaction of public business.

174 "Records retention and disposition schedule" means a Library of Virginia-approved timetable  
175 stating the required retention period and disposition action of a records series. The administrative, fiscal,  
176 historical, and legal value of a public record shall be considered in appraising its appropriate retention  
177 schedule. The terms "administrative," "fiscal," "historical," and "legal" value shall be defined as:

178 1. "Administrative value": Records shall be deemed of administrative value if they have continuing  
179 utility in the operation of an agency.

180 2. "Fiscal value": Records shall be deemed of fiscal value if they are needed to document and  
181 verify financial authorizations, obligations, and transactions.

182 3. "Historical value": Records shall be deemed of historical value if they contain unique  
183 information, regardless of age, that provides understanding of some aspect of the government and  
184 promotes the development of an informed and enlightened citizenry.

185 4. "Legal value": Records shall be deemed of legal value if they document actions taken in the  
186 protection and proving of legal or civil rights and obligations of individuals and agencies.

187 **2. That Articles 4 (§§ 42.1-30, 42.1-31, and 42.1-32) and 5 (§§ 42.1-32.1 through 42.1-32.6) of Chapter**  
188 **1 of Title 42.1 and of the Code of Virginia are repealed.**

189 #



# Obsolete Laws Review:

## Title 52. Police (State)

Division of Legislative Services  
Charles Quagliato  
Sabrina Miller-Bryson  
Taylor Mey

# Title 52: Police (State)

## **Code sections with recommended changes:**

1. Chapter 2: Basic State Police Communication System (change to chapter name)
2. § 52-12. Establishment of State Police communication system.
3. § 52-13. Installation, operation, and maintenance of system; personnel.
4. § 52-14. Availability of system.
5. § 52-15. Control of system; orders, rules, or regulations.
6. § 52-16. Governor may establish and maintain joint communication system to aid police.
7. § 52-17. Contracts with counties, cities, and towns.
8. § 52-18. Districts.
9. § 52-19. Rules and regulations.
10. § 52-20. Arrests without warrants in certain cases.

# Chapter 2: Basic State Police Communication System.

- **Recommendation:**

1. **Line 6: Strike “Basic”**

- “Basic” communication system refers to the private line typewriter/teletype communication system formerly used by the Virginia State Police. The current system is electronic, so the language in the Code is outdated.

# § 52-12. Establishment of State Police communication system.

Last amended: 1942

## Recommendations:

1. **Line 8: Strike “basic coordinating” and replace with “fully integrated” police communication system**
  - Virginia State Police no longer utilizes a “basic coordinating” police communication system, so the language is outdated
2. **Line 9: Strike “of private line typewriter communication,”**
  - The communication system is no longer “of a private line typewriter communication,” so the language is outdated
3. **Line 14: Strike “basic” and insert “communication” system**
  - Because the “basic” system is no longer in use by the State Police, the chapter now refers to the fully integrated VSP system as the “communication system”

# § 52-13. Installation, operation, and maintenance of system; personnel.

**Last amended: 1942**

## **Recommendations:**

- 1. Lines 17-18: Strike “basic” and insert “communication”**
  - Virginia State Police no longer utilizes a “basic” system, so the language is outdated
  
- 2. Line 19: Lowercase “State”**
  - Technical change

# § 52-14. Availability of system.

**Last amended: 1999**

## **Recommendations:**

- 1. Lines 22, 26, 30-31, 36, and 38-39: Strike “basic” and insert “communication” system in several places**
  - Virginia State Police no longer utilizes a “basic” system, so the language is outdated
  
- 2. Lines 22, 23, 24, 28, 33, and 36: Various technical changes**

# § 52-15. Control of system; orders, rules, or regulations.

Last amended: 1942

## Recommendations:

1. **Line 41: Strike “Such basic” and insert “The communication” system**
  - Virginia State Police no longer utilizes a “basic” system, so the language is outdated
2. **Line 41: Insert “physical and operational” control**
  - Insertion of “physical and operational” to clarify the meaning of “control” in this context
3. **Line 43: Strike “his department” and insert “the Department of State Police”**
  - Technical change
4. **Line 45: Strike “in his discretion”**
  - The language “in his discretion” is unnecessary after “The Superintendent *may*”

# § 52-16. Governor may establish and maintain joint communication system to aid police.

Last amended: 1942

## Recommendations:

1. **Line 47: Strike “in his discretion”**
  - The language “in his discretion” is unnecessary after “The Governor *may*”
2. **Lines 48-49: Strike “such,” insert “the,” and insert after ‘purpose’ “of establishing and maintaining a joint state and local police communication system”**
  - Changes language from “for *such* purpose,” to “for the purpose of establishing and maintaining a joint state and local police communication” for clarity
3. **Line 50-51: Strike “radio or teletype” and insert “communication” and strike “or any combination of the two”**
  - This language is outdated
4. **Line 51: Insert “and data”**
  - Because the communication system is now electronic/digital, addition of “and data” is necessary to accurately reflect the current system
5. **Line 52: Strike “Virginia” and insert “the Commonwealth”**
  - Technical change
6. **Lines 54-55: Insert “emergency management and response, information related to criminal activity”**
  - Language reflects additional ways VSP currently uses the communication system

# § 52-17. Contracts with counties, cities, and towns.

Last amended: 1942

## Recommendations:

1. **Line 57: Insert “communication”**
  - Keeps consistent with the additional changes throughout the title/clarifies that the section is referring to “communication” system
2. **Lines 58: Strike “in his discretion”**
  - Language is unnecessary following “the Governor *may*”
3. **Line 59: Move “cities” to follow “counties”**
  - Technical change for consistency with the rest of the Code

# § 52-18. Districts.

Last amended: 1942

## Recommendations:

1. **Line 66: Strike “in his discretion”**
  - Language is unnecessary following “the Governor *may*”
2. **Line 66-67: Strike “radio or teletype,” insert “communication system,” and strike “or combination of the two”**
  - Language is outdated
3. **Lines 69-70: Strike “radio or teletype,” insert “communication system,” and strike “or both”**
  - Language is outdated

# § 52-19. Rules and regulations.

**Last amended: 1942**

## **Recommendations:**

1. **Line 72: Strike “cause to be made and issued such” and insert “make and issue”**
  - Technical change
2. **Line 73: Insert “communication”**
  - Keeps consistent with the additional changes throughout the title/clarifies the section is referring to “communication” system

# § 52-20. Arrests without warrants in certain cases.

**Last amended: 1950**

## **Recommendations:**

- 1. Line 80: Strike “; and such” and insert “Such”**
  - Technical change
- 2. Lines 81-82: Strike “a telegram, a radio or teletype message, in which telegram, radio or teletype message shall be given” and insert “an electronic communication containing”**
  - Language referencing “a telegram, a radio or teletype message, in which telegram, radio or teletype message” is outdated
- 3. Lines 83-84: Strike “and an allegation that such person is likely to flee the jurisdiction of the Commonwealth”**
  - VSP does not receive such communications regarding allegations that such person is likely to flee the jurisdiction of the Commonwealth, so this language does not reflect current practice

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact §§ 52-12 through 52-20 of the Code of Virginia, relating to the Virginia  
2 State Police communication system.

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

4 **1. That §§ 52-12 through 52-20 of the Code of Virginia are amended and reenacted as follows:**

5 CHAPTER 2.

6 ~~BASIC~~ STATE POLICE COMMUNICATION SYSTEM.

7 **§ 52-12. Establishment of State Police communication system.**

8 There shall be established in the Department of State Police, a ~~basic coordinating~~ fully integrated  
9 police communication system ~~of private line typewriter communication~~, operating through sending and  
10 receiving stations or receiving stations only, and such associated equipment as may be necessary, at the  
11 headquarters of the Superintendent of State Police and at such substations or detached posts as shall be  
12 designated by the Superintendent, for the purpose of prompt collection and distribution of information  
13 throughout the Commonwealth as the police problems of the Commonwealth may require. Authority is  
14 hereby granted to connect such ~~basic~~ communication system directly or indirectly with similar systems in  
15 this or adjoining states.

16 **§ 52-13. Installation, operation, and maintenance of system; personnel.**

17 The Superintendent of State Police is authorized to install, operate, and maintain the ~~basic~~  
18 communication system and to employ the necessary personnel for its installation, operation, and  
19 maintenance. The persons so employed may be members of the State Police, or other ~~State state~~  
20 employees, particularly qualified for the duty they are to perform.

21 **§ 52-14. Availability of system.**

22 The ~~basic communication~~ system ~~herein~~ provided for in this chapter may be made available for  
23 use by any department or division of the ~~State state~~ government and by any county, city, town, railroad,  
24 or other special police department lawfully maintained by any corporation in ~~this the~~ the Commonwealth as  
25 well as agencies of the federal government, subject to the following terms and conditions:

26 1. Application for permission to connect with the ~~basic~~ communication system shall be made to  
27 the Superintendent of State Police on forms to be provided by him;

28 2. Such application may be approved by the Superintendent if, as, and when in his discretion such  
29 connection is requisite and necessary for the best interests of the entire system;

30 3. Upon approval of such application and before the applicant shall be connected with the ~~basic~~  
31 communication system, such applicant must agree to assume and pay all rentals for sending and receiving  
32 stations, or receiving stations only, as may be authorized by the Superintendent for installation within the  
33 jurisdiction of the applicant, and any and all costs of installation and operation of such stations; and

34 4. a. The Commonwealth shall pay all rental for necessary wire or circuit mileage required to  
35 connect such stations operated by criminal justice agencies of the Commonwealth and its political  
36 subdivisions, or the Federal Bureau of Investigation, with the ~~basic~~ communication system; and

37 b. All other agencies shall agree, as a condition of connection or continued service, to assume and  
38 pay all rental for necessary wire or circuit mileage required to connect such stations with the ~~basic~~  
39 communication system.

40 **§ 52-15. Control of system; orders, rules, or regulations.**

41 ~~Such basic~~ The communication system shall remain at all times under the physical and operational  
42 control of the Superintendent of State Police, and such control may be exercised by him through such  
43 member of ~~his department~~ the Department of State Police as he shall designate for such purpose.

44 The Superintendent may make and issue such orders, rules, or regulations for the use of the system  
45 as ~~in his discretion~~ are necessary for efficient operation.

46 **§ 52-16. Governor may establish and maintain joint communication system to aid police.**

47 The Governor may ~~in his discretion~~ establish, purchase, lease, or otherwise acquire all necessary  
48 property, real and personal, for ~~such~~ the purpose of establishing and maintaining a joint state and local  
49 police communication system; and cause to be constructed, equipped, maintained, and operated, at such  
50 place or places as he may determine, a ~~radio or teletype~~ communication system ~~or any combination of the~~  
51 ~~two~~ for transmitting and receiving messages and data, in connection with the work of the police  
52 departments of, and officers exercising police powers in, the cities, towns, and counties of ~~Virginia~~ the

53 Commonwealth and the work of the police officers of the Department of State Police, relating to the  
54 detection of crime ~~and~~, the apprehension of criminals, emergency management and response, information  
55 relating to criminal activity, and other necessary police activities.

56 **§ 52-17. Contracts with counties, cities, and towns.**

57 In order to make the communication system effective and of greatest benefit to the people of the  
58 Commonwealth, the Governor may ~~in his discretion~~ enter into negotiations with and make contracts and  
59 agreements with the ~~cities, counties,~~ cities, and towns of the Commonwealth whereby portions of the cost  
60 of establishing, purchasing, constructing, maintaining, and operating such system will be borne by such  
61 localities.

62 In making agreements with the several localities, due consideration shall be given to the population  
63 thereof and to any expense incurred, or which may be incurred, by such localities in purchasing,  
64 constructing, maintaining, and operating local systems for similar purposes.

65 **§ 52-18. Districts.**

66 The Governor may ~~in his discretion~~ divide the Commonwealth into two or more ~~radio or teletype~~  
67 communication system districts ~~or combination of the two~~, and, in the event of the proper proportionate  
68 monetary cooperation upon the part of localities within any one or more of such districts, may arrange for  
69 the establishment, purchase, installation, maintenance, and operation of such ~~radio or teletype~~  
70 communication system equipment ~~or both~~ within such district or districts.

71 **§ 52-19. Rules and regulations.**

72 The Governor may ~~cause to be made and issued such~~ make and issue reasonable rules and  
73 regulations as he may deem necessary for the proper use of such communication system.

74 **§ 52-20. Arrests without warrants in certain cases.**

75 Members of the State Police force of the Commonwealth, provided such officers are in uniform,  
76 or displaying a badge of office, may, at the scene of any motor vehicle accident; or in the apprehension of  
77 any person charged with the theft of any motor vehicle; on any of the highways of the Commonwealth,  
78 upon reasonable grounds to believe, based upon personal investigation, including information obtained  
79 from eyewitnesses, that a crime has been committed by any person then and there present; apprehend such

80 person without a warrant of arrest; ~~and such.~~ Such officers may arrest, without a warrant, persons duly  
81 charged with crime in another jurisdiction upon receipt of ~~a telegram, a radio or teletype message, in which~~  
82 ~~telegram, radio or teletype message shall be given~~ an electronic communication containing the name or a  
83 reasonably accurate description of such person wanted; and the crime alleged ~~and an allegation that such~~  
84 ~~person is likely to flee the jurisdiction of the Commonwealth.~~

85

#

**SUMMARY**

**Virginia State Police communication system.** Removes obsolete language relating to the teletype system formerly used by the Virginia State Police. The bill contains technical amendments.

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
§ 22.1-7.1	Open school enrollment policy.	2015	Strike "placement" and insert "assignment" in subsection C (see line 38 on p. 2).	This statute, which creates an option for school boards to establish open school enrollment policies, provides that the terms of the statute do not interfere with a local school board's authority to adopt a pupil <i>placement</i> plan pursuant to § 22.1-79. However, § 22.1-79 refers to a pupil <i>assignment</i> plan.
§ 22.1-16.2	Child identification kits; child protection kits.	2003	Repeal.	This statute requires the Board of Education to "develop, in cooperation with private entities, a program to provide parental access to child identification kits" and "inform local school divisions about the availability of child protection kits from private entities and encourage the participation of private entities." The Board does not currently operate such a program.
§ 22.1-17.6	Public elementary and secondary schools and local school divisions; information and forms.	2016	Strike the obsolete requirement for a study and report in subsection B (see lines 55-58 on p. 3).	This statute requires the Department of Education to study and submit a report, no later than November 1, 2016, on the electronic submission of required forms and information by school divisions. The Department of Education has already completed this one-time study and report.
§ 22.1-20.1	Powers and duties of the Board related to public broadcasting stations; disbursement of funds.	2012	Strike "in § 2.2-1122" in subdivision B 4 (see line 98 on p. 4).	This statute references of definition of "public broadcasting system" in in § 2.2-1122 that doesn't exist; the definition of this term is located in subsection A of this statute (see lines 75-86).

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
§ 22.1-23.1	Model exit questionnaire for teachers.	2017	Strike "beginning in 2018" at end of first sentence (see line 129 on p. 5).	The requirement for the Department of Education to include the results of and its analysis of the results of the annual model exit questionnaire for teachers in its annual report has an effective date of 2018. This past effective date in the statute is no longer necessary.
§ 22.1-47.2	Petitions for a referendum on direct election of school board members.	1993	Strike references to the 1994 general election in the third paragraph. Strike the entire fourth paragraph, which relates to petitions calling for a November 1993 general referendum (see lines 140-44 on p. 6).	This statute contains requirements for petitions for a referendum on the direct election of school board members. The third paragraph requires persons signing petitions for a referendum to be held at the November 1994 general election to date their signatures on the petitions. The fourth paragraph provides that such a petition that calls for a November 1993 referendum (i) shall not be subject to the requirements that the signatures be dated and that the petition be circulated no longer than one calendar year and (ii) may be circulated for signatures in both 1992 and 1993. All such requirements and conditions became obsolete in 1992, 1993, or 1994.
§ 22.1-50	Appointment and term generally; vacancies.	1992	Strike ", who are appointed after July 1, 1992," in the fourth sentence (see lines 152-53 on p. 6).	This statute requires the school board of a school division composed of any city or town having only one district to consist of five members and places conditions on the terms of two such members appointed after July 1, 1992, to ensure the staggering of members' terms. Such staggering has already occurred in each such school division and the July 1, 1992, reference is no longer necessary.

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
§ 22.1-57.3:1.2	Pittsylvania County school board; staggered terms.	2011	Make several changes to remove language relating to the initial staggering of terms of members elected to the Pittsylvania County School Board (see lines 162-68 on p. 7).	This statute relates to the initial staggering of terms of members elected to the Pittsylvania County School Board after shifting from an appointed to an elected school board. The conditions and requirements for the initial staggering of terms of school board members have all been satisfied and their continued inclusion in the statute is no longer necessary.
§ 22.1-57.3:3	Election of school board and chairman in certain counties.	1995	Strike "held in 1994 or thereafter" in subsection B (see line 173 on p. 7).	This statute provides that following a referendum held in 1994 or thereafter in which the qualified voters of Prince William County approve a change to an elected school board, the school board shall be elected as provided in relevant law, except that one member of the school board shall be elected at large and serve as chairman and all other members shall be elected from the same districts from which the members of the board of supervisors other than the chairman are elected. Such a referendum has already occurred. As such, the reference to "1994 or thereafter" is no longer necessary.
§ 22.1-89.3	Funds from telephone service or credit cards.	1998	Repeal.	This statute provides that "[a]ny school board may enter into a contract with a commercial institution for the issuance of a telephone service or credit card that would bear the name of the school board", with certain conditions. Stakeholders confirmed that this option is not currently being planned or utilized.

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
§ 22.1-98.2	Certain agreements; adjustment of state share for basic aid.	2019	Strike subsection F (see lines 210-13 on p. 8).	<p>This statute permits certain small school divisions that enter into cost-savings agreements with a contiguous school division to receive the state share of per pupil standards of quality funds based on that contiguous school division's local composite index. Subsection F reads like an enactment clause and states that "[a]ny standard of quality set forth in this act that is not required as of June 30, 2004, and for which additional state funding is required, shall not take effect unless the state's share of funding that standard is included in the general appropriation act for the period July 1, 2004, through June 30, 2006, passed during the 2004 Session of the General Assembly and signed into law by the Governor."</p> <p>Because this condition was satisfied in the relevant general appropriation act, this subsection is no longer necessary.</p>
§ 22.1-175.4	Application for grants.	1999	Strike subsection A and the last sentence of subsection B (see lines 245-53 and 257-58 on p. 10).	<p>Subsection A of this statute sets forth requirements for the apportionment and distribution of funds pursuant to the Virginia Public School Construction Grants Fund during the 1998-2000 biennium. Such past apportionment and distribution has already occurred and this provision is therefore no longer necessary. Subsection B of this statute also requires the 2000 Session of the General Assembly to consider the recommendations of the Commission on State Funding of Public School Construction when establishing the eligibility and needs criteria for this program.</p>

	Catchline	Last Amended	Recommendation	Reasoning & Notes
				The consideration of such recommendations has already occurred and this provision is therefore no longer necessary.
§ 22.1-178	Requirements for persons employed to drive school buses.	2013	Strike "after July 1, 1994," in subsection C (see line 281 on p. 11).	This statute permits school boards to require persons accepting employment <i>after July 1, 1994</i> , as a driver of a school bus transporting pupils to agree, as a condition of employment, to submit to alcohol and controlled substance testing. This provision grandfathered certain individuals who accepted employment on or before July 1, 1994, from this potential condition of employment. In the context of Title 22.1, grandfathering provisions are typically handled in enactment clauses (see lines 1419-22, p. 53).
§ 22.1-199.1	Programs designed to promote educational opportunities.	2020	Strike two deadlines that occurred in 1998; a requirement that only applied in the 1994 biennium; and a one-time requirement in fiscal year 2000 (see line 330 on p. 13, 337-49 on p. 13-14, line 366 on p. 14, and lines 375-87 on p. 15).	<p>This statute:</p> <ol style="list-style-type: none"> <li>1. Requires funds for improving the quality and capacity of educational technology to be provided as set forth in the appropriation act, including funds for providing a technology resource assistant to serve every elementary school <i>beginning on July 1, 1998</i>. This past effective date is no longer necessary.</li> <li>2. Establishes a first-priority use of grants to school divisions for expanded access to educational technology in the 1994 biennium. This limited duration first-priority use is no longer relevant.</li> <li>3. Requires, <i>beginning on July 1, 1998</i>, a technology replacement program to be implemented to replace obsolete educational</li> </ol>

	Catchline	Last Amended	Recommendation	Reasoning & Notes
				<p>hardware and software. The past effective date for this program is no longer necessary.</p> <p>4. Requires, <i>in fiscal year 2000</i>, the Board of Education to contract for the development or purchase of interactive educational software and other instructional materials designed as tutorials to improve achievement on the Standards of Learning assessments. The Board has already satisfied this one-time requirement in FY 2000.</p> <p>5. Requires each school division to strive to establish a voice mail communication system after regular school hours for parents, families, and teachers by the year 2000. Each school division has already satisfied this one-time requirement by the year 2000.</p>
§ 22.1-207.3	School breakfast programs.	1993	Strike "By July 1, 1994," in subsection A and "Beginning by June 30, 1995, and thereafter" in subsection C (see lines 428 and 443 on p. 17).	This statute requires each school board, <i>by July 1, 1994</i> , to establish a school breakfast program in any public school in which 25 percent or more of enrolled school-age children were approved eligible to receive free or reduced price meals in the federally funded lunch program during the previous school year. It also requires each school board to annually report, <i>beginning by June 30, 1995</i> , on its school breakfast program to the Department of Education. The past deadlines for the establishment of such school breakfast programs and the first annual report are no longer necessary.
§ 22.1-209.2	Programs and teachers in regional detention	2009	Strike the reference to "those local detention homes having teachers	This statute requires the Board of Education to prepare and supervise the implementation in regional detention homes and <i>those local</i>

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
	homes, certain local detention homes and state agencies and institutions.		whose salaries were being funded by the Commonwealth on January 1, 1984" in subsection A (see lines 450-51 on p. 17).	<i>detention homes having teachers whose salaries were being funded by the Commonwealth on January 1, 1984</i> , a program designed to educate and train the children detained in the homes. Currently, the Board of Education supervises the implementation of education in all local detention homes, not just those having teachers whose salaries were being funded by the Commonwealth on January 1, 1984.
§ 22.1-212	Vacation schools and summer camps operated by Board or Department.	1995	Repeal.	This statute provides that "[a]ny vacation school or summer camp operated by the Board of Education or the State Department of Education shall be made available to persons of school age within the Commonwealth on a nondiscriminatory basis regardless of whether they attend public or private schools during the regular school year." No such vacation school or summer camp is currently planned or operated.
§ 22.1-212.24	Approval of multidivision online providers; contracts with local school boards.	2011	Strike last sentence of subsection A ("These criteria and processes shall be adopted by January 31, 2011.") (see lines 488-89 on p. 19).	This statute requires the Superintendent of Public Instruction to develop, and the Board of Education to approve, <i>by January 31, 2011</i> , (i) the criteria and application process for approving multidivision online providers; (ii) a process for monitoring approved multidivision online providers; (iii) a process for revocation of the approval of a previously approved multidivision online provider; and (iv) an appeals process for a multidivision online provider whose approval was revoked or whose application was denied. The past deadline for such development and approval is no longer necessary.

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
§ 22.1-212.25	Information regarding online courses and virtual programs; report.	2011	Strike "By July 1, 2011," in subsection D and "Beginning November 1, 2011, and annually thereafter," in subsection C, and the last sentence of subsection C (see lines 524 and 528-31 on p. 20).	This statute requires (i) the Board of Education, <i>beginning November 1, 2011</i> , and annually thereafter, to include in its annual report to the Governor and the General Assembly information regarding multidivision online learning during the previous school year and (ii) local school boards, <i>by July 1, 2011</i> , to post on their websites information regarding online courses and programs that are available through the school division and Virtual Virginia. It also provides that the first such report would be an interim progress report. The past deadline for each such requirement and the parameters for the first report are no longer necessary.
§ 22.1-215.1	Information regarding procedures and rights relating to special education placement and withdrawal.	2001	Strike "Effective July 1, 2001," at the beginning of the statute (see line 538 on p. 21).	This statute requires the Board of Education, <i>effective July 1, 2001</i> , to publicize and disseminate to parents of students who are enrolled in special education programs or for whom a special education placement has been recommended information regarding current federal law and regulation addressing procedures and rights related to the placement and withdrawal of children in special education. The past effective date for such requirement is no longer necessary.
§ 22.1-253.13:3	Standard 3. Accreditation, other standards, assessments, and releases from state regulations.	2021	Strike references to the Virginia Grade Level Alternative (VGLA) and the Stanford 9 (SAT9) assessment (see lines 678-	The SAT9 was removed from the state testing program beginning with the 2003-2004 school year. The VGLA for students with disabilities was eliminated following the 2015-2016 school year.

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
			88 on p. 26 and 741-44 on p. 28).	
§ 22.1-253.13:4	Student achievement and graduation requirements.	2020	Strike "Beginning with first-time ninth grade students in the 2016-2017 school year" in subdivision D 7 (see line 862 on p. 33).	This statute requires the Board of Education, in establishing high school graduation requirements, to require, <i>beginning with first-time ninth grade students in the 2016-2017 school year</i> , students to be trained in emergency first aid, CPR, and the use of automated external defibrillators. The past effective date for such graduation requirement is no longer necessary.
§ 22.1-254.1	Declaration of policy; requirements for home instruction of children.	2018	Strike "Effective July 1, 2000," in second sentence of subsection B (see line 985 on p. 37).	This statute requires, <i>effective July 1, 2000</i> , parents electing to provide home instruction to provide annual notice of such election no later than August 15. The past effective date for such annual notice is no longer necessary.
§ 22.1-271.3	Guidelines for school attendance for children infected with human immunodeficiency virus; etc.	2003	Strike the second sentence of subsection A ("The first such guidelines shall be completed by December 1, 1989.") and ", by July 1, 1990," in subsection B (see lines 1039 and 1042 on p. 39).	This statute requires the Board of Education, in cooperation with the Board of Health, to establish model guidelines for school attendance for children infected with human immunodeficiency virus and <i>requires the first such guidelines to be completed by December 1, 1989</i> . The statute also requires each school board, <i>by July 1, 1990</i> , to adopt guidelines for school attendance for children with HIV. The past deadline for each such set of guidelines is no longer necessary.
§ 22.1-274	School health services.	2013	Strike previous aspirational nurse to student ratios and strike a one-time reporting requirement in subsection	This statute permits each school board to strive to employ, or contract with local health departments for, nursing services consistent with a ratio of at least one nurse (i) per 2,500 students by July 1, 1996; (ii) per 2,000 students by July 1,

	Catchline	Last Amended	Recommendation	Reasoning & Notes
			C (see lines 1070-71 on p. 40 and 1079-81 on p. 41).	1997; and (iii) per 1,500 students by July 1, 1998; and (iv) per 1,000 students by July 1, 1999. The three previous aspirational nurse to student ratios, effective in 1996, 1997, and 1998, are superseded by the most recent ratio and, as such, are no longer necessary. This statute also requires the Board of Education to provide, by December 1, 1994, a detailed analysis of school health expenditures to several standing committees of the General Assembly. The Board of Education has already satisfied this requirement and its inclusion in the statute is no longer necessary.
§ 22.1-280.2	School crime line defined; development of school crime lines authorized; etc.	1994	Strike "By July 1, 1994," in subsection D (see line 1138 on p. 43).	Requires the Board of Education, <i>by July 1, 1994</i> , to promulgate regulations for the implementation of school crime lines, including appropriate fund raising, and the appropriateness of and limitations on rewards. The past deadline for the promulgation of such regulations is no longer necessary.
§ 22.1-280.2:2	Public School Security Equipment Grant Act of 2013.	2020	Strike "Beginning in 2014," in subsection H (see line 1214 on p. 46).	This statute requires, <i>beginning in 2014</i> , the Department of Education to make an annual report to the General Assembly by September 1 of each year reporting (i) the total grants paid during the immediately prior fiscal year to each eligible school division pursuant to the Public School Security Equipment Grant Act of 2013 and (ii) a general description of the security equipment purchased by eligible school divisions. The past effective date for such annual report is no longer necessary.

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
§ 22.1-296.2	Fingerprinting required; reciprocity permitted.	2001	Strike "after July 1, 1989," in subsection A (see line 1220 on p. 46).	This statute requires, as a condition of employment, the school boards of the Commonwealth to require any applicant who is offered or accepts employment <i>after July 1, 1989</i> , to submit to fingerprinting and a criminal history check. This provision grandfathered certain individuals who were offered or accepted employment on or before July 1, 1989, from this fingerprinting and criminal history check requirement. In the context of Title 22.1, grandfathering provisions are typically handled in enactment clauses (see lines 1423-29, p. 54).
22.1-296.3	Certain private school employees subject to fingerprinting and criminal records checks.	2020	Strike "Effective July 1, 2017," in subsection C (see line 1293 on p. 49).	This statute requires, <i>effective July 1, 2017</i> , the governing board or administrator of an accredited private elementary or secondary school that operates a child day program or family day system regulated by the Department of Education to accept evidence of a background check performed for an individual employed in such program or system in accordance with another relevant statute in lieu of the check required in this statute. The past effective date for such requirement is no longer necessary.
§ 22.1-303	Probationary terms of service for teachers.	2020	Strike subsection D (see lines 1340-44 on p. 50-51).	This statute provides that teachers holding three-year local eligibility licenses issued prior to July 1, 2013, shall not be eligible for continuing contract status while teaching under the authority of such license. Upon attainment of a collegiate professional or postgraduate professional license issued by the Department of Education, the statute requires such teachers to serve a

	<b>Catchline</b>	<b>Last Amended</b>	<b>Recommendation</b>	<b>Reasoning &amp; Notes</b>
				probationary term of service of three years prior to being eligible for continuing contract status pursuant to this section. Any such probationary term of service would have expired in 2019 at the latest. As such, this subsection is no longer applicable to any public school teacher in the Commonwealth.
§ 22.1-321.1	Possession and administration of epinephrine.	2015	Strike "By the beginning of the 2016 - 2017 school year," at the beginning of the statute (see line 1346 on p. 51).	This statute requires the Board of Education, <i>by the beginning of the 2016 - 2017 school year</i> , to promulgate regulations for the possession and administration of epinephrine in every school for students with disabilities, to be administered by any employee of the school who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. The past deadline for the promulgation of such regulations is no longer necessary.
§ 22.1-346.2	Board of Visitors of the Virginia School for the Deaf and the Blind established.	2011	Strike "beginning July 1, 2010," in subdivision E 7 (see line 1414 on p. 53).	This statute requires the Board of Visitors of the Virginia School for the Deaf and the Blind to prepare and submit to the Governor and the General Assembly, <i>beginning July 1, 2010</i> , an annual report detailing the curricula and other educational programs and services of the school, including receipts and disbursements pertaining to the operation of the school for each fiscal year ending on June 30. The past effective date for such annual report is no longer necessary.

**Virginia Code Commission Recommendations for Sections Not Set Out in  
Title 22.1 - Education**

**CHAPTER 5. SCHOOL BOARDS; SELECTION, QUALIFICATION AND SALARIES OF  
MEMBERS.**

**Article 7. Popular Election of School Board** [Read all >](#)

- § 22.1-57.1      Applicability
- § 22.1-57.1:1      Referendum in certain consolidated cities
- § 22.1-57.2      Referendum on direct election of school board members by the voters
- § 22.1-57.3      Election of school board members; election of tie breaker
- § 22.1-57.3:1      Staggered terms of elected school boards in certain counties [Not set out]
- § 22.1-57.3:1.1      Loudoun County school board; staggered terms
- § 22.1-57.3:1.2      Pittsylvania County school board; staggered terms
- § 22.1-57.3:2      Terms of school board members appointed to represent towns in Montgomery County [Not set out]
- § 22.1-57.3:2.1      Appointment and terms of school board members for City of Williamsburg [Not set out]
- § 22.1-57.3:3      Election of school board and chairman in certain counties
- § 22.1-57.4      Referendum to revert to appointment of the school board
- § 22.1-57.5      Limitation on time of holding subsequent referendum

**22.1-57.3:1 RECOMMENDATION:** This section should be set out (i) because the section is cross-referenced in two other Code sections, §§ 22.1-57.3 and 22.1-57.3:1.1, and (ii) for consistency with the overall structure of Article 7, which contains similar sections of arguably limited application that are set out. Also, when originally "not set out" in 1993, the section only applied to Rockbridge County. The reference to Loudoun should be removed because a section specific to Loudoun has since been added to the Code (§ 22.1-57.3:1.1). A technical edit to § 22.1-57.3:1.1 is also included to remove reference to § 22.1-57.3:1.

**If this section is set out, it can be set out as shown below:**

**§ 22.1-57.3:1. Staggered terms of elected school boards in certain counties.**

~~A. The provisions of this subsection apply only to Loudoun, Pulaski and Rockbridge Counties.~~

~~Following a referendum in which the qualified voters approve a change to an elected school board, the school board boards of Bath, Pulaski, and Rockbridge Counties shall be elected as provided in § 22.1-57.3 except that the terms of school board members shall be staggered as provided in this section.~~

~~The initial election of the school board shall be held at the first November general election in an odd-numbered year following the referendum, and the entire school board shall be elected at the initial election.~~

~~At the initial election, (i) if the school board has an even number of members, half of the successful candidates shall be elected for four-year terms and half of the successful candidates shall be elected for two-year terms and (ii) if the school board has an odd number of members, the smallest number of successful candidates which creates a majority of the board shall be elected for four-year terms and the remaining successful candidates shall be elected for two-year terms. Assignment of the individual terms of members shall be determined by lot by the electoral board of the county at its meeting to ascertain the results of the election and immediately upon certification of the results of the election.~~

~~Thereafter, all members shall be elected for four-year terms and the school board elections shall be conducted biennially for staggered terms.~~

~~B. The provisions of this subsection apply only to Bath County.~~

~~Pursuant to the referendum in which the qualified voters approved a change to an elected school board, the school board shall be elected as provided in § 22.1-57.3 except that the terms of school board members shall be staggered as provided in this subsection.~~

~~At the November 2003 general election, three members of the school board shall be elected for four-year terms and two members of the school board shall be elected for two-year terms.~~

~~Assignment of the individual terms of members shall be determined by lot by the electoral board of the County at its meeting to ascertain the results of the election and immediately upon certification of the results of the election.~~

~~Thereafter, all All members shall be elected for four-year terms and the school board elections shall be conducted alternate biennially for between the election of three members and the election of the remaining two members to ensure staggered terms.~~

### **§ 22.1-57.3:1.1. Loudoun County school board; staggered terms.**

~~Notwithstanding § 22.1-57.3:1 and the second enactment of Chapter 744 of the Acts of Assembly of 1994, the The school board of Loudoun County shall be elected as provided in § 22.1-57.3, except that upon a majority vote of its members the terms of school board members may be staggered as provided in this section. At the November election immediately preceding the end of the board's term, and upon the board's prior vote for staggered terms, the members from four of the~~

nine districts, inclusive of the at-large district, to be determined by lot by the electoral board of the county prior to its meeting immediately preceding the deadline for candidate filing, shall be elected for four-year terms, and the remaining districts' successful candidates shall be elected for two-year terms.

Thereafter, all members shall be elected for four-year terms, and the school board elections shall be conducted biennially for staggered terms.

2010, c. [95](#); 2021, Sp. Sess. I, c. [166](#).

**§ 22.1-57.3:2 RECOMMENDATION: Repeal this section by way of a bill. The final expiration of appointed school board seats set out in this bill occurred in 1998.**

**§ 22.1-57.3:2. Terms of school board members appointed to represent towns in Montgomery County.**

The provisions of this section shall apply only to Montgomery County. The seats on the appointed school board filled by appointment from the Town of Blacksburg and the Town of Christiansburg shall not be abolished following the first election of school board members in 1995. Upon the expiration on June 30, 1995, of the term of the school board member appointed to represent the Town of Blacksburg, a successor shall be appointed for a term to expire on January 1, 1998. The term of the school board member appointed to represent the Town of Christiansburg, scheduled to expire on June 30, 1997, shall be extended and shall expire on January 1, 1998. The seats on the school board filled by appointments from the two towns shall be abolished as of January 1, 1998. A vacancy in either seat prior to January 1, 1998, shall be filled for the remainder of the term by appointment by the board of supervisors of Montgomery County.

(1994, c. 377)

**§ 22.1-57.3:2.1 RECOMMENDATION: This section should be set out for consistency with the overall structure of Article 7, which contains other sections of arguably limited application that are set out.**

**If this section is set out, it can be set out as shown below:**

**§ 22.1-57.3:2.1. Appointment and terms of school board members for City of Williamsburg.**

Notwithstanding any provisions of this article to the contrary, the terms of school board members representing the City of Williamsburg ~~appointed in 1995 and 1996 shall expire on December 31 in 1998 and 1999, respectively, and subsequent appointments for all Williamsburg school board members~~ shall be for terms of four years, with terms commencing on January 1.

(1998, cc. 125, 218)