



## COMMONWEALTH of VIRGINIA

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### **STATE HEALTH COMMISSIONER ORDER OF PUBLIC HEALTH EMERGENCY STATEWIDE REQUIREMENT TO WEAR MASKS IN K-12 SCHOOLS**

WHEREAS, the State Health Commissioner declared novel coronavirus (COVID-19) a communicable disease of public health threat on February 7, 2020 and further declared on July 1, 2021 that a public health emergency continued to exist; and

WHEREAS, Virginia Governor Ralph S. Northam's Executive Directive Number Eighteen issued on August 5, 2021, highlights the ongoing danger of COVID-19 to unvaccinated individuals; and

WHEREAS, COVID-19 spreads from person-to-person, transmitted via respiratory droplets, and can be spread from an infected person who does not have symptoms to another person; and

WHEREAS, emerging data show that the Delta variant is different than past versions of the virus and is much more contagious; and

WHEREAS, the State Health Commissioner seeks to contain, control, and prevent additional COVID-19 infections in schools; and

WHEREAS, children under age 12 are not yet eligible to receive any available vaccine; and

WHEREAS, only 40.3% of 12-15 year-olds and 51.7 % of 16-17 year olds in Virginia are fully vaccinated as of August 10, 2021; and

WHEREAS, universal and correct mask use is an important COVID-19 prevention strategy in schools as part of a multicomponent approach and has been shown to be associated with lower incidence of COVID-19 in schools; and

WHEREAS, Virginia Senate Bill No. 1303, Acts of Assembly, Chapter 456 requires K-12 schools open for in-person instruction and reducing COVID-19 transmission and outbreaks during such in-person instruction is a priority of the Commonwealth; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) advises universal indoor masking for all teachers, staff, students, and visitors in K-12 schools, regardless of vaccination status; and

WHEREAS, the CDC recommends that schools continue to use layered prevention strategies outlined in the CDC Guidance for Prevention of COVID-19 in K-12 Schools, including the universal and correct use of masks of all people in schools, regardless of vaccination status; and

WHEREAS, decreasing spread in Virginia's K-12 schools, which have a high percentage of unvaccinated individuals, protects the health of students, teachers, staff and their families; and

WHEREAS, pursuant to § 32.1-13 of the Code of Virginia, the State Health Commissioner, acting for the Board of Health when it is not in session pursuant to § 32.1-20 of the Code of Virginia, is vested with authority to make separate orders to meet any emergency not provided for by general regulations, for the purpose of suppressing conditions dangerous to the public health and communicable, contagious, and infectious diseases.

NOW THEREFORE, the State Health Commissioner, pursuant to §§ 32.1-13 and 32.1-20 of the Code of Virginia, hereby issues this Order finding that a public health emergency due to COVID-19 continues to exist, and requiring all individuals aged two and older to wear masks when indoors at public and private K-12 schools in order to inhibit spread of the virus, as recommended and described by the CDC. Exceptions to this Order include:

- A. Individuals eating, drinking, or sleeping;
- B. Individuals exercising or using exercise equipment;
- C. Any person who is playing a musical instrument when wearing a mask would inhibit the playing of the instrument (e.g., wind or brass instrument) so long as at least six feet of physical distance can be maintained from other persons;
- D. Any person who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove the mask without assistance;
- E. Any person who has a disability or meets at-risk criteria or those assisting such persons, including individuals with an Individualized Education Plan (IEP) or 504 plan under the Rehabilitation Act, where wearing a mask would inhibit communication or the receiving of services.
- F. When necessary to participate in a religious ritual; and
- G. Persons with health conditions or disabilities that prohibit wearing a mask. Nothing in this Order shall require the use of a mask by any person for whom doing so would be contrary to his or her health or safety because of a medical condition. Adaptations and alternatives for individuals with health conditions or disabilities should be considered whenever possible to increase the feasibility of wearing a mask to reduce the risk of COVID-19 spreading if it is not possible to wear one.

Any person who declines to wear a mask because of a medical condition or any person with a sincerely held religious objection to wearing masks in school may request a reasonable accommodation.

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Statewide Requirement To Wear Masks In K-12 Schools  
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This Order shall be enforced pursuant to § 32.1-27 of the Code of Virginia.

This Order shall be effective August 12, 2021, and shall remain in full force and effect until the CDC guidelines for K-12 schools change, unless this Order is sooner amended or rescinded.

Given under my hand and under the Seal of the Office of the State Health Commissioner of the Commonwealth of Virginia this 12th day of August 2021.

A handwritten signature in blue ink that reads "M. Norman Oliver MD". The signature is written in a cursive style with a large, stylized "M" and "O".

M. Norman Oliver, MD, MA  
State Health Commissioner

## Virginia Human Rights Act

### § 2.2-3900. Short title; declaration of policy

A. This chapter shall be known and cited as the Virginia Human Rights Act.

B. It is the policy of the Commonwealth to:

1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, or disability in places of public accommodation, including educational institutions and in real estate transactions;
2. Safeguard all individuals within the Commonwealth from unlawful discrimination in employment because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability, or military status;
3. Preserve the public safety, health, and general welfare;
4. Further the interests, rights, and privileges of individuals within the Commonwealth; and
5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

1987, c. 581, §§ 2.1-714, 2.1-715; 1997, c. 404; 2001, c. 844; 2020, cc. 1137, 1140; 2021, Sp. Sess. I, cc. 477, 478.

### § 2.2-3901. Definitions

A. The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of pregnancy, childbirth, or related medical conditions, including lactation. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all purposes as persons not so affected but similar in their abilities or disabilities.

B. The term "gender identity," when used in reference to discrimination in the Code and acts of the General Assembly, means the gender-related identity, appearance, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

C. The term "sexual orientation," when used in reference to discrimination in the Code and acts of the General Assembly, means a person's actual or perceived heterosexuality, bisexuality, or homosexuality.

D. The terms "because of race" or "on the basis of race" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists.

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

"Lactation" means a condition that may result in the feeding of a child directly from the breast or

the expressing of milk from the breast.

"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.

1987, c. 581, § 2.1-716; 1991, c. 457; 1997, c. 404; 2001, c. 844; 2005, c. 839; 2020, cc. 107, 152, 1137, 1138, 1139, 1140; 2021, Sp. Sess. I, cc. 477, 478.

### **§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors, and the elderly**

The provisions of this chapter shall be construed liberally for the accomplishment of its policies.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or national origin is an unlawful discriminatory practice under this chapter.

Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented, or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of 18 years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety and welfare of the population at large.

Complaints filed with the Office of Civil Rights of the Department of Law (the Office) in accordance with § 2.2-520 alleging unlawful discriminatory practice under a Virginia statute that is enforced by a Virginia agency shall be referred to that agency. The Office may investigate complaints alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over the complaint. Upon such referral, the Office shall have no further jurisdiction over the complaint. The Office shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to § 15.2-965.

1987, c. 581, § 2.1-717; 1991, c. 457; 1997, c. 404; 2000, c. 933; 2001, c. 844; 2012, cc. 803, 835; 2020, cc. 1137, 1140; 2021, Sp. Sess. I, cc. 12, 196, 477, 478.

### **§ 2.2-3903. Repealed**

Repealed by Acts 2020, c. 1140, cl. 2.

## Transcript of Civil Rights Act (1964)

An Act

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

### TITLE I--VOTING RIGHTS

SEC. 101. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall--

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

"(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 (42 U.S.C. 1974--74e; 74 Stat. 88): Provided, however, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

"(3) For purposes of this subsection--

"(A) the term 'vote' shall have the same meaning as in subsection (e) of this section;

"(B) the phrase 'literacy test' includes any test of the ability to read, write, understand, or interpret any matter."

(b) Insert immediately following the period at the end of the first sentence of subsection (c) the following new sentence: "If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any Federal election."

(c) Add the following subsection "(f)" and designate the present subsection "(f)" as subsection "(g)": "(f) When used in subsection (a) or (c) of this section, the words 'Federal election' shall mean any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for

the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives."

(d) Add the following subsection "(h)":

"(h) In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief justice of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

An appeal from the final judgment of such court will lie to the Supreme Court.

"In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

**TITLE II--INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION**  
**SEC. 201. (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, and privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.**

(b) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

- (1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;
- (2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;
- (3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and
- (4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

(c) The operations of an establishment affect commerce within the meaning of this title if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph (4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of