

22100819D

HOUSE BILL NO. 27

Offered January 12, 2022

Prefiled December 29, 2021

A *BILL to amend and reenact §§ 2.2-2901.1, 2.2-3004, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-271.2, 22.1-271.4, 22.1-289.031, 22.1-295.2, 22.1-306, 23.1-800, 32.1-43, 32.1-47, 32.1-47.1, 32.1-48, 44-146.17, as it is currently effective and as it shall become effective, and 63.2-603 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 1 of Title 32.1 a section numbered 32.1-15.2, by adding in Article 3 of Chapter 2 of Title 32.1 a section numbered 32.1-48.002, by adding in Chapter 2 of Title 37.2 a section numbered 37.2-205, by adding in Chapter 24 of Title 54.1 a section numbered 54.1-2409.6, and by adding in Article 2 of Chapter 2 of Title 63.2 a section numbered 63.2-221.1, relating to COVID-19 vaccination status; mandatory COVID-19 vaccination prohibited; discrimination prohibited.*

Patron—Anderson

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2901.1, 2.2-3004, 15.2-1500.1, 15.2-1507, 15.2-1604, 22.1-271.2, 22.1-271.4, 22.1-289.031, 22.1-295.2, 22.1-306, 23.1-800, 32.1-43, 32.1-47, 32.1-47.1, 32.1-48, 44-146.17, as it is currently effective and as it shall become effective, and 63.2-603 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 1 of Title 32.1 a section numbered 32.1-15.2, by adding in Article 3 of Chapter 2 of Title 32.1 a section numbered 32.1-48.002, by adding in Chapter 2 of Title 37.2 a section numbered 37.2-205, by adding in Chapter 24 of Title 54.1 a section numbered 54.1-2409.6, and by adding in Article 2 of Chapter 2 of Title 63.2 a section numbered 63.2-221.1, as follows:

§ 2.2-2901.1. Employment discrimination prohibited.

A. As used in this section:

"Age" means being an individual who is at least 40 years of age.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

B. No state agency, institution, board, bureau, commission, council, or instrumentality of the Commonwealth shall discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or military status, or COVID-19 vaccination status.

C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of (a) sex or age in those instances when sex or age is a bona fide occupational qualification for employment or (b) disability when using the alternative application process provided for in § 2.2-1213 or (ii) providing preference in employment to veterans.

§ 2.2-3004. Grievances qualifying for a grievance hearing; grievance hearing generally.

A. A grievance qualifying for a hearing shall involve a complaint or dispute by an employee relating to the following adverse employment actions in which the employee is personally involved, including (i) formal disciplinary actions, including suspensions, demotions, transfers and assignments, and dismissals resulting from formal discipline or unsatisfactory job performance; (ii) the application of all written personnel policies, procedures, rules and regulations where it can be shown that policy was misapplied or unfairly applied; (iii) discrimination on the basis of race, color, religion, political affiliation, age, disability, national origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender identity, or military status, or COVID-19 vaccination status; (iv) arbitrary or capricious performance evaluations; (v) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement; and (vi) retaliation for exercising any right otherwise protected by law.

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59 B. Management reserves the exclusive right to manage the affairs and operations of state government.
60 Management shall exercise its powers with the highest degree of trust. In any employment matter that
61 management precludes from proceeding to a grievance hearing, management's response, including any
62 appropriate remedial actions, shall be prompt, complete, and fair.

63 C. Complaints relating solely to the following issues shall not proceed to a hearing: (i) establishment
64 and revision of wages, salaries, position classifications, or general benefits; (ii) work activity accepted by
65 the employee as a condition of employment or which may reasonably be expected to be a part of the
66 job content; (iii) contents of ordinances, statutes or established personnel policies, procedures, and rules
67 and regulations; (iv) methods, means, and personnel by which work activities are to be carried on; (v)
68 termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work
69 force, or job abolition; (vi) hiring, promotion, transfer, assignment, and retention of employees within
70 the agency; and (vii) relief of employees from duties of the agency in emergencies.

71 D. Except as provided in subsection A of § 2.2-3003, decisions regarding whether a grievance
72 qualifies for a hearing shall be made in writing by the agency head or his designee within five workdays
73 of the employee's request for a hearing. A copy of the decision shall be sent to the employee. The
74 employee may appeal the denial of a hearing by the agency head to the Director of the Department of
75 Human Resource Management (the Director). Upon receipt of an appeal, the agency shall transmit the
76 entire grievance record to the Department of Human Resource Management within five workdays. The
77 Director shall render a decision on whether the employee is entitled to a hearing upon the grievance
78 record and other probative evidence.

79 E. The hearing pursuant to § 2.2-3005 shall be held in the locality in which the employee is
80 employed or in any other locality agreed to by the employee, employer, and hearing officer. The
81 employee and the agency may be represented by legal counsel or a lay advocate, the provisions of §
82 54.1-3904 notwithstanding. The employee and the agency may call witnesses to present testimony and
83 be cross-examined.

84 **§ 15.2-1500.1. Employment discrimination prohibited.**

85 A. As used in this article, unless the context requires a different meaning:

86 "Age" means being an individual who is at least 40 years of age.

87 "Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.
88 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a
89 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except
90 that the support provided by the service member to the individual shall have been provided 180 days
91 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
92 under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.
93 Chapter 50.

94 B. No department, office, board, commission, agency, or instrumentality of local government shall
95 discriminate in employment on the basis of race, color, religion, national origin, sex, pregnancy,
96 childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity,
97 or military status, or *COVID-19 vaccination status*.

98 C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of
99 sex or age in those instances when sex or age is a bona fide occupational qualification for employment
100 or (ii) providing preference in employment to veterans.

101 **§ 15.2-1507. Provision of grievance procedure; training programs.**

102 A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to
103 certify it as provided in this section, the local governing body shall be deemed to have adopted a
104 grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2
105 and any regulations adopted pursuant thereto for so long as the locality remains in noncompliance. The
106 locality shall provide its employees with copies of the applicable grievance procedure upon request. The
107 term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or
108 fringe benefits.

109 Each grievance procedure, and each amendment thereto, in order to comply with this section, shall
110 be certified in writing to be in compliance by the city, town, or county attorney, and the chief
111 administrative officer of the locality, and such certification filed with the clerk of the circuit court
112 having jurisdiction in the locality in which the procedure is to apply. Local government grievance
113 procedures in effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter,
114 unless certified and filed as provided above within a shorter time period.

115 Each grievance procedure shall include the following components and features:

116 1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to
117 his employment, including (i) disciplinary actions, including dismissals, disciplinary demotions, and
118 suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or
119 unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules, and
120 regulations, including the application of policies involving matters referred to in clause (iii) of

subdivision 2; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, ~~or~~ military status, *or COVID-19 vaccination status*; and (iv) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv), there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

2. Local government responsibilities. Local governments shall retain the exclusive right to manage the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i) establishment and revision of wages or salaries, position classification, or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity that may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations; (iv) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly; (v) the methods, means, and personnel by which work activities are to be carried on; (vi) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion, or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment, and retention of employees within the local government; and (viii) the relief of employees from duties of the local government in emergencies. In any grievance brought under the exception to clause (vi), the action shall be upheld upon a showing by the local government that (a) there was a valid business reason for the action and (b) the employee was notified of the reason in writing prior to the effective date of the action.

3. Coverage of personnel.

a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and part-time employees are eligible to file grievances with the following exceptions:

- (1) Appointees of elected groups or individuals;
- (2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
- (3) Deputies and executive assistants to the chief administrative officer of a locality;
- (4) Agency heads or chief executive officers of government operations;
- (5) Employees whose terms of employment are limited by law;
- (6) Temporary, limited term, and seasonal employees;
- (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance is subject to the provisions of Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance; and
- (8) Law-enforcement officers as defined in § 9.1-601 whose grievance is subject to the provisions of § 9.1-601 and relates to a binding disciplinary determination made by a law-enforcement civilian oversight body, except as permitted by subsection F of § 9.1-601.

b. Notwithstanding the exceptions set forth in subdivision a, local governments, at their sole discretion, may voluntarily include employees in any of the excepted categories within the coverage of their grievance procedures.

c. The chief administrative officer of each local government, or his designee, shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4. Grievance procedure availability and coverage for employees of community services boards, redevelopment and housing authorities, and regional housing authorities. Employees of community services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii) a grievance procedure established and administered by the department, board, or authority that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations promulgated pursuant thereto. If a department, board, or authority fails to establish a grievance procedure pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure that is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as it remains in noncompliance.

5. General requirements for procedures.

a. Each grievance procedure shall include not more than four steps for airing complaints at

182 successively higher levels of local government management, and a final step providing for a panel
183 hearing or a hearing before an administrative hearing officer upon the agreement of both parties.

184 b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to
185 submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

186 c. Nothing contained in this section shall prohibit a local government from granting its employees
187 rights greater than those contained herein, provided that such grant does not exceed or violate the
188 general law or public policy of the Commonwealth.

189 6. Time periods.

190 a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability
191 of the parties to prepare for a fair consideration of the issues of concern.

192 b. The time for submitting an initial complaint shall not be less than 20 calendar days after the event
193 giving rise to the grievance, but local governments may, at their option, allow a longer time period.

194 c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant
195 than the time that is allowed for local government response in each comparable situation.

196 d. Time frames may be extended by mutual agreement of the local government and the grievant.

197 7. Compliance.

198 a. After the initial filing of a written grievance, failure of either party to comply with all substantial
199 procedural requirements of the grievance procedure, including the panel or administrative hearing,
200 without just cause shall result in a decision in favor of the other party on any grievable issue, provided
201 the party not in compliance fails to correct the noncompliance within five workdays of receipt of written
202 notification by the other party of the compliance violation. Such written notification by the grievant shall
203 be made to the chief administrative officer, or his designee.

204 b. The chief administrative officer, or his designee, at his option, may require a clear written
205 explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his
206 designee, shall determine compliance issues. Compliance determinations made by the chief
207 administrative officer shall be subject to judicial review by filing petition with the circuit court within
208 30 days of the compliance determination.

209 8. Management steps.

210 a. The first step shall provide for an informal, initial processing of employee complaints by the
211 immediate supervisor through a nonwritten, discussion format.

212 b. Management steps shall provide for a review with higher levels of local government authority
213 following the employee's reduction to writing of the grievance and the relief requested on forms
214 supplied by the local government. Personal face-to-face meetings are required at all of these steps.

215 c. With the exception of the final management step, the only persons who may normally be present
216 in the management step meetings are the grievant, the appropriate local government official at the level
217 at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be
218 present only while actually providing testimony. At the final management step, the grievant, at his
219 option, may have present a representative of his choice. If the grievant is represented by legal counsel,
220 local government likewise has the option of being represented by counsel.

221 9. Qualification for panel or administrative hearing.

222 a. Decisions regarding grievability and access to the procedure shall be made by the chief
223 administrative officer of the local government, or his designee, at any time prior to the panel hearing, at
224 the request of the local government or grievant, within 10 calendar days of the request. No city, town,
225 or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of
226 grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative
227 officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction
228 in the locality in which the grievant is employed for a hearing on the issue of whether the grievance
229 qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or
230 his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative
231 officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all
232 other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall
233 transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief
234 administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished
235 to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his
236 designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the
237 grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on
238 or before a certain date.

239 b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall hear
240 the appeal on the record transmitted by the chief administrative officer or his designee and such
241 additional evidence as may be necessary to resolve any controversy as to the correctness of the record.
242 The court, in its discretion, may receive such other evidence as the ends of justice require. The court
243 may affirm the decision of the chief administrative officer or his designee, or may reverse or modify the

decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

10. Final hearings.

a. Qualifying grievances shall advance to either a panel hearing or a hearing before an administrative hearing officer, as set forth in the locality's grievance procedure, as described below:

(1) If the grievance procedure adopted by the local governing body provides that the final step shall be an impartial panel hearing, the panel may, with the exception of those local governments covered by subdivision a (2), consist of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member. The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

(2) If the grievance procedure adopted by the local governing body provides for the final step to be an impartial panel hearing, local governments may retain the panel composition method previously approved by the Department of Human Resource Management and in effect as of the enactment of this statute. Modifications to the panel composition method shall be permitted with regard to the size of the panel and the terms of office for panel members, so long as the basic integrity and independence of panels are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized to make final and binding decisions.

(3) When a local government elects to use an administrative hearing officer rather than a three-person panel for the final step in the grievance procedure, the administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative, the local government may request the appointment of an administrative hearing officer from the Department of Human Resource Management. If a local government elects to use an administrative hearing officer, it shall bear the expense of such officer's services.

(4) When the local government uses a panel in the final step of the procedure, there shall be a chairperson of the panel and, when panels are composed of three persons (one each selected by the respective parties and the third from an impartial source), the third member shall be the chairperson.

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the panel or hearing officer without being in violation of the provisions of § 54.1-3904.

(6) The decision of the panel or hearing officer shall be final and binding and shall be consistent with provisions of law and written policy.

(7) The question of whether the relief granted by a panel or hearing officer is consistent with written policy shall be determined by the chief administrative officer of the local government, or his designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the attorney for the Commonwealth of the jurisdiction in which the grievance is pending.

b. Rules for panel and administrative hearings.

Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such hearings. Rules that are promulgated shall include the following provisions:

(1) That neither the panels nor the hearing officer have authority to formulate policies or procedures or to alter existing policies or procedures;

(2) That panels and the hearing officer have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private;

(3) That the local government provide the panel or hearing officer with copies of the grievance record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel or hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

(4) That panels and hearing officers have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;

(5) That all evidence be presented in the presence of the panel or hearing officer and the parties, except by mutual consent of the parties;

(6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing officer in advance of the hearing;

(7) That the majority decision of the panel or the decision of the hearing officer, acting within the scope of its or his authority, be final, subject to existing policies, procedures and law;

(8) That the panel or hearing officer's decision be provided within a specified time to all parties; and

(9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do not necessarily apply.

11. Implementation of final hearing decisions.

Either party may petition the circuit court having jurisdiction in the locality in which the grievant is employed for an order requiring implementation of the hearing decision.

B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under the provisions of this section that would result in the reinstatement of any employee of a sheriff's office who has been terminated for cause may be reviewed by the circuit court for the locality upon the petition of the locality. The review of the circuit court shall be limited to the question of whether the decision of the panel or hearing officer was consistent with provisions of law and written policy.

§ 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices by certain officers; civil penalty.

A. It shall be an unlawful employment practice for a constitutional officer:

1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of appointment or employment, because of such individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or military status, or *COVID-19 vaccination status*; or

2. To limit, segregate, or classify his appointees, employees, or applicants for appointment or employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, age, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, national origin, or military status, or *COVID-19 vaccination status*.

B. Nothing in this section shall be construed to make it an unlawful employment practice for a constitutional officer to hire or appoint an individual on the basis of his sex or age in those instances where sex or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular office. The provisions of this section shall not apply to policy-making positions, confidential or personal staff positions, or undercover positions.

C. With regard to notices and advertisements:

1. Every constitutional officer shall, prior to hiring any employee, advertise such employment position in a newspaper having general circulation or a state or local government job placement service in such constitutional officer's locality except where the vacancy is to be used (i) as a placement opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for an incumbent, (iii) to fill positions that have been advertised within the past 120 days, (iv) to fill positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill temporary positions, temporary employees being those employees hired to work on special projects that have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

2. No constitutional officer shall print or publish or cause to be printed or published any notice or advertisement relating to employment by such constitutional officer indicating any preference, limitation, specification, or discrimination, based on sex or national origin, except that such notice or advertisement may indicate a preference, limitation, specification, or discrimination based on sex or age when sex or age is a bona fide occupational qualification for employment.

D. Complaints regarding violations of subsection A may be made to the Office of Civil Rights of the Department of Law. The Office shall have the authority to exercise its powers as provided in Article 4 (§ 2.2-520 et seq.) of Chapter 5 of Title 2.2.

E. Any constitutional officer who willfully violates the provisions of subsection C shall be subject to a civil penalty not to exceed \$2,000.

F. As used in this section, "military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50

U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

§ 22.1-271.2. Immunization requirements.

A. No student shall be admitted by a school unless at the time of admission the student or his parent submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C or is a homeless child or youth as defined in subdivision A 7 of § 22.1-3. If a student does not have documentary proof of immunization, the school shall notify the student or his parent (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in subdivision A 7 of § 22.1-3; (iii) that the student may be immunized and receive certification by a licensed physician, licensed nurse practitioner, registered nurse or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Any physician, nurse practitioner, registered nurse or local health department employee performing immunizations shall provide to any person who has been immunized or to his parent, upon request, documentary proof of immunizations conforming with the requirements of this section.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 calendar days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician, licensed nurse practitioner, or local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

However, if a student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 and (a) does not have documentary proof of necessary immunizations or has incomplete immunizations and (b) is not exempted from immunization pursuant to ~~clauses~~ clause (i) or (ii) of this subsection, the school division shall immediately admit such student and shall immediately refer the student to the local school division liaison, as described in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall assist in obtaining the documentary proof of, or completing, immunization and other services required by such Act.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C, including notice that such student is a homeless child or youth as defined in subdivision A 7 of § 22.1-3.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record. Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within 30 calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted, including those students who are homeless children or youths as defined in subdivision A 7 of § 22.1-3.

F. The requirement for Haemophilus Influenzae Type b immunization as provided in § 32.1-46 shall not apply to any child admitted to any grade level, kindergarten through grade 12.

G. *Notwithstanding any other provision of law, no student shall be required to receive any*

428 *COVID-19 vaccination.*

429 *H. The Board of Health shall promulgate rules and regulations for the implementation of this section*
430 *in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in*
431 *cooperation with the Board of Education.*

432 **§ 22.1-271.4. Health requirements for home-instructed, exempted, and excused children.**

433 *In addition to compliance with the requirements of subsection B, D, or I of § 22.1-254 or*
434 *§ 22.1-254.1, any parent, guardian or other person having control or charge of a child being home*
435 *instructed, exempted or excused from school attendance shall comply with the immunization*
436 *requirements provided in § 32.1-46 in the same manner and to the same extent as if the child has been*
437 *enrolled in and is attending school.*

438 *Upon request by the division superintendent, the parent shall submit to such division superintendent*
439 *documentary proof of immunization in compliance with § 32.1-46.*

440 *No proof of immunization shall be required of any child upon submission of (i) an affidavit to the*
441 *division superintendent stating that the administration of immunizing agents conflicts with the parent's or*
442 *guardian's religious tenets or practices or (ii) a written certification from a licensed physician, licensed*
443 *nurse practitioner, or local health department that one or more of the required immunizations may be*
444 *detrimental to the child's health, indicating the specific nature of the medical condition or circumstance*
445 *that contraindicates immunization.*

446 *Notwithstanding any other provision of law, no student shall be required to receive any COVID-19*
447 *vaccination.*

448 **§ 22.1-289.031. Child day center operated by religious institution exempt from licensure; annual**
449 **statement and documentary evidence required; enforcement; injunctive relief.**

450 *A. Notwithstanding any other provisions of this chapter, a child day center, including a child day*
451 *center operated or conducted under the auspices of a religious institution, shall be exempt from the*
452 *licensure requirements of this chapter, but shall comply with the provisions of this section unless it*
453 *chooses to be licensed. If such religious institution chooses not to be licensed, it shall file with the*
454 *Superintendent, prior to beginning operation of a child day center and thereafter annually, a statement of*
455 *intent to operate a child day center, certification that the child day center has disclosed in writing to the*
456 *parents or guardians of the children in the center the fact that it is exempt from licensure and has posted*
457 *the fact that it is exempt from licensure in a visible location on the premises, the qualifications of the*
458 *personnel employed therein, and documentary evidence that:*

459 *1. Such religious institution has tax exempt status as a nonprofit religious institution in accordance*
460 *with § 501(c) of the Internal Revenue Code of 1954, as amended, or that the real property owned and*
461 *exclusively occupied by the religious institution is exempt from local taxation.*

462 *2. Within the prior 90 days for the initial exemption and within the prior 180 days for exemptions*
463 *thereafter, the local health department and local fire marshal or Office of the State Fire Marshal,*
464 *whichever is appropriate, have inspected the physical facilities of the child day center and have*
465 *determined that the center is in compliance with applicable laws and regulations with regard to food*
466 *service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention*
467 *Code or the Uniform Statewide Building Code.*

468 *3. The child day center employs supervisory personnel according to the following ratio of staff to*
469 *children:*

- 470 *a. One staff member to four children from ages zero to 16 months.*
- 471 *b. One staff member to five children from ages 16 months to 24 months.*
- 472 *c. One staff member to eight children from ages 24 months to 36 months.*
- 473 *d. One staff member to 10 children from ages 36 months to five years.*
- 474 *e. One staff member to 20 children from ages five years to nine years.*
- 475 *f. One staff member to 25 children from ages nine years to 12 years.*

476 *Staff shall be counted in the required staff-to-children ratios only when they are directly supervising*
477 *children. When a group of children receiving care includes children from different age brackets, the age*
478 *of the youngest child in the group shall be used to determine the staff-to-children ratio that applies to*
479 *that group. For each group of children receiving care, at least one adult staff member shall be regularly*
480 *present. However, during designated daily rest periods and designated sleep periods of evening and*
481 *overnight care programs, for children ages 16 months to six years, only one staff member shall be*
482 *required to be present with the children under supervision. In such cases, at least one staff member shall*
483 *be physically present in the same space as the children under supervision at all times. Other staff*
484 *members counted for purposes of the staff-to-child ratio need not be physically present in the same*
485 *space as the resting or sleeping children, but shall be present on the same floor as the resting or*
486 *sleeping children and shall have no barrier to their immediate access to the resting or sleeping children.*
487 *The staff member who is physically present in the same space as the sleeping children shall be able to*
488 *summon additional staff counted in the staff-to-child ratio without leaving the space in which the resting*
489 *or sleeping children are located.*

Staff members shall be at least 16 years of age. Staff members under 18 years of age shall be under the supervision of an adult staff member. Adult staff members shall supervise no more than two staff members under 18 years of age at any given time.

4. Each person in a supervisory position has been certified by a practicing physician or physician assistant to be free from any disability which would prevent him from caring for children under his supervision.

5. The center is in compliance with the requirements of:

a. This section.

b. Section 22.1-289.039 relating to background checks.

c. Section 63.2-1509 relating to the reporting of suspected cases of child abuse and neglect.

d. Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 regarding a valid Virginia driver's license or commercial driver's license; Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of Title 46.2, regarding vehicle inspections; ensuring that any vehicle used to transport children is an insured motor vehicle as defined in § 46.2-705; and Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of Title 46.2, regarding child restraint devices.

6. The following aspects of the child day center's operations are described in a written statement provided to the parents or guardians of the children in the center and made available to the general public: physical facilities, enrollment capacity, food services, health requirements for the staff, and public liability insurance.

7. The individual seeking to operate the child day center is not currently ineligible to operate another child day program due to a suspension or revocation of his license or license exemption for reasons involving child safety or any criminal conviction, including fraud, related to such child day program.

8. A person trained and certified in first aid and cardiopulmonary resuscitation (CPR) will be present at the child day center whenever children are present or at any other location in which children attending the child day center are present.

9. The child day center is in compliance with all safe sleep guidelines recommended by the American Academy of Pediatrics.

B. The center shall establish and implement procedures for:

1. Hand washing by staff and children before eating and after toileting and diapering.

2. Appropriate supervision of all children in care, including daily intake and dismissal procedures to ensure safety of children.

3. A daily simple health screening and exclusion of sick children by a person trained to perform such screenings.

4. Ensuring that all children in the center are in compliance with the provisions of § 32.1-46 regarding the immunization of children against certain diseases, *except that no child shall be required to receive any COVID-19 vaccination.*

5. Ensuring that all areas of the premises accessible to children are free of obvious injury hazards, including providing and maintaining sand or other cushioning material under playground equipment.

6. Ensuring that all staff are able to recognize the signs of child abuse and neglect.

7. Ensuring that all incidents involving serious physical injury to or death of children attending the child day center are reported to the Superintendent. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred.

C. The Superintendent may perform on-site inspections of religious institutions to confirm compliance with the provisions of this section and to investigate complaints that the religious institution is not in compliance with the provisions of this section. The Superintendent may revoke the exemption for any child day center in serious or persistent violation of the requirements of this section. If a religious institution operates a child day center and does not file the statement and documentary evidence required by this section, the Superintendent shall give reasonable notice to such religious institution of the nature of its noncompliance and may thereafter take such action as he determines appropriate, including a suit to enjoin the operation of the child day center.

D. Any person who has reason to believe that a child day center falling within the provisions of this section is not in compliance with the requirements of this section may report the same to the Department, the local health department, or the local fire marshal, each of which may inspect the child day center for noncompliance, give reasonable notice to the religious institution, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the child day center.

E. Nothing in this section shall prohibit a child day center operated by or conducted under the auspices of a religious institution from obtaining a license pursuant to this chapter.

§ 22.1-295.2. Employment discrimination prohibited.

A. As used in this section:

551 "Age" means being an individual who is at least 40 years of age.

552 "Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.
553 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a
554 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except
555 that the support provided by the service member to the individual shall have been provided 180 days
556 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
557 under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.
558 Chapter 50.

559 B. No school board or any agent or employee thereof shall discriminate in employment on the basis
560 of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age,
561 marital status, disability, sexual orientation, gender identity, ~~or~~ military status, *or COVID-19 vaccination*
562 *status*.

563 C. The provisions of this section shall not prohibit (i) discrimination in employment on the basis of
564 sex or age in those instances when sex or age is a bona fide occupational qualification for employment
565 or (ii) providing preference in employment to veterans.

566 **§ 22.1-306. Definitions.**

567 As used in this article, unless the context requires a different meaning:

568 "Business day" means any day that the relevant school board office is open.

569 "Day" means calendar days unless a different meaning is clearly expressed in this article. Whenever
570 the last day for performing an act required by this article falls on a Saturday, Sunday, or legal holiday,
571 the act may be performed on the next day that is not a Saturday, Sunday, or legal holiday.

572 "Dismissal" means the dismissal of any teacher during the term of such teacher's contract.

573 "Grievance" means a complaint or dispute by a teacher relating to his employment, including (i)
574 disciplinary action including dismissal; (ii) the application or interpretation of (a) personnel policies, (b)
575 procedures, (c) rules and regulations, (d) ordinances, and (e) statutes; (iii) acts of reprisal against a
576 teacher for filing or processing a grievance, participating as a witness in any step, meeting, or hearing
577 relating to a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of
578 discrimination on the basis of race, color, creed, religion, political affiliation, disability, age, national
579 origin, sex, pregnancy, childbirth or related medical conditions, marital status, sexual orientation, gender
580 identity, ~~or~~ military status, *or COVID-19 vaccination status*. Each school board shall have the exclusive
581 right to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall
582 not include a complaint or dispute by a teacher relating to (a) establishment and revision of wages or
583 salaries, position classifications, or general benefits; (b) suspension of a teacher or nonrenewal of the
584 contract of a teacher who has not achieved continuing contract status; (c) the establishment or contents
585 of ordinances, statutes, or personnel policies, procedures, rules, and regulations; (d) failure to promote;
586 (e) discharge, layoff, or suspension from duties because of decrease in enrollment, decrease in
587 enrollment or abolition of a particular subject, or insufficient funding; (f) hiring, transfer, assignment,
588 and retention of teachers within the school division; (g) suspension from duties in emergencies; (h) the
589 methods, means, and personnel by which the school division's operations are to be carried on; or (i)
590 coaching or extracurricular activity sponsorship.

591 While these management rights are reserved to the school board, failure to apply, where applicable,
592 the rules, regulations, policies, or procedures as written or established by the school board is grievable.

593 "Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C.
594 § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a
595 veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except
596 that the support provided by the service member to the individual shall have been provided 180 days
597 immediately preceding an alleged action that if proven true would constitute unlawful discrimination
598 under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C.
599 Chapter 50.

600 **§ 23.1-800. Health histories and immunizations required; exemptions.**

601 A. No full-time student who enrolls for the first time in any baccalaureate public institution of higher
602 education is eligible to register for his second semester or quarter unless he (i) has furnished, before the
603 beginning of the second semester or quarter of enrollment, a health history consistent with guidelines
604 adopted by each institution's board of visitors that includes documented evidence, provided by a licensed
605 health professional or health facility, of the diseases for which the student has been immunized, the
606 numbers of doses given, the date on which the immunization was administered, and any further
607 immunizations indicated or (ii) objects to such health history requirement on religious grounds, in which
608 case he is exempt from such requirement.

609 B. Prior to enrollment for the first time in any baccalaureate public institution of higher education,
610 each student shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola),
611 German measles (rubella), and mumps according to the guidelines of the American College Health
612 Association.

C. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each full-time student shall be vaccinated against meningococcal disease and hepatitis B unless the student or, if the student is a minor, the student's parent or legal guardian signs a written waiver stating that he has received and reviewed detailed information on the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.

D. Any student is exempt from the immunization requirements set forth in subsections B and C who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices; ~~unless the Board of Health has declared an emergency or epidemic of disease~~, or (ii) presents a statement from a licensed physician that states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.

E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.

F. The Council shall, in cooperation with the Board and Commissioner of Health, encourage private institutions of higher education to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

§ 32.1-15.2. Board not authorized to require COVID-19 vaccination.

Notwithstanding any other provision of law, the Board shall not require any person to receive any COVID-19 vaccination.

§ 32.1-43. Authority of State Health Commissioner to require quarantine, etc.

The State Health Commissioner shall have the authority to require quarantine, isolation, immunization, decontamination, or treatment of any individual or group of individuals when he determines any such measure to be necessary to control the spread of any disease of public health importance and the authority to issue orders of isolation pursuant to Article 3.01 (§ 32.1-48.01 et seq.) ~~of this chapter~~ and orders of quarantine and orders of isolation under exceptional circumstances involving any communicable disease of public health threat pursuant to Article 3.02 (§ 32.1-48.05 et seq.) ~~of this chapter~~, *except that the Commissioner shall not have the authority to require immunization of any person against COVID-19.*

§ 32.1-47. Exclusion from school of children not immunized.

Upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in a public or private school, the Commissioner shall have the authority to require the exclusion from such school of all children who are not immunized against that disease, *except that the Commissioner shall not have the authority to exclude from such school children who are not immunized against COVID-19.*

§ 32.1-47.1. Vaccination of children; plan enhancements.

A. The Department shall include in its vaccination plans procedures to ensure the prompt vaccination of all persons of school age in the Commonwealth, without preference regarding the manner of compliance with the compulsory school attendance law set forth in § 22.1-254, upon declaration of a public health emergency involving a vaccine-preventable disease and consent of the parent or guardian of the person of school age if such person is a minor or, if the person of school age is not a minor, of the person. Vaccination plans developed pursuant to this section shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention, and shall be subject to the same review and update requirements, process, and schedule as the State Emergency Operations Plan developed by the Department of Emergency Management pursuant to § 44-146.18.

B. Notwithstanding the provisions of subsection A or any other provision of law, no person shall be required to receive any COVID-19 vaccination.

§ 32.1-48. Powers of Commissioner in epidemic.

A. Nothing in this article shall preclude the Commissioner from requiring immediate immunization of all persons in case of an epidemic of any disease of public health importance for which a vaccine exists other than a person to whose health the administration of a vaccine would be detrimental as certified in writing by a physician licensed to practice medicine in this Commonwealth.

~~B. In addition, the~~ The State Health Commissioner shall hold the powers conferred pursuant to Article 3.02 (§ 32.1-48.05 et seq.) ~~of this chapter~~ to issue orders of quarantine or prepare orders of isolation for a communicable disease of public health threat.

B. Notwithstanding any other provision of law, the Commissioner shall not hold the power to require any person to receive any immunization against COVID-19.

§ 32.1-48.002. Immunizations not required.

Notwithstanding any other provision of law, no person shall be required to receive any immunization against COVID-19 and no person shall be (i) discriminated against with regard to the provision of any disposition, service, financial benefit, eligibility, admission, enrollment, participation, membership, or

674 *other benefit; (ii) subjected to segregation or separate treatment; or (iii) restricted in any way in the*
675 *enjoyment of any advantage or privilege enjoyed by any other person receiving any disposition, service,*
676 *financial benefit, eligibility, admission, enrollment, participation, membership, or other benefit.*

677 **§ 37.2-205. Board not authorized to require vaccinations.**

678 *A. Notwithstanding any other provision of law, the Board shall not require any person to be*
679 *immunized against COVID-19.*

680 *B. No person licensed by the Department shall deny any person services solely because such person*
681 *has not been immunized against COVID-19.*

682 **§ 44-146.17. (Effective until July 1, 2023) Powers and duties of Governor.**

683 The Governor shall be Director of Emergency Management. He shall take such action from time to
684 time as is necessary for the adequate promotion and coordination of state and local emergency services
685 activities relating to the safety and welfare of the Commonwealth in time of disasters.

686 The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the
687 following powers and duties:

688 (1) To proclaim and publish such rules and regulations and to issue such orders as may, in his
689 judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such
690 measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production
691 and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources
692 under any state or federal emergency services programs.

693 He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which
694 provides for state-level emergency operations in response to any type of disaster or large-scale
695 emergency affecting Virginia and that provides the needed framework within which more detailed
696 emergency plans and procedures can be developed and maintained by state agencies, local governments
697 and other organizations.

698 He may direct and compel evacuation of all or part of the populace from any stricken or threatened
699 area if this action is deemed necessary for the preservation of life, implement emergency mitigation,
700 preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in
701 connection with evacuation; and control ingress and egress at an emergency area, including the
702 movement of persons within the area and the occupancy of premises therein.

703 Executive orders, to include those declaring a state of emergency and directing evacuation, shall have
704 the force and effect of law and the violation thereof shall be punishable as a civil penalty of not more
705 than \$500 or as a Class 1 misdemeanor in every case where the executive order declares that its
706 violation shall have such force and effect. Where an executive order declares a violation shall be
707 punishable as a civil penalty, such violation shall be charged by summons and may be executed by a
708 law-enforcement officer when such violation is observed by the officer. The summons used by a
709 law-enforcement officer pursuant to this section shall be, in form, the same as the uniform summons for
710 motor vehicle law violations as prescribed pursuant to § 46.2-388. The proceeds of such civil penalties
711 collected pursuant to this section shall be paid and collected only in lawful money of the United States
712 and paid into the state treasury to the credit of the Literary Fund.

713 Such executive orders declaring a state of emergency may address exceptional circumstances that
714 exist relating to an order of quarantine or an order of isolation concerning a communicable disease of
715 public health threat that is issued by the State Health Commissioner for an affected area of the
716 Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

717 Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and
718 emergencies, no rule, regulation, or order issued under this section shall have any effect beyond June 30
719 next following the next adjournment of the regular session of the General Assembly but the same or a
720 similar rule, regulation, or order may thereafter be issued again if not contrary to law.

721 *No rule, regulation, or order issued under this subdivision shall require a person to receive any*
722 *immunization against COVID-19;*

723 (2) To appoint a State Coordinator of Emergency Management and authorize the appointment or
724 employment of other personnel as is necessary to carry out the provisions of this chapter, and to
725 remove, in his discretion, any and all persons serving hereunder;

726 (3) To procure supplies and equipment, to institute training and public information programs relative
727 to emergency management and to take other preparatory steps including the partial or full mobilization
728 of emergency management organizations in advance of actual disaster, to insure the furnishing of
729 adequately trained and equipped forces in time of need;

730 (4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as
731 may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient
732 emergency use thereof;

733 (5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to
734 coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of
735 emergency is declared in another state and the Governor receives a written request for assistance from

the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations;

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, to direct the Comptroller of the Commonwealth to issue warrants not to exceed \$2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship; and

(11) During a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to subdivision (7), to establish a program through which the Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such private, nongovernmental entities. If federal funding is available to establish and fund the program, the Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled to seek reimbursement for such purchases from the private, nongovernmental entities and may establish and charge fees to recover the cost of administering the program, including the cost of procuring and distributing the PPE. However, if federal funding is not available to establish and fund the program, the Governor shall, prior to making such purchases, receive a contract for payment for purchase from the private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall include any amortized costs of administering the program. Any purchase made by the Governor pursuant to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310 when possible. The Governor shall also provide for competition where practicable and include a written statement regarding the basis for awarding any contract. Prior to implementing such a program, the Department of Emergency Management shall consult with and survey private, nongovernmental entities in order to assess demand for participation in the program as well as the quantity and types of personal protective equipment such entities would like to procure.

As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health threat.

§ 44-146.17. (Effective July 1, 2023) Powers and duties of Governor.

The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation,

797 preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in
798 connection with evacuation; and control ingress and egress at an emergency area, including the
799 movement of persons within the area and the occupancy of premises therein.

800 Executive orders, to include those declaring a state of emergency and directing evacuation, shall have
801 the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in
802 every case where the executive order declares that its violation shall have such force and effect.

803 Such executive orders declaring a state of emergency may address exceptional circumstances that
804 exist relating to an order of quarantine or an order of isolation concerning a communicable disease of
805 public health threat that is issued by the State Health Commissioner for an affected area of the
806 Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

807 Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and
808 emergencies, no rule, regulation, or order issued under this section shall have any effect beyond June 30
809 next following the next adjournment of the regular session of the General Assembly but the same or a
810 similar rule, regulation, or order may thereafter be issued again if not contrary to law.

811 *No rule, regulation, or order issued under this subdivision shall require a person to receive any*
812 *immunization against COVID-19;*

813 (2) To appoint a State Coordinator of Emergency Management and authorize the appointment or
814 employment of other personnel as is necessary to carry out the provisions of this chapter, and to
815 remove, in his discretion, any and all persons serving hereunder;

816 (3) To procure supplies and equipment, to institute training and public information programs relative
817 to emergency management and to take other preparatory steps including the partial or full mobilization
818 of emergency management organizations in advance of actual disaster, to insure the furnishing of
819 adequately trained and equipped forces in time of need;

820 (4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as
821 may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient
822 emergency use thereof;

823 (5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to
824 coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of
825 emergency is declared in another state and the Governor receives a written request for assistance from
826 the executive authority of that state, the Governor may authorize the use in the other state of personnel,
827 equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent
828 of the chief executive officer or governing body of the political subdivision;

829 (6) To delegate any administrative authority vested in him under this chapter, and to provide for the
830 further delegation of any such authority, as needed;

831 (7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the
832 Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to
833 declare a state of emergency to exist;

834 (8) To request a major disaster declaration from the President, thereby certifying the need for federal
835 disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth,
836 its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting
837 from the disaster;

838 (9) To provide incident command system guidelines for state agencies and local emergency response
839 organizations;

840 (10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local
841 public safety agency responding to a disaster has suffered an extreme personal or family hardship in the
842 affected area, such as the destruction of a personal residence or the existence of living conditions that
843 imperil the health and safety of an immediate family member of the employee, to direct the Comptroller
844 of the Commonwealth to issue warrants not to exceed \$2,500 per month, for up to three calendar
845 months, to the employee to assist the employee with the hardship; and

846 (11) During a disaster caused by a communicable disease of public health threat for which a state of
847 emergency has been declared pursuant to subdivision (7), to establish a program through which the
848 Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such
849 private, nongovernmental entities. If federal funding is available to establish and fund the program, the
850 Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled
851 to seek reimbursement for such purchases from the private, nongovernmental entities and may establish
852 and charge fees to recover the cost of administering the program, including the cost of procuring and
853 distributing the PPE. However, if federal funding is not available to establish and fund the program, the
854 Governor shall, prior to making such purchases, receive a contract for payment for purchase from the
855 private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall
856 include any amortized costs of administering the program. Any purchase made by the Governor pursuant
857 to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§
858 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310

when possible. The Governor shall also provide for competition where practicable and include a written statement regarding the basis for awarding any contract. Prior to implementing such a program, the Department of Emergency Management shall consult with and survey private, nongovernmental entities in order to assess demand for participation in the program as well as the quantity and types of personal protective equipment such entities would like to procure.

As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health threat.

§ 54.1-2409.6. Boards not authorized to require vaccinations.

A. Notwithstanding any other provision of law, neither the Board nor any health regulatory board included in the Department shall require any person to be immunized against COVID-19.

B. No person shall be denied a license, registration, certification, multisite licensure privilege, or other privilege solely because of his COVID-19 vaccination status.

C. No person licensed by any health regulatory board included in the Department shall deny any person services solely because of his COVID-19 vaccination status.

§ 63.2-221.1. Board not authorized to require vaccination.

A. Notwithstanding any other provision of law, the Board shall not require any person to be immunized against COVID-19.

B. No person licensed by the Department shall deny any person services solely because of his COVID-19 vaccination status.

§ 63.2-603. Eligibility for TANF; childhood immunizations.

An applicant for TANF shall provide verification that all eligible children not enrolled in school, a licensed family day home as defined in § 22.1-289.02, or a licensed child day center as defined in § 22.1-289.02, have received immunizations in accordance with § 32.1-46, *except that no child shall be required to have received any COVID-19 immunization*. However, if an eligible child has not received immunizations in accordance with § 32.1-46, verification shall be provided at the next scheduled redetermination of eligibility for TANF after initial eligibility is granted that the child has received at least one dose of each of the immunizations required by § 32.1-46 as appropriate for the child's age and that the child's physician or the local health department has developed a plan for completing the immunizations. Verification of compliance with the plan for completing the immunizations shall be presented at subsequent redeterminations of eligibility for TANF.

If necessary, the local department shall provide assistance to the TANF recipient in obtaining verification from immunization providers. No sanction may be imposed until the reason for the failure to comply with the immunization requirement has been identified and any barriers to accessing immunizations have been removed.

Failure by the recipient to provide the required verification of immunizations shall result in a reduction in the amount of monthly assistance received from the TANF program until the required verification is provided. The reduction shall be \$50 for the first child and \$25 for each additional child for whom verification is not provided.

Any person who becomes ineligible for TANF payments as a result of this provision shall nonetheless be considered a TANF recipient for all other purposes.