

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

1 A BILL to amend and reenact §§ 2.2-3705.3, 2.2-3711, 3.2-4113, 4.1-225, 15.2-1627, 16.1-69.48:1, as  
 2 it is currently effective and as it shall become effective, 16.1-69.48:3, 16.1-228, as it is currently  
 3 effective and as it shall become effective, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 16.1-  
 4 309.1, 17.1-275, 17.1-275.8, 17.1-805, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-  
 5 251.02, 18.2-251.03, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258 through  
 6 18.2-258.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.09, 18.2-308.1:5, 18.2-308.4,  
 7 18.2-460, 18.2-474.1, 18.2-513, 19.2-11.2, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-120, 19.2-120.1,  
 8 19.2-188.1, 19.2-215.1, 19.2-291.1, 19.2-299, 19.2-299.2, 19.2-303.01, 19.2-386.22 through 19.2-  
 9 386.25, 19.2-386.28, 19.2-389, as it is currently effective and as it shall become effective, 19.2-  
 10 392.02, as it is currently effective and as it shall become effective, 22.1-277.08, 22.1-315, 24.2-  
 11 233, 37.2-314, 37.2-416, 37.2-506, 48-17, 52-8.1:1, 52-35, 53.1-220.1, 53.1-231.2, 54.1-2903,  
 12 54.1-3408.3, 54.1-3442.6, and 54.1-3442.8 of the Code of Virginia; to amend the Code of Virginia  
 13 by adding in Title 3.2 a chapter numbered 41.2, containing articles numbered 1 through 7,  
 14 consisting of sections numbered 3.2-4122 through 3.2-4199.6; and to repeal §§ 18.2-248.1, 18.2-  
 15 250.1, 18.2-251.1 through 18.2-251.1:3, and 19.2-389.3 of the Code of Virginia, relating to the  
 16 cultivation, manufacture, sale, possession, and testing of marijuana; penalties.

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

17  
 18 **1. That §§ 2.2-3705.3, 2.2-3711, 3.2-4113, 4.1-225, 15.2-1627, 16.1-69.48:1, as it is currently**  
 19 **effective and as it shall become effective, 16.1-69.48:3, 16.1-228, as it is currently effective and as it**  
 20 **shall become effective, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 16.1-309.1, 17.1-275, 17.1-**  
 21 **275.8, 17.1-805, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.02, 18.2-251.03, 18.2-**  
 22 **252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258 through 18.2-258.1, 18.2-265.1, 18.2-265.2,**  
 23 **18.2-265.3, 18.2-287.2, 18.2-308.09, 18.2-308.1:5, 18.2-308.4, 18.2-460, 18.2-474.1, 18.2-513, 19.2-**  
 24 **11.2, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-120, 19.2-120.1, 19.2-188.1, 19.2-215.1, 19.2-291.1, 19.2-299,**

25 19.2-299.2, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-386.28, 19.2-389, as it is currently  
26 effective and as it shall become effective, 19.2-392.02, as it is currently effective and as it shall  
27 become effective, 22.1-277.08, 22.1-315, 24.2-233, 37.2-314, 37.2-416, 37.2-506, 48-17, 52-8.1:1, 52-  
28 35, 53.1-220.1, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, and 54.1-3442.8 of the Code of  
29 Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title  
30 3.2 a chapter numbered 41.2, containing articles numbered 1 through 7, consisting of sections  
31 numbered 3.2-4122 through 3.2-4199.6 as follows:

32 § 2.2-3705.3. Exclusions to application of chapter; records relating to administrative  
33 investigations.

34 The following information contained in a public record is excluded from the mandatory  
35 disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except  
36 where such disclosure is prohibited by law. Redaction of information excluded under this section from a  
37 public record shall be conducted in accordance with § 2.2-3704.01.

38 1. Information relating to investigations of applicants for licenses and permits, and of all  
39 licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority,  
40 the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer  
41 Services relating to investigations and applications pursuant to Chapter 41.2 (§ 3.2-4122 et seq.) of Title  
42 3.2 or Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services  
43 Unit of the Department of Criminal Justice Services.

44 2. Records of active investigations being conducted by the Department of Health Professions or  
45 by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

46 3. Investigator notes, and other correspondence and information, furnished in confidence with  
47 respect to an active investigation of individual employment discrimination complaints made to the  
48 Department of Human Resource Management, to such personnel of any local public body, including  
49 local school boards, as are responsible for conducting such investigations in confidence, or to any public  
50 institution of higher education. However, nothing in this subdivision shall prevent the disclosure of

51 information taken from inactive reports in a form that does not reveal the identity of charging parties,  
52 persons supplying the information, or other individuals involved in the investigation.

53 4. Records of active investigations being conducted by the Department of Medical Assistance  
54 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

55 5. Investigative notes and other correspondence and information furnished in confidence with  
56 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice  
57 under the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in  
58 accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior  
59 to July 1, 1987, in accordance with applicable law, relating to local human rights or human relations  
60 commissions. However, nothing in this subdivision shall prevent the distribution of information taken  
61 from inactive reports in a form that does not reveal the identity of the parties involved or other persons  
62 supplying information.

63 6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents,  
64 (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or  
65 regulations that cause abuses in the administration and operation of the lottery and any evasions of such  
66 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where  
67 such information has not been publicly released, published or copyrighted. All studies and investigations  
68 referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of  
69 the study or investigation.

70 7. Investigative notes, correspondence and information furnished in confidence, and records  
71 otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the  
72 Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate  
73 authority as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud  
74 and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector  
75 General with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an  
76 investigation initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the

77 head of a state agency or by any public institution of higher education; (vi) the committee or the auditor  
78 with respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors,  
79 appointed by the local governing body of any county, city, or town or a school board, who by charter,  
80 ordinance, or statute have responsibility for conducting an investigation of any officer, department, or  
81 program of such body. Information contained in completed investigations shall be disclosed in a form  
82 that does not reveal the identity of the complainants or persons supplying information to investigators.  
83 Unless disclosure is excluded by this subdivision, the information disclosed shall include the agency  
84 involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and  
85 the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the  
86 identity of the person who is the subject of the complaint may be released only with the consent of the  
87 subject person. Local governing bodies shall adopt guidelines to govern the disclosure required by this  
88 subdivision.

89 8. The names, addresses, and telephone numbers of complainants furnished in confidence with  
90 respect to an investigation of individual zoning enforcement complaints or complaints relating to the  
91 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et  
92 seq.) made to a local governing body.

93 9. Records of active investigations being conducted by the Department of Criminal Justice  
94 Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185  
95 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

96 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of §  
97 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,  
98 unauthorized alteration, or improper administration of tests by local school board employees responsible  
99 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure  
100 of such information to (i) a local school board or division superintendent for the purpose of permitting  
101 such board or superintendent to consider or to take personnel action with regard to an employee or (ii)  
102 any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the

103 identity of any person making a complaint or supplying information to the Board on a confidential basis  
104 and (b) does not compromise the security of any test mandated by the Board.

105 11. Information contained in (i) an application for licensure or renewal of a license for teachers  
106 and other school personnel, including transcripts or other documents submitted in support of an  
107 application, and (ii) an active investigation conducted by or for the Board of Education related to the  
108 denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel  
109 licenses including investigator notes and other correspondence and information, furnished in confidence  
110 with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a)  
111 application information to the applicant at his own expense or (b) investigation information to a local  
112 school board or division superintendent for the purpose of permitting such board or superintendent to  
113 consider or to take personnel action with regard to an employee. Information contained in completed  
114 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person  
115 supplying information to investigators. The completed investigation information disclosed shall include  
116 information regarding the school or facility involved, the identity of the person who was the subject of  
117 the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an  
118 investigation fails to support a complaint or does not lead to corrective action, the identity of the person  
119 who was the subject of the complaint may be released only with the consent of the subject person. No  
120 personally identifiable information regarding a current or former student shall be released except as  
121 permitted by state or federal law.

122 12. Information provided in confidence and related to an investigation by the Attorney General  
123 under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10  
124 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1 (§ 58.1-  
125 1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been  
126 inactive for more than six months shall, upon request, be disclosed provided such disclosure is not  
127 otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons  
128 supplying information, witnesses, or other individuals involved in the investigation.

129           13. Records of active investigations being conducted by the Department of Behavioral Health  
130 and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

131           **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

132           A. Public bodies may hold closed meetings only for the following purposes:

133           1. Discussion, consideration, or interviews of prospective candidates for employment;  
134 assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of  
135 specific public officers, appointees, or employees of any public body; and evaluation of performance of  
136 departments or schools of public institutions of higher education where such evaluation will necessarily  
137 involve discussion of the performance of specific individuals. Any teacher shall be permitted to be  
138 present during a closed meeting in which there is a discussion or consideration of a disciplinary matter  
139 that involves the teacher and some student and the student involved in the matter is present, provided the  
140 teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in  
141 this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or  
142 an elected school board to discuss compensation matters that affect the membership of such body or  
143 board collectively.

144           2. Discussion or consideration of admission or disciplinary matters or any other matters that  
145 would involve the disclosure of information contained in a scholastic record concerning any student of  
146 any public institution of higher education in the Commonwealth or any state school system. However,  
147 any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians  
148 shall be permitted to be present during the taking of testimony or presentation of evidence at a closed  
149 meeting, if such student, parents, or guardians so request in writing and such request is submitted to the  
150 presiding officer of the appropriate board.

151           3. Discussion or consideration of the acquisition of real property for a public purpose, or of the  
152 disposition of publicly held real property, where discussion in an open meeting would adversely affect  
153 the bargaining position or negotiating strategy of the public body.

154           4. The protection of the privacy of individuals in personal matters not related to public business.

155           5. Discussion concerning a prospective business or industry or the expansion of an existing  
156 business or industry where no previous announcement has been made of the business' or industry's  
157 interest in locating or expanding its facilities in the community.

158           6. Discussion or consideration of the investment of public funds where competition or bargaining  
159 is involved, where, if made public initially, the financial interest of the governmental unit would be  
160 adversely affected.

161           7. Consultation with legal counsel and briefings by staff members or consultants pertaining to  
162 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect  
163 the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable  
164 litigation" means litigation that has been specifically threatened or on which the public body or its legal  
165 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in  
166 this subdivision shall be construed to permit the closure of a meeting merely because an attorney  
167 representing the public body is in attendance or is consulted on a matter.

168           8. Consultation with legal counsel employed or retained by a public body regarding specific legal  
169 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be  
170 construed to permit the closure of a meeting merely because an attorney representing the public body is  
171 in attendance or is consulted on a matter.

172           9. Discussion or consideration by governing boards of public institutions of higher education of  
173 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or  
174 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,  
175 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and  
176 accepted by a public institution of higher education in the Commonwealth shall be subject to public  
177 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,  
178 (i) "foreign government" means any government other than the United States government or the  
179 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity  
180 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of

181 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the  
182 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created  
183 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a  
184 citizen or national of the United States or a trust territory or protectorate thereof.

185 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts,  
186 the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe  
187 Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants  
188 from private sources.

189 11. Discussion or consideration of honorary degrees or special awards.

190 12. Discussion or consideration of tests, examinations, or other information used, administered,  
191 or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

192 13. Discussion, consideration, or review by the appropriate House or Senate committees of  
193 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure  
194 statement filed by the member, provided the member may request in writing that the committee meeting  
195 not be conducted in a closed meeting.

196 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement  
197 or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the  
198 governing body in open meeting finds that an open meeting will have an adverse effect upon the  
199 negotiating position of the governing body or the establishment of the terms, conditions and provisions  
200 of the siting agreement, or both. All discussions with the applicant or its representatives may be  
201 conducted in a closed meeting.

202 15. Discussion by the Governor and any economic advisory board reviewing forecasts of  
203 economic activity and estimating general and nongeneral fund revenues.

204 16. Discussion or consideration of medical and mental health records subject to the exclusion in  
205 subdivision 1 of § 2.2-3705.5.

206 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant



207 to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent;  
208 and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game  
209 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3  
210 and subdivision 11 of § 2.2-3705.7.

211 18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or  
212 discloses the identity of, or information tending to identify, any prisoner who (i) provides information  
213 about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or  
214 in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official  
215 renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or  
216 safety.

217 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific  
218 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-  
219 enforcement or emergency service officials concerning actions taken to respond to such matters or a  
220 related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14  
221 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the  
222 security of any facility, building, structure, information technology system, or software program; or  
223 discussion of reports or plans related to the security of any governmental facility, building or structure,  
224 or the safety of persons using such facility, building or structure.

225 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30,  
226 or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of  
227 trustees of a trust established by one or more local public bodies to invest funds for postemployment  
228 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title  
229 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the  
230 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,  
231 holding or disposition of a security or other ownership interest in an entity, where such security or  
232 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that

233 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of  
234 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia  
235 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or  
236 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such  
237 ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect  
238 on the value of the investment to be acquired, held, or disposed of by the retirement system, a local  
239 finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia  
240 College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of  
241 information relating to the identity of any investment held, the amount invested or the present value of  
242 such investment.

243 21. Those portions of meetings in which individual child death cases are discussed by the State  
244 Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which  
245 individual child death cases are discussed by a regional or local child fatality review team established  
246 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
247 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
248 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
249 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed  
250 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of  
251 meetings in which individual death cases are discussed by overdose fatality review teams established  
252 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are  
253 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of  
254 meetings in which individual death cases of persons with developmental disabilities are discussed by the  
255 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

256 22. Those portions of meetings of the board of visitors of the University of Virginia or the  
257 Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings  
258 of any persons to whom management responsibilities for the University of Virginia Medical Center or

259 Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed  
260 proprietary, business-related information pertaining to the operations of the University of Virginia  
261 Medical Center or Eastern Virginia Medical School, as the case may be, including business development  
262 or marketing strategies and activities with existing or future joint venturers, partners, or other parties  
263 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case  
264 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such  
265 information would adversely affect the competitive position of the Medical Center or Eastern Virginia  
266 Medical School, as the case may be.

267 23. Discussion or consideration by the Virginia Commonwealth University Health System  
268 Authority or the board of visitors of Virginia Commonwealth University of any of the following: the  
269 acquisition or disposition by the Authority of real property, equipment, or technology software or  
270 hardware and related goods or services, where disclosure would adversely affect the bargaining position  
271 or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising  
272 activities of, the Authority; grants and contracts for services or work to be performed by the Authority;  
273 marketing or operational strategies plans of the Authority where disclosure of such strategies or plans  
274 would adversely affect the competitive position of the Authority; and members of the Authority's  
275 medical and teaching staffs and qualifications for appointments thereto.

276 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee  
277 within the Department of Health Professions to the extent such discussions identify any practitioner who  
278 may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

279 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein  
280 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees  
281 by or on behalf of individuals who have requested information about, applied for, or entered into prepaid  
282 tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title  
283 23.1 is discussed.

284 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery

285 Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as  
286 defined in § 56-484.12, related to the provision of wireless E-911 service.

287 27. Those portions of disciplinary proceedings by any regulatory board within the Department of  
288 Professional and Occupational Regulation, Department of Health Professions, or the Board of  
289 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach  
290 a decision or meetings of health regulatory boards or conference committees of such boards to consider  
291 settlement proposals in pending disciplinary actions or modifications to previously issued board orders  
292 as requested by either of the parties.

293 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of §  
294 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are  
295 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the  
296 responsible public entity concerning such records.

297 29. Discussion of the award of a public contract involving the expenditure of public funds,  
298 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where  
299 discussion in an open session would adversely affect the bargaining position or negotiating strategy of  
300 the public body.

301 30. Discussion or consideration of grant or loan application information subject to the exclusion  
302 in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

303 31. Discussion or consideration by the Commitment Review Committee of information subject to  
304 the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually  
305 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

306 32. Discussion or consideration of confidential proprietary information and trade secrets  
307 developed and held by a local public body providing certain telecommunication services or cable  
308 television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the  
309 exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU  
310 Authority Act (§ 15.2-7200 et seq.).

311 33. Discussion or consideration by a local authority created in accordance with the Virginia  
312 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and  
313 trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

314 34. Discussion or consideration by the State Board of Elections or local electoral boards of  
315 voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

316 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory  
317 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal  
318 investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

319 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
320 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and  
321 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and  
322 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or  
323 recover scholarship awards.

324 37. Discussion or consideration by the Virginia Port Authority of information subject to the  
325 exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for  
326 the Virginia Port Authority.

327 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System  
328 acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-  
329 124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia  
330 College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's  
331 Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the  
332 exclusion in subdivision 24 of § 2.2-3705.7.

333 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-  
334 3705.6 related to economic development.

335 40. Discussion or consideration by the Board of Education of information relating to the denial,  
336 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

337 41. Those portions of meetings of the Virginia Military Advisory Council or any commission  
338 created by executive order for the purpose of studying and making recommendations regarding  
339 preventing closure or realignment of federal military and national security installations and facilities  
340 located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs  
341 organization appointed by a local governing body, during which there is discussion of information  
342 subject to the exclusion in subdivision 8 of § 2.2-3705.2.

343 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
344 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
345 information of donors.

346 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
347 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information  
348 contained in grant applications.

349 44. Discussion or consideration by the board of directors of the Commercial Space Flight  
350 Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate  
351 structures or charges for the use of projects of, the sale of products of, or services rendered by the  
352 Authority and certain proprietary information of a private entity provided to the Authority.

353 45. Discussion or consideration of personal and proprietary information related to the resource  
354 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)  
355 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records  
356 that contain information that has been certified for release by the person who is the subject of the  
357 information or transformed into a statistical or aggregate form that does not allow identification of the  
358 person who supplied, or is the subject of, the information.

359 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage  
360 Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to  
361 investigations of applicants for licenses and permits and of licensees and permittees.

362 47. Discussion or consideration of grant, loan, or investment application records subject to the

363 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-  
364 2351 et seq.) of Chapter 22.

365 48. Discussion or development of grant proposals by a regional council established pursuant to  
366 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth  
367 and Opportunity Board.

368 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response  
369 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses  
370 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)  
371 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to  
372 §§ 15.2-1627.5 and 63.2-1605.

373 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership  
374 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the  
375 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to  
376 subdivision 33 of § 2.2-3705.7.

377 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic  
378 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and  
379 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of  
380 § 60.2-114.

381 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership  
382 Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the  
383 Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

384 53. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant  
385 to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and  
386 discussion, consideration, or review of matters related to investigations exempt from disclosure under  
387 subdivision 1 of § 2.2-3705.3.

388 54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007

389 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports  
390 betting and any discussion, consideration, or review of matters related to investigations excluded from  
391 mandatory disclosure under subdivision 1 of § 2.2-3705.3.

392 55. Discussion or consideration by the Board of Agriculture and Consumer Services of  
393 information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of  
394 applicants for licenses and permits and of licensees and permittees.

395 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a  
396 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open  
397 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or  
398 motion that shall have its substance reasonably identified in the open meeting.

399 C. Public officers improperly selected due to the failure of the public body to comply with the  
400 other provisions of this section shall be de facto officers and, as such, their official actions are valid until  
401 they obtain notice of the legal defect in their election.

402 D. Nothing in this section shall be construed to prevent the holding of conferences between two  
403 or more public bodies, or their representatives, but these conferences shall be subject to the same  
404 procedures for holding closed meetings as are applicable to any other public body.

405 E. This section shall not be construed to (i) require the disclosure of any contract between the  
406 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§  
407 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to  
408 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered  
409 to issue industrial revenue bonds by general or special law, to identify a business or industry to which  
410 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public  
411 record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such  
412 bonds.

413 **§ 3.2-4113. Production of industrial hemp lawful.**

414 A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or



415 his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his  
416 agent, dealer or his agent, or processor or his agent shall be prosecuted under ~~§ 18.2-247, 18.2-248, 18.2-~~  
417 ~~248.01, 18.2-248.1, 18.2-250, or 18.2-250.1~~ 3.2-4160, 3.2-4161, 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4170,  
418 or 3.2-4175 for the possession, growing, dealing, or processing of industrial hemp. In any complaint,  
419 information, or indictment, and in any action or proceeding brought for the enforcement of any provision  
420 of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.),  
421 it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter  
422 or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption  
423 shall be on the defendant.

424 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or  
425 regulation.

426 C. No person shall be prosecuted under ~~§ 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250,~~  
427 ~~or 18.2-250.1~~ 3.2-4160, 3.2-4161, 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4170, or 3.2-4175 for the  
428 involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a  
429 result of proximity to a production field, dealership, or process site.

430 CHAPTER 41.2.

431 MARIJUANA.

432 Article 1.

433 General Provisions.

434 **§ 3.2-4122. Definitions.**

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

436 "Child-resistant" means, with respect to packaging or a container: (i) specially designed or  
437 constructed to be significantly difficult for a typical child under five years of age to open and not to be  
438 significantly difficult for a typical adult to open and reseal and (ii) with respect to any product intended  
439 for more than a single use or that contains multiple servings, resealable.

440 "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing,

441 grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate"  
442 does not include manufacturing or testing.

443 "Edible marijuana product" means a marijuana product intended to be consumed orally,  
444 including any type of food, drink, or pill containing marijuana or marijuana concentrate.

445 "Licensed premises" means the premises specified in a license to operate a marijuana  
446 establishment within which the licensee is authorized under this chapter and the regulations adopted  
447 pursuant to this chapter to cultivate, manufacture, test, or sell retail marijuana or retail marijuana  
448 products.

449 "Licensee" means a person licensed pursuant to this chapter to operate a marijuana establishment.

450 "Locality" means counties, cities, towns, authorities, or special districts in the Commonwealth.

451 "Manufacturing" or "manufacture" means the production of marijuana products or the blending,  
452 infusing, compounding, or other preparation of marijuana and marijuana products, including but not  
453 limited to marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or  
454 "manufacture" does not include cultivation or testing.

455 "Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds,  
456 its resin, or any extract containing one or more cannabinoids; and every compound, manufacture, salt,  
457 derivative, mixture, or preparation of such plant, its seeds, or its resin. "Marijuana" does not include the  
458 mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such  
459 plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus Cannabis.

460 "Marijuana" does not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person  
461 registered pursuant to § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112,  
462 containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from  
463 industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or  
464 federal law.

465 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or  
466 more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from

467 a marijuana plant is a concentrate for purposes of this chapter.

468 "Marijuana cultivation facility" means a facility licensed under this chapter to purchase  
469 marijuana plants and seeds from other marijuana cultivation facilities; to cultivate, label, and package  
470 marijuana; to sell marijuana to marijuana manufacturing facilities, to retail marijuana stores, and to other  
471 marijuana cultivation facilities; and to sell marijuana plants and seeds to other marijuana cultivation  
472 facilities and immature marijuana plants and seedlings to retail marijuana stores.

473 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a  
474 marijuana manufacturing facility, or a retail marijuana store.

475 "Marijuana manufacturing facility" means a facility licensed under this chapter to purchase  
476 marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; to  
477 manufacture, label, and package marijuana and marijuana products; and to sell marijuana and marijuana  
478 products to retail marijuana stores and to other marijuana manufacturing facilities.

479 "Marijuana products" means products that are composed of marijuana and other ingredients and  
480 are intended for use or consumption, including edible products, ointments, and tinctures.

481 "Marijuana testing facility" means a facility licensed under this chapter to develop, research, and  
482 test marijuana, marijuana products, and other substances.

483 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a  
484 licensed marijuana establishment.

485 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by  
486 a licensed marijuana establishment.

487 "Person" means any individual, group of individuals, firm, company, corporation, partnership,  
488 business, trust, association, or other legal entity.

489 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed  
490 marijuana establishment.

491 "Retail marijuana products" means marijuana products that are manufactured and sold by a  
492 licensed marijuana establishment.

493 "Retail marijuana store" means a facility licensed under this chapter to purchase marijuana,  
494 immature marijuana plants, and seedlings from a marijuana cultivation facility, to purchase marijuana  
495 and marijuana products from a marijuana manufacturing facility, and to sell retail marijuana, retail  
496 marijuana products, immature marijuana plants, and seedlings to consumers.

497 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other  
498 substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or  
499 manufacturing.

500 **§ 3.2-4123. Powers and duties of the Board.**

501 The Board shall have the following powers and duties in regard to administering the provisions  
502 of this chapter:

503 1. Adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and  
504 § 3.2-4124;

505 2. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the  
506 production of records, memoranda, papers, and other documents before the Board, and administer oaths  
507 and take testimony thereunder. The Board may authorize any Board member to hold and conduct  
508 hearings, issue subpoenas, administer oaths and take testimony thereunder, and decide cases, subject to  
509 final decision by the Board, on application of any party aggrieved. The Board may enter into consent  
510 agreements and may request and accept from any applicant or licensee a consent agreement in lieu of  
511 proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent  
512 agreement shall include findings of fact and may include an admission or a finding of a violation. A  
513 consent agreement shall not be considered a case decision of the Board and shall not be subject to  
514 judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) but may be  
515 considered by the Board in future disciplinary hearings;

516 3. Grant, suspend, and revoke licenses for the cultivation, manufacture, sale, and testing of retail  
517 marijuana and retail marijuana products as provided by law;

518 4. Assess and collect civil penalties and civil charges for violations of this chapter and Board

519 regulations; and

520 5. Do all acts necessary or advisable to carry out the purposes of this chapter.

521 **§ 3.2-4124. Authority of the Board to adopt regulations.**

522 A. The Board may adopt reasonable regulations, not inconsistent with this chapter or the general  
523 laws of the Commonwealth, that it deems necessary to carry out the provisions of this chapter and to  
524 prevent the illegal cultivation, manufacture, sale, and testing of retail marijuana and retail marijuana  
525 products. The Board may amend or repeal such regulations. Such regulations shall be adopted in  
526 accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

527 B. The Board shall adopt regulations that:

528 1. Develop such forms, licenses, identification cards, and applications as are necessary or  
529 convenient for the administration of this chapter;

530 2. Provide a schedule of application, licensing, and renewal fees for marijuana establishments;

531 3. Establish requirements for all licensees under this chapter for the form, content, and retention  
532 of all records and accounts;

533 4. Require inspections of all licensees at a frequency determined by the Board;

534 5. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee,  
535 including security requirements specific to outdoor cultivation operations and requirements for shielding  
536 outdoor cultivation operations from public view;

537 6. Establish sanitary standards for retail marijuana product preparation;

538 7. Establish a testing program for retail marijuana and retail marijuana products pursuant to §  
539 3.2-4148;

540 8. Establish requirements for health and safety warning labels to be placed on retail marijuana  
541 and retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance  
542 with the provisions of this chapter;

543 9. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail  
544 marijuana and retail marijuana products, not inconsistent with the provisions of this chapter, so that such

545 advertising does not encourage or otherwise promote the use or consumption of retail marijuana or retail  
546 marijuana products by persons under 21 years of age. Such regulations shall permit (i) any outdoor  
547 signage or advertising not otherwise prohibited by this chapter and (ii) the display of outdoor retail  
548 marijuana or retail marijuana product advertising on lawfully erected billboard signs regulated under  
549 Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as  
550 defined in § 55.1-1100, but only in accordance with this chapter;

551 10. Prescribe which hours or days, if any, that retail marijuana or retail marijuana products shall  
552 not be sold by retail marijuana store licensees; and

553 11. Require retail marijuana store licensees to file an appeal from any hearing decision rendered  
554 by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent  
555 to the licensee at the address on record with the Board by certified mail, return receipt requested, and by  
556 regular mail.

557 C. Board regulations shall be uniform in their application.

558 D. Courts shall take judicial notice of Board regulations.

559 E. The Board's power to regulate shall be broadly construed.

560 **§ 3.2-4125. Hearings; representation by counsel.**

561 Any licensee or applicant for any license that may be granted by the Board shall have the right to  
562 be represented by counsel at any Board hearing for which he has received notice but shall not be  
563 required to be represented by counsel during such hearing.

564 **§ 3.2-4126. Hearings; allowances to witnesses.**

565 Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance  
566 for expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such  
567 allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon  
568 certification to the Comptroller.

569 **§ 3.2-4127. Seed-to-sale tracking system.**

570 To ensure that no retail marijuana grown or processed by a marijuana establishment is sold or

571 otherwise transferred except by a retail marijuana store or as otherwise authorized by law, the Board  
572 shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either the  
573 seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a customer at  
574 a retail marijuana store.

575 **§ 3.2-4128. Employment practices.**

576 An employer:

577 1. Shall not be required to permit or accommodate the use, consumption, possession, trade,  
578 display, transportation, sale, or cultivation of marijuana or marijuana products in the workplace;

579 2. May enact and enforce workplace policies restricting the use of marijuana and marijuana  
580 products by employees in the workplace or while otherwise engaged in activities within the course and  
581 scope of employment; and

582 3. May discipline employees who are under the influence of marijuana in the workplace or while  
583 otherwise engaged in activities within the course and scope of employment in accordance with the  
584 employer's workplace policies regarding the use of marijuana and marijuana products by employees.

585 Article 2.

586 Administration of Licenses.

587 **§ 3.2-4129. General licensing requirements; penalty.**

588 A. An applicant for a license to operate a marijuana establishment shall submit an application to  
589 the Board on forms provided by the Board, accompanied by any fees required by the Board, and meet  
590 each of the following requirements, if applicable. Except as otherwise provided in this section, if the  
591 applicant is a business entity, every officer, director, manager, and general partner of the business entity  
592 shall be considered an applicant and shall meet each of the requirements of this section. An applicant  
593 shall disclose in or include with its application the names and addresses of the applicant and all natural  
594 persons and business entities having a direct or indirect financial interest in the applied-for license and  
595 the nature and extent of the financial interest held by each such person or entity and, if applicable, the  
596 nature and extent of any financial interest the person or entity has in any other license applied for or

597 issued under this chapter.

598 1. The applicant shall be 21 years of age or older and a resident of the Commonwealth.

599 2. If the applicant is a business entity, a majority of the shares, membership interests, partnership  
600 interests, or other equity ownership interests as applicable to the business entity shall be held or owned  
601 by natural persons who meet the requirements of this section or business entities whose officers,  
602 directors, managers, and general partners are all natural persons who meet the requirements of this  
603 section.

604 3. If the applicant is a business entity, the business entity shall be incorporated in the  
605 Commonwealth or otherwise formed or organized under the laws of the Commonwealth.

606 4. No applicant shall have had a license, permit, certificate, or other government-issued  
607 authorization issued in another jurisdiction allowing the cultivation, manufacture, testing, or sale of  
608 marijuana or marijuana products revoked.

609 5. No applicant shall have been convicted in any state, territory, or foreign jurisdiction of any  
610 felony, nor shall the applicant have been convicted of an offense in another state, territory, or foreign  
611 jurisdiction, which if committed in the Commonwealth would be a felony. Such conviction shall be  
612 treated as a felony conviction under this section regardless of its designation in the other state, territory,  
613 or foreign jurisdiction. For determining the applicability of this subdivision:

614 a. The applicant shall submit fingerprints and personal descriptive information to the Board.

615 b. The Board shall forward the personal descriptive information along with the applicant's  
616 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for  
617 the purpose of obtaining a national criminal history record information check regarding such applicant.  
618 The cost of the fingerprinting and criminal history record information check shall be paid by the  
619 applicant.

620 c. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification  
621 that no record exists, shall make a report to the Board.

622 d. If an applicant is denied a license because of the information appearing in his criminal history



623 record, the Board shall notify the applicant that information obtained from the Central Criminal Records  
624 Exchange contributed to such denial. The information shall not be disseminated except as provided for  
625 in this section.

626 6. The applicant shall not be a manufacturer, distributor, or retailer of alcoholic beverages  
627 licensed under Chapter 2 (§ 4.1-200 et seq.) of Title 4.1.

628 B. Any application filed hereunder shall be verified by the oath or affirmation of the applicant, or  
629 if the applicant is a business entity, every officer, director, manager, and general partner of the business  
630 entity, that all of the information contained therein is true. Any person who knowingly makes a false  
631 statement to the Board for the purposes of obtaining a license under this chapter is guilty of a Class 4  
632 felony. The Board shall revoke the license of a licensee if, subsequent to the issuance of the license, the  
633 Board determines that the licensee knowingly or recklessly made a false statement of material fact to the  
634 Board in applying for the license.

635 **§ 3.2-4130. Notice to localities.**

636 The Board shall promptly notify the local governing body of each license application through the  
637 county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall  
638 submit objections to the granting of a license within 30 days of the filing of the application.

639 **§ 3.2-4131. Multiple licenses awarded to one person permitted; exceptions.**

640 A person shall be permitted to possess one or any combination of the following licenses:  
641 marijuana cultivation facility license, marijuana manufacturing facility license, or retail marijuana store  
642 license. However, no licensee who has been issued either a marijuana cultivation facility license,  
643 marijuana manufacturing facility license, or retail marijuana store license shall be issued a marijuana  
644 testing facility license or have any interest in a marijuana testing facility licensee. Additionally, no  
645 licensee who has been issued a marijuana testing facility license shall be issued a marijuana cultivation  
646 facility license, marijuana manufacturing facility license, or retail marijuana store license or have any  
647 interest in a marijuana cultivation facility licensee, marijuana manufacturing facility licensee, or retail  
648 marijuana store licensee. For purposes of this section, "interest" means an equity ownership interest or a

649 partial equity ownership interest or any other type of financial interest, including but not limited to being  
650 an investor or serving in a management position.

651 **§ 3.2-4132. Each license separate; posting; expiration.**

652 A. Each license granted by the Board to an applicant under this chapter is separate and distinct  
653 from any other license issued by the Board to that same applicant under this chapter.

654 B. Each license granted by the Board shall designate the place where the business of the licensee  
655 will be carried out.

656 C. Each license shall be posted in a location conspicuous to the public at the place where the  
657 licensee carries out the business for which the license is granted.

658 D. The privileges conferred by any license granted by the Board shall continue until the last day  
659 of the twelfth month next ensuing or the last day of the designated month and year of expiration, except  
660 the license may be sooner terminated for any cause for which the Board would be entitled to refuse to  
661 grant a license or by operation of law, voluntary surrender, or order of the Board.

662 E. The Board may grant licenses for one year or for multiple years, not to exceed three years.  
663 Qualifications for a multiyear license shall be determined on the basis of criteria established by the  
664 Board. Fees for multiyear licenses shall not be refundable.

665 **§ 3.2-4133. Licensee shall maintain possession of premises.**

666 As a condition of licensure, a licensee shall at all times maintain possession of the licensed  
667 premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a  
668 lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of  
669 the premises. If the licensee fails to maintain possession of the licensed premises, the license shall be  
670 revoked by the Board.

671 **§ 3.2-4134. Conditions under which Board may refuse to grant licenses.**

672 The Board may refuse to grant any license if it has reasonable cause to believe that:

673 1. The applicant or, if the applicant is a business entity, any officer, director, manager, or general  
674 partner of the business entity:

- 675 a. Is not 21 years of age or older;
- 676 b. Is not a resident of the Commonwealth;
- 677 c. Has been convicted in any state, territory, or foreign jurisdiction of any felony or convicted of  
678 an offense in another state, territory, or foreign jurisdiction, which if committed in the Commonwealth  
679 would be a felony. Such conviction shall be treated as a felony conviction under this subsection  
680 regardless of its designation in the other state, territory, or foreign jurisdiction.
- 681 d. Is not a person of good moral character and repute;
- 682 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have  
683 ownership interests in the business that have not been disclosed;
- 684 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the  
685 business proposed to be licensed;
- 686 g. Has misrepresented a material fact in applying to the Board for a license;
- 687 h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or  
688 governmental agency or authority, by making or filing any report, document, or tax return required by  
689 statute or regulation that is fraudulent or contains a false representation of a material fact or has willfully  
690 deceived or attempted to deceive the Board, or any federal, state, or local government or governmental  
691 agency or authority, by making or maintaining business records required by statute or regulation that are  
692 false or fraudulent; or
- 693 i. Is a member or employee of the Board.
- 694 2. The place to be occupied by the applicant:
- 695 a. Does not conform to the requirements of the governing body of the county, city, or town in  
696 which such place is located with respect to sanitation, health, construction, or equipment or to any  
697 similar requirements established by the laws of the Commonwealth or by Board regulation;
- 698 b. Is so located that granting a license and operation thereunder by the applicant would result in a  
699 violation of this chapter or Board regulations or a violation of the laws of the Commonwealth or local  
700 ordinances relating to peace and good order;

701 c. Is so located with respect to any church, mosque, or synagogue; hospital; public, private, or  
702 parochial school or institution of higher education; public or private playground or other similar  
703 recreational facility; or state, local, or federal government-operated facility that the operation of such  
704 place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs  
705 of such facilities or institutions; or

706 d. Is so located with respect to any residence or residential area that the operation of such place  
707 under such license will adversely affect real property values or substantially interfere with the usual  
708 quietude and tranquility of such residence or residential area.

709 3. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any  
710 political subdivision thereof that warrants refusal by the Board to grant any license.

711 4. The Board is not authorized under this chapter to grant such license.

712 **§ 3.2-4135. Conditions under which the Board shall refuse to grant licenses.**

713 The Board shall refuse to grant any license to any member or employee of the Board or to any  
714 corporation or other business entity in which such member or employee is a stockholder or has any other  
715 economic interest.

716 Whenever any other elected or appointed official of the Commonwealth or any political  
717 subdivision thereof applies for such a license or continuance thereof, he shall state on the application the  
718 official position he holds, and whenever a corporation or other business entity in which any such official  
719 is a stockholder or has any other economic interest applies for such a license, it shall state on the  
720 application the full economic interests of each such official in such corporation or other business entity.

721 **§ 3.2-4136. Hearing for refusal to grant licenses; Administrative Process Act.**

722 The action of the Board in granting or in refusing to grant any license shall be subject to review  
723 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Review shall be limited to the  
724 evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have  
725 the right to appeal to the Court of Appeals from any order of the court.

726 **§ 3.2-4137. Grounds for which Board may suspend or revoke licenses.**

- 727 The Board may suspend or revoke any license if it has reasonable cause to believe that:
- 728 1. The licensee or, if the licensee is a business entity, any officer, director, manager, or general
- 729 partner of the business entity:
- 730 a. Has misrepresented a material fact in applying to the Board for such license;
- 731 b. Within the five years immediately preceding the date of the hearing held in accordance with §
- 732 3.2-4139, has (i) been convicted in any state, territory, or foreign jurisdiction of a violation of any law,
- 733 ordinance, or regulation, applicable to the cultivation, manufacture, sale, or testing of marijuana or
- 734 marijuana products; (ii) violated any provision of Article 7 (§ 3.2-4159 et seq.); (iii) violated or failed or
- 735 refused to comply with any regulation or order of the Board; or (iv) failed or refused to comply with any
- 736 of the conditions or restrictions of the license granted by the Board;
- 737 c. Has been convicted in any state, territory, or foreign jurisdiction of any felony or convicted of
- 738 an offense in another state, territory, or foreign jurisdiction, which if committed in the Commonwealth
- 739 would be a felony. Such conviction shall be treated as a felony conviction under this subsection
- 740 regardless of its designation in the other state, territory, or foreign jurisdiction;
- 741 d. Is not the legitimate owner of the business conducted under the license granted by the Board or
- 742 other persons have ownership interests in the business that have not been disclosed;
- 743 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
- 744 conducted under the license granted by the Board;
- 745 f. Has maintained the licensed premises in an unsanitary condition;
- 746 g. Knowingly employs in the business conducted under such license, as agent or employee, any
- 747 person who has been convicted in any state, territory, or foreign jurisdiction of a felony or convicted of
- 748 an offense in another state, territory, or foreign jurisdiction, which if committed in the Commonwealth
- 749 would be a felony, related to the cultivation, manufacture, sale, or testing of marijuana or marijuana
- 750 products. Such conviction shall be treated as a felony conviction under this subsection regardless of its
- 751 designation in the other state, territory, or foreign jurisdiction;
- 752 h. Has allowed any person to consume upon the licensed premises any marijuana or marijuana

753 products except as provided under this chapter; or  
754 i. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has  
755 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or  
756 use controlled substances, imitation controlled substances, drug paraphernalia, or controlled  
757 paraphernalia as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.)  
758 of Chapter 7 of Title 18.2, and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in  
759 violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 7  
760 of this chapter or Article 1 or 1.1 of Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of  
761 this subdivision shall also apply to any conduct related to the operation of the licensed business that  
762 facilitates the commission of any of the offenses set forth herein.

763 2. The place occupied by the licensee:

764 a. Does not conform to the requirements of the governing body of the county, city, or town in  
765 which such establishment is located, with respect to sanitation, health, construction, or equipment, or to  
766 any similar requirements established by the laws of the Commonwealth or by Board regulations; or

767 b. Has been adjudicated a common nuisance under § 18.2-258.

768 **§ 3.2-4138. Grounds for which Board shall suspend or revoke licenses.**

769 The Board shall suspend or revoke any license if it finds that a licensee has defrauded or  
770 attempted to defraud the Board, or any federal, state, or local government or governmental agency or  
771 authority, by making or filing any report, document, or tax return required by statute or regulation that is  
772 fraudulent or contains a willful or knowing false representation of a material fact or has willfully  
773 deceived or attempted to deceive the Board, or any federal, state, or local government or governmental  
774 agency or authority, by making or maintaining business records required by statute or regulation that are  
775 false or fraudulent.

776 **§ 3.2-4139. Suspension or revocation of licenses; notice and hearings; imposition of**  
777 **penalties.**

778 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or

779 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the  
780 Administrative Process Act.

781 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the  
782 licensee, permit the licensee to inspect, copy, or photograph all (i) written or recorded statements made  
783 by the licensee or copies thereof or the substance of any oral statements made by the licensee or a  
784 previous or present employee of the licensee to any law-enforcement officer, the existence of which is  
785 known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding  
786 under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects,  
787 buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of  
788 the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this  
789 chapter against the licensee. In addition, any subpoena for the production of documents issued to any  
790 person at the request of the licensee or the Board pursuant to § 3.2-4123 shall provide for the production  
791 of the documents sought within 10 working days, notwithstanding anything to the contrary in § 3.2-  
792 4123.

793 If the Board fails to provide for inspection, copying, or photographing under this section for the  
794 licensee after a written request, the Board shall be prohibited from introducing into evidence any items  
795 the licensee would have lawfully been entitled to inspect, copy, or photograph under this section.

796 The action of the Board in suspending or revoking any license shall be subject to judicial review  
797 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the  
798 entire evidential record of the proceedings provided by the Board in accordance with the Administrative  
799 Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding §  
800 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed, or modified by  
801 such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in  
802 any such case.

803 B. In suspending any license, the Board may impose, as a condition precedent to the removal of  
804 such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the

805 Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may  
806 impose and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil  
807 penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the  
808 date of the violation or \$5,000 for the second violation occurring within five years immediately  
809 preceding the date of the second violation. However, if the violation involved selling marijuana or  
810 marijuana products to a person prohibited from purchasing marijuana or marijuana products or allowing  
811 consumption of marijuana or marijuana products by underage or intoxicated persons, the Board may  
812 impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years  
813 immediately preceding the date of the violation and \$6,000 for a second violation occurring within five  
814 years immediately preceding the date of the second violation in lieu of such suspension or any portion  
815 thereof, or both. Upon making a finding that aggravating circumstances exist, the Board may also  
816 impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$10,000 in  
817 investigating the licensee and in holding the proceeding resulting in the violation in addition to any  
818 suspension or civil penalty incurred.

819 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation  
820 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept a  
821 consent agreement as authorized in subdivision 2 of § 3.2-4123. The notice shall advise the licensee or  
822 applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any  
823 right to a hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c) either  
824 (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of  
825 the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of  
826 suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

827 D. The Board shall by regulation or written order:

828 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an  
829 initial hearing;

830 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu



831 of suspension may be accepted for a first offense occurring within three years immediately preceding the  
832 date of the violation;

833 3. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a  
834 license and the civil charge acceptable in lieu of such suspension; and

835 4. Establish a schedule of offenses for which any penalty may be waived upon a showing that the  
836 licensee has had no prior violations within five years immediately preceding the date of the violation. No  
837 waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this  
838 chapter or Board regulations.

839 **§ 3.2-4140. Marijuana cultivation facility license.**

840 A. The Board may issue marijuana cultivation facility licenses, which shall authorize the licensee  
841 to purchase marijuana plants and seeds from other marijuana cultivation facilities; to cultivate, label, and  
842 package retail marijuana on the premises approved by the Board; to sell retail marijuana to marijuana  
843 manufacturing facilities, to retail marijuana stores, and to other marijuana cultivation facilities; and to  
844 sell marijuana plants and seeds to other marijuana cultivation facilities and immature marijuana plants  
845 and seedlings to retail marijuana stores.

846 B. In accordance with the requirements of § 3.2-4127, a marijuana cultivation facility licensee  
847 shall track the retail marijuana it cultivates from immature marijuana plant to the point at which the  
848 marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a  
849 marijuana manufacturing facility, a marijuana testing facility, a retail marijuana store, or another  
850 marijuana cultivation facility or is disposed of or destroyed.

851 **§ 3.2-4141. Marijuana manufacturing facility license.**

852 A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the  
853 licensee to purchase retail marijuana from a marijuana cultivation facility or another marijuana  
854 manufacturing facility; to manufacture, label, and package retail marijuana and retail marijuana products  
855 on the premises approved by the Board; and to sell retail marijuana and retail marijuana products to  
856 retail marijuana stores and to other marijuana manufacturing facilities.

857 B. Retail marijuana products shall be prepared on a licensed premises that is used exclusively for  
858 the manufacture and preparation of retail marijuana or retail marijuana products and using equipment  
859 that is used exclusively for the manufacture and preparation of retail marijuana products.

860 C. All areas within the licensed premises of a marijuana manufacturing facility in which retail  
861 marijuana and retail marijuana products are manufactured shall meet all sanitary standards specified in  
862 regulations adopted by the Board.

863 D. In accordance with the requirements of § 3.2-4127, a marijuana manufacturing facility  
864 licensee shall track the retail marijuana it uses in its manufacturing processes from the point the retail  
865 marijuana is delivered or transferred to the marijuana manufacturing facility by a marijuana cultivation  
866 facility to the point the retail marijuana or retail marijuana products produced using the retail marijuana  
867 is delivered or transferred to another marijuana manufacturing facility, a marijuana testing facility, or a  
868 retail marijuana store or is disposed of or destroyed.

869 **§ 3.2-4142. Marijuana testing facility license.**

870 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to  
871 develop, research, and test retail marijuana, retail marijuana products, and other substances.

872 B. A marijuana testing facility may develop, research, and test retail marijuana and retail  
873 marijuana products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the  
874 marijuana or marijuana product for personal use as authorized under § 3.2-4159.

875 C. Neither this chapter nor the regulations adopted pursuant to this chapter shall prevent a  
876 marijuana testing facility from developing, researching, or testing substances that are not retail marijuana  
877 or retail marijuana products for that facility or for another person.

878 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and  
879 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for  
880 Standardization by a third-party accrediting body.

881 E. In accordance with the requirements of § 3.2-4127, a marijuana testing facility licensee shall  
882 track all retail marijuana and retail marijuana products it receives from a licensee for testing purposes

883 from the point at which the marijuana or marijuana products are delivered or transferred to the marijuana  
884 testing facility to the point at which the marijuana or marijuana products are disposed of or destroyed.

885 F. A person that has an interest in a marijuana testing facility license shall not have any interest  
886 in a licensed retail marijuana store, a licensed marijuana cultivation facility, or a licensed marijuana  
887 products manufacturer. A person that has an interest in a licensed retail marijuana store, a licensed  
888 marijuana cultivation facility, or a licensed marijuana products manufacturer shall not have an interest in  
889 a facility that has a marijuana testing facility license.

890 **§ 3.2-4143. Retail marijuana store license.**

891 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to  
892 purchase retail marijuana, including immature marijuana plants and seedlings, from a marijuana  
893 cultivation facility; to purchase retail marijuana and retail marijuana products from a marijuana  
894 manufacturing facility; and to sell retail marijuana and retail marijuana products, including immature  
895 marijuana plants, flowering marijuana plants, and seedlings, to consumers on the premises approved by  
896 the Board.

897 B. Retail marijuana stores shall be operated in accordance with the following provisions:

898 1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

899 2. A retail marijuana store shall be permitted to sell retail marijuana and retail marijuana  
900 products, including immature marijuana plants, flowering marijuana plants, and seedlings, to consumers  
901 only in a direct, face-to-face exchange. Such store shall not be permitted to sell marijuana, marijuana  
902 products, immature marijuana plants, flowering marijuana plants, and seedlings using:

903 a. An automated dispensing or vending machine;

904 b. A drive-through sales window;

905 c. An Internet-based sales platform; or

906 d. A delivery service.

907 3. No retail marijuana store shall be permitted to sell more than any of the following during a  
908 single transaction to one person:

- 909 a. One ounce of retail marijuana;  
910 b. Sixteen ounces of solid marijuana product;  
911 c. Seventy-two ounces of liquid marijuana product;  
912 d. Twelve immature marijuana plants; or  
913 e. Six flowering marijuana plants.

914 However, a retail marijuana store shall be permitted to sell unlimited seedlings to one person  
915 during a single transaction.

916 4. A retail marijuana store may sell any other consumable or nonconsumable products that it is  
917 otherwise permitted by law to sell, excluding tobacco or alcohol.

918 5. No retail marijuana store shall:

919 a. Give away any retail marijuana or retail marijuana products, including immature marijuana  
920 plants, flowering marijuana plants, or seedlings; or

921 b. Sell retail marijuana or retail marijuana products, including immature marijuana plants,  
922 flowering marijuana plants, and seedlings, to any person when at the time of such sale the licensee or the  
923 agent or employee of the licensee knows or has reason to believe that the person to whom the sale is  
924 made is intoxicated.

925 6. In accordance with the requirements of § 3.2-4127, a retail marijuana store licensee shall track  
926 all retail marijuana and retail marijuana products from the point at which the retail marijuana or retail  
927 marijuana products are delivered or transferred to the retail marijuana store by a marijuana cultivation  
928 facility or a marijuana manufacturing facility to the point at which the retail marijuana or retail  
929 marijuana products are sold to a consumer, delivered or transferred to a marijuana testing facility, or  
930 disposed of or destroyed.

931 **§ 3.2-4144. To whom privileges conferred by licenses extend; liability for violations of law.**

932 The privilege of any licensee to sell retail marijuana or retail marijuana products shall extend to  
933 such licensee and to all agents or employees of such licensee for the purpose of selling retail marijuana  
934 or retail marijuana products under such license. The licensee may be held liable for any violation of this

935 chapter or any Board regulation committed by such agents or employees in connection with their  
936 employment.

937 **§ 3.2-4145. Use or consumption of marijuana or marijuana products on premises of licensee**  
938 **by licensee, agent, or employee.**

939 Neither marijuana nor marijuana products may be used or consumed on the premises of a  
940 licensee by the licensee or any agent or employee of the licensee, except for certain sampling for quality  
941 control purposes that may be permitted by Board regulation.

942 Article 3.

943 Local Regulation of Marijuana Establishments.

944 **§ 3.2-4146. Local regulation of marijuana establishments generally.**

945 This chapter shall not be interpreted to supersede or limit the authority of a locality to adopt and  
946 enforce local ordinances to regulate businesses licensed under this chapter, including local zoning and  
947 land use requirements and business license requirements, or to completely prohibit the establishment or  
948 operation of one or more types of businesses licensed under this chapter within the locality.

949 If a locality chooses to permit the establishment or operation of one or more types of businesses  
950 licensed under this chapter within the locality, the locality may adopt an ordinance providing licensing  
951 requirements applicable to marijuana establishments within the locality, which may include provisions  
952 establishing a local licensing fee schedule.

953 **§ 3.2-4147. Use or consumption of marijuana or marijuana products on premises of**  
954 **licensed retail marijuana store.**

955 In accordance with the provisions of § 3.2-4163, a locality may allow for the use or consumption  
956 of marijuana or marijuana products on the premises of a licensed retail marijuana store if:

957 1. Access to the area where marijuana or marijuana product use or consumption is allowed is  
958 restricted to persons 21 years of age or older;

959 2. Marijuana or marijuana product use or consumption is not visible from any public place or  
960 non-age-restricted area; and

961 3. The sale or consumption of alcohol and tobacco is not permitted on the premises.

962 Article 4.

963 Health and Safety Requirements.

964 **§ 3.2-4148. Board to establish regulations for retail marijuana and retail marijuana**  
965 **products testing.**

966 Subject to the requirements of § 3.2-4149, the Board shall establish a testing program for retail  
967 marijuana and retail marijuana products. Except as otherwise provided in this article or otherwise  
968 provided by law, the testing program shall require a licensee, prior to selling or distributing retail  
969 marijuana or a retail marijuana product to a consumer or to another licensee, to submit a representative  
970 sample of the retail marijuana or retail marijuana product, not to exceed 10 percent of the total harvest or  
971 batch, to a licensed marijuana testing facility for testing to ensure that the retail marijuana or retail  
972 marijuana product does not exceed the maximum level of allowable contamination for any contaminant  
973 that is injurious to health and for which testing is required and to ensure correct labeling. The Board  
974 shall adopt regulations (i) establishing a testing program pursuant to this section; (ii) establishing  
975 acceptable testing and research practices, including regulations relating to testing practices, methods, and  
976 standards; quality control analysis; equipment certification and calibration; marijuana testing facility  
977 recordkeeping, documentation, and business practices; disposal of used, unused, and waste retail  
978 marijuana and retail marijuana products; and reporting of test results; (iii) identifying the types of  
979 contaminants that are injurious to health for which retail marijuana and retail marijuana products shall be  
980 tested under this article; and (iv) setting the maximum level of allowable contamination for each  
981 contaminant.

982 **§ 3.2-4149. Mandatory testing; scope; recordkeeping; notification; additional testing not**  
983 **required; required destruction.**

984 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a  
985 consumer or to another licensee under this chapter unless a representative sample of the retail marijuana  
986 or retail marijuana product has been tested pursuant to this article and the regulations adopted pursuant

987 to this article and such mandatory testing has demonstrated that (i) the retail marijuana or retail  
988 marijuana product does not exceed the maximum level of allowable contamination for any contaminant  
989 that is injurious to health and for which testing is required and (ii) the labeling on the retail marijuana or  
990 retail marijuana product is correct.

991 B. Mandatory testing of retail marijuana and retail marijuana products under this section shall  
992 include testing for:

- 993 1. Residual solvents, poisons, and toxins;
- 994 2. Harmful chemicals;
- 995 3. Dangerous molds and mildew;
- 996 4. Harmful microbes, including but not limited to Escherichia coli and Salmonella;
- 997 5. Pesticides, fungicides, and insecticides; and
- 998 6. THC potency, homogeneity, and cannabinoid profiles to ensure correct labeling.

999 Testing shall be performed on the final form in which the retail marijuana or retail marijuana  
1000 product will be consumed.

1001 C. A licensee shall maintain a record of all mandatory testing that includes a description of the  
1002 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the  
1003 marijuana testing facility, and the results of the mandatory test.

1004 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested  
1005 retail marijuana or retail marijuana product exceeds the maximum level of allowable contamination for  
1006 any contaminant that is injurious to health and for which testing is required, the marijuana testing facility  
1007 shall immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana  
1008 product and within 30 days of completing the test shall notify the Department of the test results.

1009 A marijuana testing facility is not required to notify the Department of the results of any test:

- 1010 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee  
1011 pursuant to this section that demonstrates that the marijuana or marijuana product does not exceed the  
1012 maximum level of allowable contamination for any contaminant that is injurious to health and for which

1013 testing is required;

1014 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for  
1015 research and development purposes only, so long as the licensee notifies the marijuana testing facility  
1016 prior to the performance of the test that the testing is for research and development purposes only; or

1017 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is  
1018 not a licensee.

1019 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another  
1020 licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in  
1021 accordance with this article and regulations adopted pursuant to this article if the following conditions  
1022 are met:

1023 1. The retail marijuana or retail marijuana product has previously undergone testing in  
1024 accordance with this article and regulations adopted pursuant to this article at the direction of another  
1025 licensee and such testing demonstrated that the retail marijuana or retail marijuana product does not  
1026 exceed the maximum level of allowable contamination for any contaminant that is injurious to health  
1027 and for which testing is required;

1028 2. The mandatory testing process and the test results for the retail marijuana or retail marijuana  
1029 product are documented in accordance with the requirements of this article and all applicable regulations  
1030 adopted pursuant to this article;

1031 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the  
1032 retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana  
1033 product to another licensee or to a consumer can be easily identified; and

1034 4. Since the performance of the prior testing under subsection A, the retail marijuana or retail  
1035 marijuana product has not undergone any further processing, manufacturing, or alteration.

1036 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail  
1037 marijuana products whose testing samples indicate noncompliance with the health and safety standards  
1038 required by this article and the regulations adopted by the Board pursuant to this article, unless remedial



1039 measures can bring the retail marijuana or retail marijuana products into compliance with such required  
1040 health and safety standards.

1041 **§ 3.2-4150. Labeling and packaging requirements; prohibitions.**

1042 A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a  
1043 consumer in accordance with the provisions of this chapter shall be labeled with the following  
1044 information:

1045 1. Identification of the type of marijuana or marijuana product and the date of cultivation,  
1046 manufacturing, and packaging;

1047 2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility,  
1048 and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated,  
1049 manufactured, and offered for sale, as applicable;

1050 3. A statement of the net weight of the retail marijuana or retail marijuana product;

1051 4. Information concerning (i) pharmacologically active ingredients, including  
1052 tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other  
1053 cannabinoid amount in milligrams per serving, the total servings per package, and the THC and other  
1054 cannabinoid amount in milligrams for the total package; and (iii) information about the potency of the  
1055 THC and other cannabinoid content;

1056 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

1057 6. Instructions on usage;

1058 7. For retail marijuana products, a list of ingredients and possible allergens and a recommended  
1059 use by date or expiration date;

1060 8. For edible retail marijuana products, a nutritional fact panel;

1061 9. The following statements, prominently displayed in bold print and in a clear and legible  
1062 fashion:

1063 a. For retail marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS  
1064 MARIJUANA. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY

1065 ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER.  
1066 MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL.  
1067 CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE  
1068 MACHINERY. PLEASE USE EXTREME CAUTION."

1069 b. For retail marijuana products: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS  
1070 MARIJUANA. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA  
1071 PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR  
1072 OLDER. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL.  
1073 CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE  
1074 MACHINERY. PLEASE USE EXTREME CAUTION."; and

1075 10. Any other information required by Board regulations.

1076 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a  
1077 consumer in accordance with the provisions of this chapter shall be packaged in the following manner:

1078 1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant, tamper-  
1079 evident, and resealable packaging that is opaque or shall be placed at the final point of sale to a  
1080 consumer in child-resistant, tamper-evident, and resealable packaging that is opaque;

1081 2. Packaging for multi-serving liquid marijuana products shall include an integral measurement  
1082 component; and

1083 3. Packaging shall comply with any other requirements imposed by Board regulations.

1084 C. No retail marijuana or retail marijuana products to be sold or offered for sale by a licensee to a  
1085 consumer in accordance with the provisions of this chapter shall:

1086 1. Be labeled or packaged in violation of a federal trademark law or regulation;

1087 2. Be labeled or packaged in a manner that is specifically designed to appeal particularly to  
1088 persons under 21 years of age;

1089 3. Be labeled or packaged in a manner that obscures identifying information on the label;

1090 4. Be labeled or packaged using a false or misleading label;

1091 5. Be sold or offered for sale using a label or packaging that depicts a human, animal, or fruit; or  
1092 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed  
1093 by Board regulations.

1094 **§ 3.2-4151. Advertising and marketing restrictions.**

1095 A. As used in this section, unless the context requires a different meaning:

1096 "Advertisement" includes any written or verbal statement, illustration, or depiction that is  
1097 calculated to induce sales of retail marijuana or retail marijuana products, including any written, printed,  
1098 graphic, or other material, any billboard, sign, or other outdoor display, any publication, or any radio or  
1099 television broadcast.

1100 "Health-related statement" means any statement related to health and includes statements of a  
1101 curative or therapeutic nature that, expressly or by implication, suggest a relationship between the  
1102 consumption of retail marijuana or retail marijuana products and health benefits or effects on health.

1103 "Market" or "marketing" means any act or process of promoting or selling retail marijuana or  
1104 retail marijuana products, including point-of-sale advertising, and development of products specifically  
1105 designed to appeal to certain demographics.

1106 B. No person shall advertise in or send any advertising matter into the Commonwealth about or  
1107 concerning retail marijuana or retail marijuana products other than those that may be legally  
1108 manufactured in the Commonwealth under this chapter or Article 4.2 (§ 54.1-3442.5 et seq.) of the Drug  
1109 Control Act.

1110 C. Advertising or marketing used by or on behalf of a licensee:

1111 1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a  
1112 minimum, the licensee's license number;

1113 2. Shall not be misleading, deceptive, or false;

1114 3. Shall not have a high likelihood of reaching persons under 21 years of age and shall not be  
1115 designed to appeal particularly to persons under 21 years of age; and

1116 4. Shall comply with any other provisions imposed by Board regulations.

1117 D. Any advertising or marketing involving direct, individualized communication or dialogue  
1118 controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years  
1119 of age or older before engaging in that communication or dialogue controlled by the licensee. For  
1120 purposes of this subsection, that method of age affirmation may include user confirmation, birth date  
1121 disclosure, or any other similar registration method.

1122 E. No licensee shall give away any amount of retail marijuana or retail marijuana products, or  
1123 any marijuana accessories, as part of a business promotion or other commercial activity.

1124 F. No licensee shall include on the label of any retail marijuana or retail marijuana product or  
1125 publish or disseminate advertising or marketing containing any health-related statement that is untrue in  
1126 any particular manner or tends to create a misleading impression as to the effects on health of marijuana  
1127 consumption.

1128 G. Any outdoor advertising of retail marijuana or retail marijuana products shall comply with the  
1129 following:

1130 1. No outdoor retail marijuana or retail marijuana product advertising shall be placed within  
1131 1,000 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge  
1132 of the sign face upon which the advertisement is placed to the nearest edge of a building or structure  
1133 located on the real property of (i) a church, mosque, synagogue, or other place of religious worship; (ii) a  
1134 public, private, or parochial school or an institution of higher education; (iii) a public or private  
1135 playground or similar recreational facility; or (iv) a dwelling used for residential use. However, if there  
1136 is no building or structure on a playground or similar recreational facility, the measurement shall be from  
1137 the nearest edge of the sign face upon which the advertisement is placed to the property line of such  
1138 playground or similar recreational facility.

1139 2. If at the time the advertisement was displayed, the advertisement was more than 1,000 feet  
1140 from (i) a church, mosque, synagogue, or other place of religious worship; (ii) a public, private, or  
1141 parochial school or an institution of higher education; (iii) a public or private playground or similar  
1142 recreational facility; or (iv) a dwelling used for residential use, but the circumstances changed such that

1143 the advertiser would otherwise be in violation of subdivision 1, the Board shall permit the advertisement  
1144 to remain as displayed for the remainder of the term of any written advertising contract but in no event  
1145 more than one year from the date of the change in circumstances.

1146 3. The Board may grant a permit authorizing a variance from the distance requirements of this  
1147 subsection upon a finding that the placement of retail marijuana and retail marijuana product advertising  
1148 on a sign will not unduly expose persons under 21 years of age to marijuana and marijuana product  
1149 advertising.

1150 4. Provided such signs are in compliance with local ordinances, the distance and zoning  
1151 requirements contained in this section shall not apply to signs placed by licensees upon the property on  
1152 which the licensed premises is located.

1153 5. Nothing in this section shall be construed to authorize billboard signs containing retail  
1154 marijuana or retail marijuana product advertising on property zoned agricultural or residential or on any  
1155 unzoned property. Nor shall this section be construed to authorize the erection of new billboard signs  
1156 containing retail marijuana or retail marijuana product advertising that would be prohibited under state  
1157 law or local ordinance.

1158 6. All lawfully erected outdoor retail marijuana or retail marijuana product signs shall comply  
1159 with the provisions of this chapter, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2  
1160 and regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any  
1161 outdoor retail marijuana or retail marijuana product directional sign located or to be located on highway  
1162 rights-of-way shall also be governed by and comply with the Integrated Directional Signing Program  
1163 administered by the Virginia Department of Transportation or its agents.

1164 H. No licensee may sponsor or cause to be sponsored any athletic, musical, artistic, or other  
1165 social or cultural event, or any entry or team in any event, in the brand name, logo, symbol, motto, or  
1166 any other indicia of product identification identical or similar to, or identifiable with, those used for any  
1167 brand of retail marijuana or retail marijuana products.

1168 I. The provisions of this section shall not apply to noncommercial speech.

1169 **§ 3.2-4152. Other health and safety requirements for edible marijuana products.**

1170 In addition to all other applicable provisions of this article, edible marijuana products to be sold  
1171 or offered for sale by a licensee to a consumer in accordance with this chapter:

1172 1. Shall be manufactured in a manner that results in the cannabinoid content within the product  
1173 being homogeneous throughout the product or throughout each element of the product that has a  
1174 cannabinoid content;

1175 2. Shall be manufactured in a manner that results in the amount of marijuana concentrate within  
1176 the product being homogeneous throughout the product or throughout each element of the product that  
1177 contains marijuana concentrate;

1178 3. Shall have a universal symbol stamped or embossed on each serving of the product;

1179 4. Shall not contain more than 100 milligrams of tetrahydrocannabinol (THC) per serving of the  
1180 product and shall not contain more than 100 milligrams of THC per package of the product;

1181 5. Shall not contain additives that are:

1182 a. Toxic or harmful to human beings;

1183 b. Specifically designed to make the product more addictive;

1184 c. Misleading to consumers; or

1185 d. Specifically designed to make the product appeal particularly to persons under 21 years of age;

1186 and

1187 6. Shall not involve the addition of marijuana to a trademarked food or drink product, except  
1188 when the trademarked product is used as a component of or ingredient in the edible retail marijuana  
1189 product and the edible retail marijuana product is not advertised or described for sale as containing the  
1190 trademarked product.

1191 **§ 3.2-4153. Health and safety regulations.**

1192 The Board shall adopt any additional labeling, packaging, or other health and safety regulations  
1193 that it deems necessary for retail marijuana and retail marijuana products to be sold or offered for sale by  
1194 a licensee to a consumer in accordance with this chapter. Regulations adopted pursuant to this section

1195 shall establish mandatory health and safety standards applicable to the cultivation of marijuana, the  
1196 manufacture of retail marijuana products, and the packaging and labeling of retail marijuana and retail  
1197 marijuana products sold by a licensee to a consumer. Such regulations shall address:

1198 1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail  
1199 marijuana products by licensees;

1200 2. Sanitary standards for marijuana establishments, including sanitary standards for the  
1201 manufacture of retail marijuana and retail marijuana products; and

1202 3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana  
1203 stores.

1204 Article 5.

1205 Home Cultivation of Marijuana for Personal Use.

1206 **§ 3.2-4154. Home cultivation of marijuana for personal use.**

1207 A. A person 21 years of age or older may cultivate up to three mature marijuana plants, three  
1208 immature marijuana plants, and an unlimited number of seedlings for personal use on a parcel or tract of  
1209 land:

1210 1. On which the person is domiciled;

1211 2. Owned by the person on which the person is not domiciled; or

1212 3. Not owned by the person and on which the person is not domiciled so long as the owner of the  
1213 parcel or tract of land permits, by written agreement, the cultivation and care of the marijuana plants on  
1214 the parcel or tract of land by such person.

1215 A person may cultivate marijuana plants and seedlings authorized under this section at multiple  
1216 locations so long as such cultivation activities otherwise meet all of the requirements of this section.

1217 B. A person who cultivates marijuana for personal use pursuant to this section shall:

1218 1. Ensure that the marijuana is not visible from a public way without the use of aircraft,  
1219 binoculars, or other optical aids;

1220 2. Take reasonable precautions to prevent unauthorized access by persons under 21 years of age;

1221 3. Attach to each mature marijuana plant and immature marijuana plant a legible tag that includes  
1222 the person's name, driver's license number or identification number, a notation that the marijuana plant is  
1223 being grown for personal use as authorized under this section, and if the cultivation is on a parcel or tract  
1224 of land owned by another person, the name of such owner; and

1225 4. Comply with all applicable local regulations relating to the home cultivation of marijuana for  
1226 personal use that have been adopted in accordance with subsection C.

1227 C. A locality may regulate the home cultivation of marijuana for personal use within the locality.

1228 1. A locality may, by ordinance, limit the total number of mature marijuana plants that may be  
1229 cultivated on any one parcel or tract of land within the locality, so long as that ordinance or regulation  
1230 allows for the cultivation of at least three mature marijuana plants, three immature marijuana plants, and  
1231 an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel  
1232 or tract of land.

1233 2. A locality may not entirely prohibit the home cultivation of marijuana for personal use within  
1234 the locality, restrict the areas within the locality in which home cultivation of marijuana for personal use  
1235 is allowed, or charge a licensing or other fee to a person relating to the home cultivation of marijuana for  
1236 personal use within the locality.

1237 **§ 3.2-4155. Home extraction of marijuana concentrate prohibited.**

1238 A person may not manufacture marijuana concentrate from home-cultivated marijuana. The  
1239 owner of a parcel or tract of land may not intentionally or knowingly allow another person to  
1240 manufacture marijuana concentrate from home-cultivated marijuana on such parcel or tract of land.

1241 **§ 3.2-4156. Violations; penalty.**

1242 A person who is convicted of a violation of any provision of this article is guilty of a Class 1  
1243 misdemeanor.

1244 Article 6.

1245 Retail Marijuana Tax.

1246 **§ 3.2-4157. State retail marijuana tax.**



1247 A. In addition to any taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, there  
1248 is hereby levied and imposed a tax on retail marijuana and retail marijuana products sold by a retail  
1249 marijuana store at a rate of 9.7 percent.

1250 B. The tax shall be administered and collected by the Department of Taxation in the same  
1251 manner and subject to the same penalties as provided for the state retail sales tax under § 58.1-603.

1252 C. The revenue generated and collected pursuant to the tax authorized under this section, less the  
1253 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

1254 1. Sixty-seven percent of the revenues shall be deposited into the general fund; and

1255 2. Thirty-three percent of the revenues shall be deposited into a special fund hereby created on  
1256 the books of the Comptroller under the name "Retail Marijuana Education Support Fund" (the Fund).  
1257 Moneys deposited in the Fund shall be used solely for purposes of public education. Such moneys shall  
1258 be appropriated as provided in the general appropriation act.

1259 **§ 3.2-4158. Counties and cities authorized to impose additional retail marijuana tax.**

1260 A. Any county or city is hereby authorized to levy and impose a tax on retail marijuana and retail  
1261 marijuana products sold by a retail marijuana store in such county or city at a rate not to exceed five  
1262 percent.

1263 B. Such tax shall be levied only if the tax is approved in a referendum within the county or city,  
1264 which shall be held in accordance with § 24.2-684 and initiated either by a resolution of the governing  
1265 body of the county or city or on the filing of a petition signed by a number of registered voters in the  
1266 county or city equal in number to at least 10 percent of the number of voters registered in the county or  
1267 city, as applicable on January 1 of the year in which the petition is filed with the court of such county or  
1268 city. The clerk of the circuit court shall publish notice of the election in a newspaper of general  
1269 circulation in the county or city once a week for three consecutive weeks prior to the election. If voters  
1270 affirm the levy of a local retail marijuana tax, the tax shall be effective in an amount and on such terms  
1271 as the governing body may by ordinance prescribe. If such resolution of the governing body or such  
1272 petition states for what projects or purposes the revenues collected from the tax are to be used, then the

1273 question on the ballot for the referendum shall include language stating the projects or purposes for  
1274 which the revenues collected from the tax are to be used.

1275 C. Any tax levied pursuant to this section shall be collected by the Department of Taxation in the  
1276 same manner and subject to the same penalties as provided for the state retail sales tax under § 58.1-603  
1277 and shall be distributed in the same manner as the local sales tax under § 58.1-605.

1278 Article 7.

1279 Prohibited Practices; Penalties; Procedural Matters.

1280 **§ 3.2-4159. Possession of retail marijuana and retail marijuana products by persons 21**  
1281 **years of age or older lawful.**

1282 Except as otherwise provided in this chapter and notwithstanding any other provision of law, a  
1283 person 21 years of age or older may lawfully possess retail marijuana or retail marijuana products.

1284 **§ 3.2-4160. Possession of retail marijuana and retail marijuana products by persons under**  
1285 **21 years of age prohibited; civil penalty.**

1286 A. It is unlawful for any person under 21 years of age to knowingly or intentionally possess retail  
1287 marijuana or retail marijuana products unless the substance was obtained directly from, or pursuant to, a  
1288 valid prescription or order of a practitioner while acting in the course of his professional practice, or  
1289 except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.). The attorney for the  
1290 Commonwealth or the county, city, or town attorney may prosecute such a case.

1291 Upon the prosecution of a person for violation of this section, ownership or occupancy of the  
1292 premises or vehicle upon or in which retail marijuana or retail marijuana products were found shall not  
1293 create a presumption that such person either knowingly or intentionally possessed such retail marijuana  
1294 or retail marijuana products.

1295 Any person who violates this section is subject to a civil penalty of no more than \$25. A violation  
1296 of this section is a civil offense. Any civil penalties collected pursuant to this section shall be deposited  
1297 into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.  
1298 Violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

1299 B. Any violation of this section shall be charged by summons. A summons for a violation of this  
1300 section may be executed by a law-enforcement officer when such violation is observed by such officer.  
1301 The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the  
1302 uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs  
1303 shall be assessed for violations of this section. A person's criminal history record information as defined  
1304 in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and  
1305 records of such charges or judgments shall not be reported to the Central Criminal Records Exchange.  
1306 However, if a violation of this section occurs while an individual is operating a commercial motor  
1307 vehicle as defined in § 46.2-341.4, such violation shall be reported to the Department of Motor Vehicles  
1308 and shall be included on such individual's driving record.

1309 C. The procedure for appeal and trial of any violation of this section shall be the same as  
1310 provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by  
1311 jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the  
1312 Commonwealth shall be required to prove its case beyond a reasonable doubt.

1313 D. The provisions of this section shall not apply to members of state, federal, county, city, or  
1314 town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as  
1315 handlers of dogs trained in the detection of controlled substances when possession of marijuana is  
1316 necessary for the performance of their duties.

1317 E. The provisions of this section involving retail marijuana products in the form of cannabis oil  
1318 as that term is defined in § 54.1-3408.3 shall not apply to any person who possesses such oil pursuant to  
1319 a valid written certification issued by a practitioner in the course of his professional practice pursuant to  
1320 § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or  
1321 disease, (ii) if such person is the parent or legal guardian of a minor or of an incapacitated adult as  
1322 defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if  
1323 such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition  
1324 or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an

1325 incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or  
1326 disease.

1327 F. No individual shall be subject to arrest or prosecution for possession of retail marijuana or  
1328 retail marijuana products pursuant to this section if:

1329 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,  
1330 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing  
1331 an overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains  
1332 emergency medical attention for such individual, by contemporaneously reporting such overdose to a  
1333 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a  
1334 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

1335 2. Such individual remains at the scene of the overdose or at any alternative location to which he  
1336 or the person requiring emergency medical attention has been transported until a law-enforcement  
1337 officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the  
1338 overdose or at the alternative location, then such individual shall cooperate with law enforcement as  
1339 otherwise set forth herein;

1340 3. Such individual identifies himself to the law-enforcement officer who responds to the report of  
1341 the overdose; and

1342 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a  
1343 result of the individual seeking or obtaining emergency medical attention.

1344 The provisions of this subsection shall not apply to any person who seeks or obtains emergency  
1345 medical attention for himself or another individual, or to a person experiencing an overdose when  
1346 another individual seeks or obtains emergency medical attention for him, during the execution of a  
1347 search warrant or during the conduct of a lawful search or a lawful arrest.

1348 This subsection does not establish protection from arrest or prosecution for any individual or  
1349 offense other than those listed in this section.

1350 No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later

1351 determined that the person arrested was immune from prosecution under this section.

1352 For purposes of this subsection, "overdose" means a life-threatening condition resulting from the  
1353 consumption or use of a controlled substance, alcohol, or any combination of such substances.

1354 G. When any juvenile is found to have committed a violation of subsection A, the disposition of  
1355 the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of  
1356 Title 16.1.

1357 H. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any  
1358 person, place, or thing solely on the basis of the odor of marijuana and no evidence discovered or  
1359 obtained pursuant to a violation of this subsection, including evidence discovered or obtained with the  
1360 person's consent, shall be admissible in any trial, hearing, or other proceeding.

1361 I. The provisions of subsection F shall not apply in any airport as defined in § 5.1-1 or if the  
1362 violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

1363 **§ 3.2-4161. Possession of non-retail marijuana and non-retail marijuana products**  
1364 **prohibited; civil penalty.**

1365 A. It is unlawful for any person to knowingly or intentionally possess non-retail marijuana or  
1366 non-retail marijuana products unless the substance was obtained directly from, or pursuant to, a valid  
1367 prescription or order of a practitioner while acting in the course of his professional practice, or except as  
1368 otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.). The attorney for the Commonwealth  
1369 or the county, city, or town attorney may prosecute such a case.

1370 Upon the prosecution of a person for violation of this section, ownership or occupancy of the  
1371 premises or vehicle upon or in which non-retail marijuana or non-retail marijuana products were found  
1372 shall not create a presumption that such person either knowingly or intentionally possessed such non-  
1373 retail marijuana or non-retail marijuana products.

1374 Any person who violates this section is subject to a civil penalty of no more than \$25. A violation  
1375 of this section is a civil offense. Any civil penalties collected pursuant to this section shall be deposited  
1376 into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

1377 Violations of this section by an adult shall be prepayable according to the procedures in § 16.1-69.40:2.

1378 B. Any violation of this section shall be charged by summons. A summons for a violation of this

1379 section may be executed by a law-enforcement officer when such violation is observed by such officer.

1380 The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the

1381 uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs

1382 shall be assessed for violations of this section. A person's criminal history record information as defined

1383 in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and

1384 records of such charges or judgments shall not be reported to the Central Criminal Records Exchange.

1385 However, if a violation of this section occurs while an individual is operating a commercial motor

1386 vehicle as defined in § 46.2-341.4, such violation shall be reported to the Department of Motor Vehicles

1387 and shall be included on such individual's driving record.

1388 C. The procedure for appeal and trial of any violation of this section shall be the same as

1389 provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by

1390 jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the

1391 Commonwealth shall be required to prove its case beyond a reasonable doubt.

1392 D. The provisions of this section shall not apply to members of state, federal, county, city, or

1393 town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as

1394 handlers of dogs trained in the detection of controlled substances when possession of marijuana is

1395 necessary for the performance of their duties.

1396 E. The provisions of this section involving non-retail marijuana products in the form of cannabis

1397 oil as that term is defined in § 54.1-3408.3 shall not apply to any person who possesses such oil pursuant

1398 to a valid written certification issued by a practitioner in the course of his professional practice pursuant

1399 to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the person's diagnosed condition or

1400 disease, (ii) if such person is the parent or legal guardian of a minor or of an incapacitated adult as

1401 defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if

1402 such person has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition

1403 or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an  
1404 incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or  
1405 disease.

1406 F. No individual shall be subject to arrest or prosecution for possession of non-retail marijuana or  
1407 non-retail marijuana products pursuant to this section if:

1408 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,  
1409 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing  
1410 an overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains  
1411 emergency medical attention for such individual, by contemporaneously reporting such overdose to a  
1412 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a  
1413 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

1414 2. Such individual remains at the scene of the overdose or at any alternative location to which he  
1415 or the person requiring emergency medical attention has been transported until a law-enforcement  
1416 officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the  
1417 overdose or at the alternative location, then such individual shall cooperate with law enforcement as  
1418 otherwise set forth herein;

1419 3. Such individual identifies himself to the law-enforcement officer who responds to the report of  
1420 the overdose; and

1421 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a  
1422 result of the individual seeking or obtaining emergency medical attention.

1423 The provisions of this subsection shall not apply to any person who seeks or obtains emergency  
1424 medical attention for himself or another individual, or to a person experiencing an overdose when  
1425 another individual seeks or obtains emergency medical attention for him, during the execution of a  
1426 search warrant or during the conduct of a lawful search or a lawful arrest.

1427 This subsection does not establish protection from arrest or prosecution for any individual or  
1428 offense other than those listed in this section.

1429 No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
1430 determined that the person arrested was immune from prosecution under this section.

1431 For purposes of this subsection, "overdose" means a life-threatening condition resulting from the  
1432 consumption or use of a controlled substance, alcohol, or any combination of such substances.

1433 G. When any juvenile is found to have committed a violation of subsection A, the disposition of  
1434 the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of  
1435 Title 16.1.

1436 H. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any  
1437 person, place, or thing solely on the basis of the odor of marijuana and no evidence discovered or  
1438 obtained pursuant to a violation of this subsection, including evidence discovered or obtained with the  
1439 person's consent, shall be admissible in any trial, hearing, or other proceeding.

1440 I. The provisions of subsection F shall not apply in any airport as defined in § 5.1-1 or if the  
1441 violation occurs in a commercial motor vehicle as defined in § 46.2-341.4.

1442 **§ 3.2-4162. Underage possession of retail marijuana and retail marijuana products;**  
1443 **possession of non-retail marijuana or non-retail marijuana products; limits on dissemination of**  
1444 **criminal history record information; prohibited practices by employers, educational institutions,**  
1445 **and state and local governments; penalty.**

1446 A. No records relating to the arrest, criminal charge, or conviction of a person for a violation of §  
1447 3.2-4160 or 3.2-4161 or former § 18.2-250.1, including any violation charged under former § 18.2-250.1  
1448 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records  
1449 Exchange shall be open for public inspection or otherwise disclosed, provided that such records may be  
1450 disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or  
1451 purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local  
1452 pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-  
1453 sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation  
1454 of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to



1455 aid local community-based probation services agencies established pursuant to the Comprehensive  
1456 Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or  
1457 servicing adult local-responsible offenders and all court service units servicing juvenile delinquent  
1458 offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated  
1459 Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information  
1460 incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the  
1461 discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any  
1462 full-time or part-time employee of the State Police, a police department, or a sheriff's office that is a part  
1463 of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for  
1464 the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the  
1465 Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to  
1466 the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time  
1467 employee of the State Police or a police department or sheriff's office that is a part of or administered by  
1468 the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-  
1469 time or part-time employment with the State Police or a police department or sheriff's office that is a part  
1470 of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health  
1471 Commissioner or his designee for the purpose of screening any person who applies to be a volunteer  
1472 with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any  
1473 full-time or part-time employee of the Department of Forensic Science for the purpose of screening any  
1474 person for full-time or part-time employment with the Department of Forensic Science; (xi) to the chief  
1475 law-enforcement officer of a locality, or his designee who shall be an individual employed as a public  
1476 safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-  
1477 389 for the purpose of screening any person who applies to be a volunteer with or an employee of an  
1478 emergency medical services agency as provided in § 32.1-111.5; and (xii) to any full-time or part-time  
1479 employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any  
1480 medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of

1481 the Federal Motor Carrier Safety Administration.

1482 B. An employer or educational institution shall not, in any application, interview, or otherwise,  
1483 require an applicant for employment or admission to disclose information concerning any arrest,  
1484 criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or  
1485 conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer  
1486 to any question concerning any arrest, criminal charge, or conviction, include a reference to or  
1487 information concerning any arrest, criminal charge, or conviction when the record relating to such arrest,  
1488 criminal charge, or conviction is not open for public inspection pursuant to subsection A.

1489 C. Agencies, officials, and employees of the state and local governments shall not, in any  
1490 application, interview, or otherwise, require an applicant for a license, permit, registration, or  
1491 governmental service to disclose information concerning any arrest, criminal charge, or conviction  
1492 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
1493 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
1494 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,  
1495 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is  
1496 not open for public inspection pursuant to subsection A. Such an application may not be denied solely  
1497 because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or  
1498 conviction.

1499 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each  
1500 violation.

1501 **§ 3.2-4163. Public consumption prohibited; civil penalty.**

1502 A. Except as otherwise provided in this chapter and notwithstanding any other provision of law, a  
1503 person may use or consume retail marijuana or retail marijuana products only if that person is:

- 1504 1. In a private residence in which the person is domiciled, including the curtilage thereof;  
1505 2. On private property on which the person is not domiciled, provided that such property is not  
1506 generally accessible by the public and the person is explicitly permitted to use or consume marijuana or

1507 marijuana products on the property by the owner or lessee of the property; or  
1508 3. On the premises of a licensed retail marijuana store if such store has been permitted to allow  
1509 the use or consumption of marijuana or marijuana products in designated areas of the store by a locality  
1510 pursuant to § 3.2-4147.

1511 B. Any person who violates this section is subject to a civil penalty of no more than \$25. A  
1512 violation of this section is a civil offense. Any civil penalties collected pursuant to this section shall be  
1513 deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-  
1514 251.02.

1515 **§ 3.2-4164. Illegal cultivation or manufacture of marijuana or marijuana products; penalty.**

1516 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is illegal for any person  
1517 to cultivate or manufacture, or possess with intent to cultivate or manufacture, marijuana or marijuana  
1518 products without being licensed under this chapter to cultivate or manufacture marijuana or marijuana  
1519 products.

1520 A person who violates this section is guilty of a felony punishable by imprisonment of not less  
1521 than five nor more than 30 years and a fine not to exceed \$10,000.

1522 B. When a person is convicted of a third or subsequent felony offense under this section and it is  
1523 alleged in the warrant, indictment, or information that he has been before convicted of two or more  
1524 felony offenses under this section or of substantially similar offenses in any other jurisdiction which  
1525 offenses would be felonies if committed in the Commonwealth, and such prior convictions occurred  
1526 before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to  
1527 imprisonment for life or for any period not less than five years, five years of which shall be a mandatory  
1528 minimum term of imprisonment to be served consecutively with any other sentence, and he shall be  
1529 fined not more than \$500,000.

1530 C. The provisions of this section prohibiting the cultivation of marijuana without obtaining a  
1531 license under this chapter shall not apply to persons who cultivate marijuana for personal use in  
1532 accordance with the provisions of Article 5 (§ 3.2-4154 et seq.).

1533 **§ 3.2-4165. Conspiracy to violate § 3.2-4164; penalty.**

1534 If two or more persons conspire together to do any act that is in violation of § 3.2-4164, and one  
1535 or more of these persons does any act to effect the object of the conspiracy, each of the parties to such  
1536 conspiracy is guilty of a Class 6 felony.

1537 **§ 3.2-4166. Illegal sale or distribution of marijuana and marijuana products; illegal**  
1538 **possession with intent to sell or distribute marijuana or marijuana products; penalties.**

1539 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is illegal for any person  
1540 to sell or distribute, or possess with the intent to sell or distribute, marijuana or marijuana products  
1541 without being licensed under this chapter to cultivate, manufacture, sell, or test retail marijuana or retail  
1542 marijuana products.

1543 B. Any person who violates this section with respect to:

1544 1. Not more than one ounce of marijuana is guilty of a Class 1 misdemeanor;

1545 2. More than one ounce but not more than five pounds of marijuana is guilty of a Class 5 felony;

1546 3. More than five pounds of marijuana is guilty of a felony punishable by imprisonment of not  
1547 less than five nor more than 30 years.

1548 There shall be a rebuttable presumption that a person who possesses no more than one ounce of  
1549 marijuana possesses it for personal use.

1550 C. When a person is convicted of a third or subsequent felony offense under this section and it is  
1551 alleged in the warrant, indictment, or information that he has been before convicted of two or more  
1552 felony offenses under this section or of substantially similar offenses in any other jurisdiction which  
1553 offenses would be felonies if committed in the Commonwealth, and such prior convictions occurred  
1554 before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to  
1555 imprisonment for life or for any period not less than five years, five years of which shall be a mandatory  
1556 minimum term of imprisonment to be served consecutively with any other sentence, and he shall be  
1557 fined not more than \$500,000.

1558 **§ 3.2-4167. Illegal gift of marijuana or marijuana products; penalties.**

1559 A. Except as otherwise provided by this chapter or otherwise provided by law, no person shall  
1560 give retail or non-retail marijuana or retail or non-retail marijuana products to any person.

1561 Any person who violates this subsection is subject to a civil penalty of no more than \$25. A  
1562 violation of this subsection is a civil offense. Any civil penalties collected pursuant to this section shall  
1563 be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-  
1564 251.02.

1565 B. Any person who gives, distributes, or possesses marijuana as an accommodation and not with  
1566 intent to profit thereby to an inmate of a state or local correctional facility as defined in § 53.1-1, or in  
1567 the custody of an employee thereof, is guilty of a Class 4 felony.

1568 C. Notwithstanding the provisions of this section or § 3.2-4166, a non-licensee shall be permitted  
1569 to give one ounce or less of retail marijuana or 16 ounces or less of solid retail marijuana product to a  
1570 personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device  
1571 to evade the restrictions set forth in this section or § 3.2-4166.

1572 **§ 3.2-4168. Distribution of marijuana to persons under 18 years of age prohibited;**  
1573 **penalties.**

1574 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person  
1575 who is at least 18 years of age to knowingly or intentionally (i) distribute marijuana to any person under  
1576 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to  
1577 assist in such distribution of marijuana. Any person violating this provision shall upon conviction be  
1578 imprisoned in a state correctional facility for a period not less than 10 or more than 50 years, and fined  
1579 not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving  
1580 one ounce or more of marijuana shall be a mandatory minimum sentence. Two years of the sentence  
1581 imposed for a conviction under this section involving less than one ounce of marijuana shall be a  
1582 mandatory minimum sentence.

1583 **§ 3.2-4169. Illegal manufacturing, distribution, sale, or possession of marijuana**  
1584 **concentrate; penalty.**

1585 No person shall manufacture, distribute, sell, or possess marijuana concentrate. A person who is  
1586 convicted of a violation of this section is guilty of a Class 1 misdemeanor.

1587 **§ 3.2-4170. Illegal manufacturing, distribution, sale, etc., of a mixture or substance**  
1588 **containing a detectable amount of non-retail marijuana; penalties.**

1589 A. Any person who manufactures, sells, gives, distributes, or possesses with the intent to  
1590 manufacture, sell, give, or distribute 100 kilograms or more of a mixture or substance containing a  
1591 detectable amount of non-retail marijuana is guilty of a felony punishable by a fine of not more than \$1  
1592 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum  
1593 sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person  
1594 does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did  
1595 not use violence or credible threats of violence or possess a firearm or other dangerous weapon in  
1596 connection with the offense or induce another participant in the offense to do so; (iii) the offense did not  
1597 result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader,  
1598 manager, or supervisor of others in the offense and was not engaged in a continuing criminal enterprise  
1599 as defined in subsection I of § 18.2-248; and (v) not later than the time of the sentencing hearing, the  
1600 person has truthfully provided to the Commonwealth all information and evidence the person has  
1601 concerning the offense or offenses that were part of the same course of conduct or of a common scheme  
1602 or plan, but the fact that the person has no relevant or useful other information to provide or that the  
1603 Commonwealth already is aware of the information shall not preclude a determination by the court that  
1604 the defendant has complied with this requirement.

1605 B. Any person who was the principal or one of several principal administrators, organizers, or  
1606 leaders of a continuing criminal enterprise as defined in subsection I of § 18.2-248 is guilty of a felony if  
1607 (i) the enterprise received at least \$100,000 but less than \$250,000 in gross receipts during any 12-month  
1608 period of its existence from the manufacture, importation, or distribution of marijuana or (ii) the person  
1609 engaged in the enterprise to manufacture, sell, give, distribute, or possess with the intent to manufacture,  
1610 sell, give, or distribute at least 100 kilograms but less than 250 kilograms of a mixture or substance

1611 containing a detectable amount of marijuana during any 12-month period of its existence. A conviction  
1612 under this subsection shall be punishable by a fine of not more than \$1 million and imprisonment for 20  
1613 years to life, 20 years of which shall be a mandatory minimum sentence.

1614 C. Any person who was the principal or one of several principal administrators, organizers, or  
1615 leaders of a continuing criminal enterprise as defined in subsection I of § 18.2-248 if (i) the enterprise  
1616 received \$250,000 or more in gross receipts during any 12-month period of its existence from the  
1617 manufacture, importation, or distribution of marijuana or (ii) the person engaged in the enterprise to  
1618 manufacture, sell, give, distribute, or possess with the intent to manufacture, sell, give, or distribute at  
1619 least 250 kilograms of a mixture or substance containing a detectable amount of marijuana during any  
1620 12-month period of its existence is guilty of a felony punishable by a fine of not more than \$1 million  
1621 and imprisonment for life, which shall be served with no suspension in whole or in part. Such  
1622 punishment shall be made to run consecutively with any other sentence. However, the court may impose  
1623 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated  
1624 with law-enforcement authorities.

1625 § 3.2-4171. Manufacturing, distributing, and obtaining marijuana by fraud, deceit, forgery,  
1626 etc.; penalties.

1627 A. It is unlawful for any person to procure or attempt to procure the administration of marijuana  
1628 (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a  
1629 prescription or of any written order; (iii) by the concealment of a material fact; or (iv) by the use of a  
1630 false name or the giving of a false address.

1631 B. It is unlawful for any person to use in the course of the manufacture or distribution of  
1632 marijuana a license number that is fictitious, revoked, suspended, or issued to another person.

1633 C. It is unlawful for any person, for the purpose of obtaining marijuana, to falsely assume the  
1634 title of, or represent himself to be, a cultivator, manufacturer, wholesaler, retailer, tester, pharmacist,  
1635 physician, dentist, veterinarian, or other authorized person.

1636 D. Any person who violates any provision of this section is guilty of a Class 6 felony.

1637 Whenever any person who has not previously been convicted of any offense under this article or  
1638 under any statute of the United States or of any state relating to marijuana, or has not previously had a  
1639 proceeding against him for violation of such an offense dismissed, or reduced as provided in this section,  
1640 pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such plea if the  
1641 facts found by the court would justify a finding of guilt, the court may place him on probation upon  
1642 terms and conditions.

1643 As a term or condition, the court shall require the accused to be evaluated and enter a treatment  
1644 or education program, if available, such as, in the opinion of the court, may be best suited to the needs of  
1645 the accused. This program may be located in the judicial circuit in which the charge is brought or in any  
1646 other judicial circuit as the court may provide. The services shall be provided by a program certified or  
1647 licensed by the Department of Behavioral Health and Developmental Services. The court shall require  
1648 the person entering such program under the provisions of this section to pay all or part of the costs of the  
1649 program, including the costs of the screening, evaluation, testing, and education, based upon the person's  
1650 ability to pay unless the person is determined by the court to be indigent.

1651 As a condition of supervised probation, the court shall require the accused to remain drug free  
1652 during the period of probation and submit to such tests during that period as may be necessary and  
1653 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of  
1654 any screening, evaluation, and education program to which the person is referred or by the supervising  
1655 agency.

1656 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to  
1657 report to the original arresting law-enforcement agency to submit to fingerprinting.

1658 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the  
1659 felony and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the  
1660 court shall find the defendant guilty of a Class 1 misdemeanor.

1661 **§ 3.2-4172. Prohibition on the sale or manufacture of marijuana or marijuana products on**  
1662 **or near certain properties; penalties.**



1663 A. It is unlawful for any person to manufacture, sell, or distribute or possess with intent to sell,  
1664 give, or distribute marijuana or marijuana products while:

1665 1. Upon the property, including buildings and grounds, of any public or private elementary or  
1666 secondary school, any institution of higher education, or any clearly marked licensed child day center as  
1667 defined in § 22.1-289.02;

1668 2. Upon public property or any property open to public use within 1,000 feet of the property  
1669 described in subdivision 1;

1670 3. On any school bus as defined in § 46.2-100;

1671 4. Upon a designated school bus stop, or upon either public property or any property open to  
1672 public use that is within 1,000 feet of such school bus stop, during the time when school children are  
1673 waiting to be picked up and transported to or are being dropped off from school or a school-sponsored  
1674 activity;

1675 5. Upon the property, including buildings and grounds, of any publicly owned or publicly  
1676 operated recreation or community center facility or any public library; or

1677 6. Upon the property of any state hospital as defined in § 37.2-100 or upon public property or  
1678 property open to public use within 1,000 feet of such an institution.

1679 It is a violation of the provisions of this section if the person possessed non-retail marijuana or  
1680 non-retail marijuana products on the property described in subdivisions 1 through 6, regardless of where  
1681 the person intended to sell, give, or distribute the non-retail marijuana or non-retail marijuana products.

1682 B. A violation of this section shall constitute a separate and distinct felony. Any person violating  
1683 the provisions of this section is guilty of a Class 5 felony. However, if such person proves that he sold  
1684 marijuana or marijuana products only as an accommodation to another individual and not with intent to  
1685 profit thereby from any consideration received or expected nor to induce the recipient or intended  
1686 recipient of the marijuana or marijuana products to use or become addicted to or dependent upon such  
1687 marijuana or marijuana products, he is guilty of a Class 1 misdemeanor.

1688 C. If a person commits an act violating the provisions of this section, and the same act also

1689 violates another provision of law that provides for penalties greater than those provided for by this  
1690 section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other  
1691 provision of law or the imposition of any penalties provided for thereby.

1692 **§ 3.2-4173. Possessing or displaying firearm while illegally manufacturing, etc., possessing**  
1693 **with intent to manufacture, etc., more than one pound of marijuana; penalty.**

1694 It is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other  
1695 firearm, or to display such weapon in a threatening manner, while committing or attempting to commit  
1696 the illegal manufacture, sale, or distribution or possessing with the intent to manufacture, sell, or  
1697 distribute more than one pound of marijuana. A violation of this section is a Class 6 felony and  
1698 constitutes a separate and distinct felony, and any person convicted hereunder shall be sentenced to a  
1699 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart  
1700 from, and shall be made to run consecutively with, any punishment received for the commission of the  
1701 primary felony.

1702 **§ 3.2-4174. Delivery of marijuana to prisoners or committed persons; penalty.**

1703 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner  
1704 deliver, attempt to deliver, or conspire with another to deliver marijuana to any prisoner confined under  
1705 authority of the Commonwealth, or of any political subdivision thereof, or to any person committed to  
1706 the Department of Juvenile Justice in any juvenile correctional center is guilty of a Class 5 felony.

1707 **§ 3.2-4175. Transporting non-retail marijuana into the Commonwealth; penalty.**

1708 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person  
1709 to transport into the Commonwealth by any means with intent to sell or distribute five or more pounds of  
1710 non-retail marijuana. A violation of this section shall constitute a separate and distinct felony. Upon  
1711 conviction, the person shall be sentenced to not less than five years or more than 40 years imprisonment,  
1712 three years of which shall be a mandatory minimum term of imprisonment, and a fine not to exceed \$1  
1713 million. A second or subsequent conviction hereunder shall be punishable by a mandatory minimum  
1714 term of imprisonment of 10 years, which shall be served consecutively with any other sentence.

1715 **§ 3.2-4176. Illegal testing of marijuana and marijuana products; penalty.**

1716 Except as otherwise provided by this chapter or otherwise provided by law, no person shall test  
1717 marijuana or marijuana products without being licensed under this chapter to cultivate or test marijuana  
1718 or marijuana products.

1719 A person who violates this section is guilty of a Class 6 felony.

1720 **§ 3.2-4177. Illegal sale or advertisement of marijuana paraphernalia; penalties.**

1721 A. For purposes of this section, "marijuana paraphernalia" means all equipment, products, and  
1722 materials of any kind that are either designed for use or are intended for use in planting, propagating,  
1723 cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing,  
1724 preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing,  
1725 ingesting, inhaling, or otherwise introducing into the human body marijuana.

1726 B. It is unlawful for any person under 21 years of age to possess marijuana paraphernalia. Any  
1727 person who violates this subsection is subject to a civil penalty of no more than \$25. A violation of this  
1728 subsection is a civil offense. Any civil penalties collected pursuant to this section shall be deposited into  
1729 the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.

1730 C. It is unlawful for any person to sell or distribute, or possess with the intent to sell or distribute,  
1731 marijuana paraphernalia to any person under 21 years of age. Any person who violates this subsection is  
1732 subject to a civil penalty of no more than \$25. A violation of this subsection is a civil offense. Any civil  
1733 penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and  
1734 Treatment Fund established pursuant to § 18.2-251.02.

1735 D. It is unlawful for any person to place in any newspaper, magazine, handbill, or other  
1736 publication any advertisement, knowing or under circumstances where one reasonably should know, that  
1737 the purpose of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to  
1738 persons under 21 years of age. Any person who violates this subsection is guilty of a Class 1  
1739 misdemeanor.

1740 E. In determining whether an object is marijuana paraphernalia, the court may consider, in

1741 addition to all other relevant evidence, the following:

1742 1. Constitutionally admissible statements by the accused concerning the use of the object;

1743 2. The proximity of the object to marijuana, which proximity is actually known to the accused;

1744 3. Instructions, oral or written, provided with the object concerning its use;

1745 4. Descriptive materials accompanying the object that explain or depict its use;

1746 5. National and local advertising within the actual knowledge of the accused concerning its use;

1747 6. The manner in which the object is displayed for sale;

1748 7. Whether the accused is a legitimate supplier of like or related items to the community, such as

1749 a licensed distributor or dealer of tobacco products;

1750 8. Evidence of the ratio of sales of the objects defined in subsection A to the total sales of the

1751 business enterprise;

1752 9. The existence and scope of legitimate uses for the object in the community;

1753 10. Expert testimony concerning its use or the purpose for which it was designed; and

1754 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or

1755 should reasonably know, are under 21 years of age. The innocence of an owner, or of anyone in control

1756 of the object, as to a direct violation of this article shall not prevent a finding that the object is intended

1757 for use or designed for use as marijuana paraphernalia.

1758 **§ 3.2-4178. Distribution, sale, or display of printed material advertising instruments for use**

1759 **in administering marijuana to persons younger than 21 years of age; penalty.**

1760 It is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a

1761 person younger than 21 years of age any book, pamphlet, periodical, or other printed matter which he

1762 knows advertises for sale any instrument, device, article, or contrivance for advertised use in unlawfully

1763 ingesting, smoking, administering, preparing, or growing marijuana.

1764 **§ 3.2-4179. Persons to whom retail marijuana or retail marijuana products may not be**

1765 **sold; proof of legal age; penalties.**

1766 A. No person shall sell any retail marijuana or retail marijuana products to any person when at

1767 the time of such sale he knows or has reason to believe that the person to whom the sale is made is (i)  
1768 under 21 years of age or (ii) intoxicated. Any person who violates this subsection is guilty of a Class 1  
1769 misdemeanor.

1770 B. Any person who sells any retail marijuana or retail marijuana products to a person who is  
1771 under 21 years of age and at the time of the sale does not require the person to present bona fide  
1772 evidence of legal age indicating that the person is 21 years of age or older is guilty of a violation of this  
1773 subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to be  
1774 an unexpired driver's license issued by any state of the United States or the District of Columbia, a  
1775 military identification card, a United States passport or foreign government visa, an unexpired special  
1776 identification card issued by the Department of Motor Vehicles, or any other valid government-issued  
1777 identification card bearing the individual's photograph, signature, height, weight, and date of birth, or  
1778 which bears a photograph that reasonably appears to match the appearance of the purchaser. A student  
1779 identification card shall not constitute bona fide evidence of legal age for purposes of this subsection.  
1780 Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.  
1781 Notwithstanding the provisions of § 3.2-4144, the Board shall not take administrative action against a  
1782 licensee for the conduct of his employee who violates this subsection.

1783 C. No person shall be convicted of both subsections A and B for the same sale.

1784 **§ 3.2-4180. Use or attempted use of altered, etc., identification to purchase retail marijuana**  
1785 **or retail marijuana products; penalty.**

1786 A. No person under 21 years of age shall use or attempt to use any (i) altered, fictitious,  
1787 facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated  
1788 document, including but not limited to a birth certificate or student identification card; or (iii) motor  
1789 vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or  
1790 other comparable law of another jurisdiction, birth certificate, or student identification card of another  
1791 person in order to establish a false identification or false age for himself to use, consume, or purchase or  
1792 attempt to use, consume, or purchase retail marijuana or retail marijuana products.

1793 Any person who violates this section is guilty of a Class 1 misdemeanor.

1794 B. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state  
1795 or local law-enforcement agency of a violation or suspected violation of this section shall be accorded  
1796 immunity from an administrative penalty for a violation of § 3.2-4179.

1797 **§ 3.2-4181. Purchasing retail marijuana or retail marijuana products for one to whom they**  
1798 **may not be sold; penalty.**

1799 Any person who (i) purchases retail marijuana or retail marijuana products for another person  
1800 and at the time of such purchase knows or has reason to believe that the person for whom the retail  
1801 marijuana or retail marijuana products were purchased is intoxicated or (ii) purchases for or otherwise  
1802 gives, provides, or assists in the provision of retail marijuana or retail marijuana products to another  
1803 person when he knows or has reason to know that such person is under 21 years of age is guilty of a  
1804 Class 1 misdemeanor.

1805 **§ 3.2-4182. Prohibited practices by licensees; penalty.**

1806 A. No licensee or any agent or employee of such licensee shall:

1807 1. Cultivate, manufacture, sell, or test any retail marijuana or retail marijuana products, as  
1808 applicable, of a kind other than that which such license or this chapter authorizes him to cultivate,  
1809 manufacture, sell, or test; or

1810 2. Cultivate, manufacture, sell, or test any retail marijuana or retail marijuana products, as  
1811 applicable, which such license or this chapter authorizes him to cultivate, manufacture, sell, or test, at  
1812 any place other than such license or this chapter authorizes him to cultivate, manufacture, sell, or test.

1813 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

1814 **§ 3.2-4183. Prohibited acts by retail marijuana store licensees; penalty.**

1815 A. In addition to the actions prohibited by § 3.2-4182, no retail marijuana store licensee or any  
1816 agent or employee of such licensee shall:

1817 1. Sell any retail marijuana or retail marijuana product which such license or this chapter  
1818 authorizes him to sell, but in a manner other than such license or this chapter authorizes him to sell;

- 1819 2. Sell more than the amounts permitted by subdivision B 3 of § 3.2-4143 to be sold during a  
1820 single transaction to one person;
- 1821 3. Except as permitted by § 3.2-4147, allow at the place described in his license the use or  
1822 consumption of retail marijuana or retail marijuana products in violation of this chapter;
- 1823 4. Keep at the place described in his license any marijuana or marijuana products other than that  
1824 which he is licensed to sell;
- 1825 5. Misrepresent any marijuana or marijuana product sold or offered for sale;
- 1826 6. Remove or obliterate any label or packaging affixed to any retail marijuana or retail marijuana  
1827 products offered for sale;
- 1828 7. Sell any retail marijuana or retail marijuana products if the label or packaging has been  
1829 removed or obliterated;
- 1830 8. Consume or allow the consumption by any employee of any retail marijuana or retail  
1831 marijuana product while on duty and in a position that is involved in the selling of retail marijuana or  
1832 retail marijuana products;
- 1833 9. Be intoxicated while on duty or allow an employee to perform his duties while intoxicated; or
- 1834 10. Fail or refuse to make samples of any retail marijuana or retail marijuana product available to  
1835 the Board upon request.
- 1836 B. Any person who violates this section is guilty of a Class 1 misdemeanor.
- 1837 **§ 3.2-4184. Illegal labeling and packaging; penalty.**
- 1838 Any person who violates the labeling and packaging requirements of § 3.2-4150 or the other  
1839 health and safety requirements of § 3.2-4152 is guilty of a Class 1 misdemeanor.
- 1840 **§ 3.2-4185. Illegal advertising and marketing; penalties.**
- 1841 A. Except as provided in subsection B, any person who violates the advertising and marketing  
1842 restrictions of § 3.2-4151 is guilty of a Class 1 misdemeanor.
- 1843 B. For violations of § 3.2-4151 relating to distance and zoning restrictions on outdoor  
1844 advertising, the Board shall give the advertiser written notice to take corrective action to either bring the

1845 advertisement into compliance with this chapter and Board regulations or to remove such advertisement.

1846 If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

1847 **§ 3.2-4186. Using or consuming marijuana or marijuana products while operating a motor**  
1848 **vehicle or while being a passenger in a motor vehicle; penalty.**

1849 A. It is unlawful for any person to use or consume marijuana or marijuana products while driving  
1850 a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor  
1851 vehicle being driven upon a public highway of the Commonwealth.

1852 B. Any person who violates this section is guilty of a Class 4 misdemeanor.

1853 **§ 3.2-4187. Limitation on carrying marijuana or marijuana products in motor vehicles**  
1854 **transporting passengers for hire; penalty.**

1855 A. The transportation of marijuana or marijuana products in any motor vehicle which is being  
1856 used, or is licensed, for the transportation of passengers for hire is prohibited, except when carried in the  
1857 possession of a passenger who is being transported for compensation at the regular rate and fare charged  
1858 other passengers.

1859 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

1860 **§ 3.2-4188. Using, consuming, or possessing marijuana or marijuana products in or on**  
1861 **public school grounds; penalty.**

1862 A. No person shall use, consume, or possess marijuana or marijuana products in or upon the  
1863 grounds of any public elementary or secondary school during or after school hours or school or student  
1864 activities.

1865 B. Any person who violates this section is guilty of a Class 2 misdemeanor.

1866 **§ 3.2-4189. Using, consuming, or possessing marijuana or marijuana products while**  
1867 **operating a school bus; penalty.**

1868 Any person who possesses, uses, or consumes marijuana or marijuana products while operating a  
1869 school bus and transporting children is guilty of a Class 1 misdemeanor. For purposes of this section,  
1870 "school bus" has the same meaning as provided in § 46.2-100.



1871 **§ 3.2-4190. Certain premises deemed common nuisance; penalties.**

1872 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,  
1873 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with  
1874 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,  
1875 or tenant thereof, is frequented by persons under the influence of illegally obtained marijuana or for the  
1876 purpose of illegally obtaining possession of, manufacturing, or distributing marijuana or is used for the  
1877 illegal possession, manufacture, or distribution of marijuana shall be deemed a common nuisance. Any  
1878 such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who  
1879 knowingly permits, establishes, keeps, or maintains such a common nuisance is guilty of a Class 1  
1880 misdemeanor and for a second or subsequent offense is guilty of a Class 6 felony.

1881 **§ 3.2-4191. Maintaining a fortified drug house; penalty.**

1882 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,  
1883 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered  
1884 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry  
1885 by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally cultivating,  
1886 manufacturing, or distributing marijuana; and (iii) the object of a valid search warrant shall be  
1887 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty  
1888 of a Class 5 felony.

1889 **§ 3.2-4192. Attempts; aiding or abetting; penalty.**

1890 No person shall attempt to do any of the things prohibited by this chapter or to aid or abet another  
1891 in doing, or attempting to do, any of the things prohibited by this chapter.

1892 On an indictment, information, or warrant for the violation of this chapter, the jury or the court  
1893 may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same  
1894 as if the defendant were solely guilty of such violation.

1895 **§ 3.2-4193. Failure to deliver, keep, and preserve records and accounts, or to allow**  
1896 **examination and inspection; penalty.**

1897 A. No licensee shall fail or refuse to (i) deliver, keep, and preserve such records, invoices, and  
1898 accounts as are required by Board regulations or (ii) allow such records, invoices, and accounts or his  
1899 place of business to be examined and inspected in accordance with Board regulations.

1900 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

1901 **§ 3.2-4194. Disobeying subpoena; hindering conduct of hearing; penalty.**

1902 A. No person shall (i) fail or refuse to obey any subpoena issued by the Board or any Board  
1903 member or (ii) hinder the orderly conduct and decorum of any hearing held and conducted by the Board  
1904 or a Board member.

1905 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

1906 **§ 3.2-4195. Punishment for violations of chapter.**

1907 A. The provisions of this chapter shall not prevent the Board from suspending, revoking, or  
1908 refusing to continue the license of any person convicted of a violation of any provision of this chapter.

1909 B. No court shall hear such a case unless the respective attorney for the Commonwealth or his  
1910 assistant has been notified that such a case is pending.

1911 **§ 3.2-4196. Search warrants.**

1912 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,  
1913 manufactured, sold, or tested in a particular house or other place in violation of law, the judge,  
1914 magistrate, or other person having authority to issue criminal warrants, to whom such complaint is made,  
1915 if satisfied that there is a probable cause for such belief, shall issue a warrant to search such house or  
1916 other place for marijuana or marijuana products. Such warrants, except as herein otherwise provided,  
1917 shall be issued, directed, and executed in accordance with the laws of the Commonwealth pertaining to  
1918 search warrants.

1919 B. Warrants issued under this chapter for the search of any automobile, boat, conveyance, or  
1920 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or  
1921 not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they  
1922 are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile,

1923 boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to  
1924 be transported contrary to law.

1925 **§ 3.2-4197. Department of Forensic Science; determination of methods for detecting**  
1926 **concentration of THC.**

1927 The Department of Forensic Science shall determine the proper methods for detecting the  
1928 concentration of delta-9-tetrahydrocannabinol (THC) in substances for the purposes of this chapter and  
1929 §§ 54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other  
1930 equivalent method and shall consider the potential conversion of delta-9-tetrahydrocannabinol acid  
1931 (THC-A) into THC. The test result shall include the total available THC derived from the sum of the  
1932 THC and THC-A content.

1933 **§ 3.2-4198. Certificate of forensic scientist as evidence; requiring forensic scientist to**  
1934 **appear.**

1935 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board  
1936 or the Department of Forensic Science, when signed by him, shall be evidence in all prosecutions for  
1937 violations of this chapter and all controversies in any judicial proceedings touching the mixture or  
1938 concentration analyzed by him. On motion of the accused or any party in interest, the court may require  
1939 the forensic scientist making the analysis to appear as a witness and be subject to cross-examination,  
1940 provided such motion is made within a reasonable time prior to the day on which the case is set for trial.

1941 **§ 3.2-4199. Suspended sentence conditioned upon substance abuse screening, assessment,**  
1942 **testing, and treatment or education.**

1943 The trial judge or court trying the case of any person found guilty of a criminal violation of any  
1944 law concerning the use, in any manner, of marijuana shall condition any suspended sentence by first  
1945 requiring such person to agree to undergo a substance abuse screening and to submit to such periodic  
1946 substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be  
1947 conducted by the supervising probation agency or by personnel of any program or agency approved by  
1948 the supervising probation agency. The cost of such testing ordered by the court shall be paid by the

1949 Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall order the  
1950 person, as a condition of any suspended sentence, to undergo such treatment or education for substance  
1951 abuse, if available, as the judge or court deems appropriate based upon consideration of the substance  
1952 abuse assessment. The treatment or education shall be provided by a program or agency licensed by the  
1953 Department of Behavioral Health and Developmental Services or, if the court imposes a sentence of 12  
1954 months or less, by a similar program or services available through a local or regional jail, a local  
1955 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program  
1956 certified by the Commission on VASAP.

1957 **§ 3.2-4199.1. Commitment of convicted person for treatment for substance abuse.**

1958 A. Whenever any person who has not previously been convicted of any criminal offense under  
1959 this article or under any statute of the United States or of any state relating to marijuana or has not  
1960 previously had a proceeding against him for violation of such an offense dismissed as provided in former  
1961 § 18.2-250 is found guilty of violating any law concerning the use, in any manner, of marijuana, the  
1962 judge or court shall require such person to undergo a substance abuse screening and to submit to such  
1963 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of  
1964 such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of  
1965 the criminal proceedings. The judge or court shall also order the person to undergo such treatment or  
1966 education for substance abuse, if available, as the judge or court deems appropriate based upon  
1967 consideration of the substance abuse assessment. The treatment or education shall be provided by a  
1968 program or agency licensed by the Department of Behavioral Health and Developmental Services or by  
1969 a similar program or services available through the Department of Corrections if the court imposes a  
1970 sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar  
1971 program or services available through a local or regional jail, a local community-based probation  
1972 services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on  
1973 VASAP.

1974 B. The court trying the case of any person alleged to have committed any criminal offense

1975 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case  
1976 in which the commission of the offense was motivated by or closely related to the use of drugs and  
1977 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of  
1978 treatment for the use of drugs may commit, based upon a consideration of the substance abuse  
1979 assessment, such person, upon his conviction, to any facility for the treatment of persons with substance  
1980 abuse licensed by the Department of Behavioral Health and Developmental Services if space is available  
1981 in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the  
1982 penalty for conviction of such offense or, if the sentence was determined by a jury, not in excess of the  
1983 term of imprisonment as set by such jury. Confinement under such commitment shall be in all regards  
1984 treated as confinement in a penal institution, and the person so committed may be convicted of escape if  
1985 he leaves the place of commitment without authority. A charge of escape may be prosecuted in either the  
1986 jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to  
1987 commitment. The court may revoke such commitment at any time and transfer the person to an  
1988 appropriate state or local correctional facility. Upon presentation of a certified statement from the  
1989 director of the treatment facility to the effect that the confined person has successfully responded to  
1990 treatment, the court may release such confined person prior to the termination of the period of time for  
1991 which such person was confined and may suspend the remainder of the term upon such conditions as the  
1992 court may prescribe.

1993 **§ 3.2-4199.2. Possession or distribution of marijuana for medical purposes permitted.**

1994 Nothing in this article shall be construed to prohibit or penalize:

1995 1. The possession of marijuana or tetrahydrocannabinol when that possession occurs pursuant to  
1996 a valid prescription issued by a medical doctor in the course of his professional practice for treatment of  
1997 cancer or glaucoma;

1998 2. The dispensing or distributing of marijuana or tetrahydrocannabinol for medical purposes by a  
1999 medical doctor when such action occurs in the course of his professional practice for treatment of cancer  
2000 or glaucoma; or

2001 3. The dispensing or distributing of marijuana or tetrahydrocannabinol by a pharmacist to any  
2002 person who holds a valid prescription of a medical doctor for such substance issued in the course of such  
2003 doctor's professional practice for treatment of cancer or glaucoma.

2004 **§ 3.2-4199.3. Possession or distribution of cannabidiol oil or THC-A oil; public schools.**

2005 No school nurse employed by a local school board, person employed by a local health  
2006 department who is assigned to the public school pursuant to an agreement between the local health  
2007 department and the school board, or other person employed by or contracted with a local school board to  
2008 deliver health-related services shall be prosecuted under § 3.2-4160, 3.2-4161, 3.2-4164, 3.2-4166, 3.2-  
2009 4167, 3.2-4168, 3.2-4170, 18.2-248, 18.2-250, or 18.2-255 for the possession or distribution of  
2010 cannabidiol oil or THC-A oil for storing, dispensing, or administering cannabidiol oil or THC-A oil, in  
2011 accordance with a policy adopted by the local school board, to a student who has been issued a valid  
2012 written certification for the use of cannabidiol oil or THC-A oil in accordance with subsection B of §  
2013 54.1-3408.3.

2014 **§ 3.2-4199.4. Possession or distribution of cannabis oil; nursing homes and certified nursing**  
2015 **facilities; hospice and hospice facilities; assisted living facilities.**

2016 No person employed by a nursing home, hospice, hospice facility, or assisted living facility and  
2017 authorized to possess, distribute, or administer medications to patients or residents shall be prosecuted  
2018 under § 3.2-4160, 3.2-4161, 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4168, 3.2-4170, 18.2-248, or 18.2-250 for  
2019 the possession or distribution of cannabis oil for the purposes of storing, dispensing, or administering  
2020 cannabis oil to a patient or resident who has been issued a valid written certification for the use of  
2021 cannabis oil in accordance with subsection B of § 54.1-3408.3 and has registered with the Board of  
2022 Pharmacy.

2023 **§ 3.2-4199.5. Possession or distribution of cannabidiol oil, THC-A oil, or industrial hemp;**  
2024 **laboratories.**

2025 No person employed by an analytical laboratory to retrieve, deliver, or possess cannabidiol oil,  
2026 THC-A oil, or industrial hemp samples from a permitted pharmaceutical processor, a licensed industrial

2027 hemp grower, or a licensed industrial hemp processor for the purpose of performing required testing  
2028 shall be prosecuted under § 3.2-4160, 3.2-4161, 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4168, 3.2-4170, 18.2-  
2029 248, 18.2-250, or 18.2-255 for the possession or distribution of cannabidiol oil, THC-A oil, or industrial  
2030 hemp, or for storing cannabidiol oil, THC-A oil, or industrial hemp for testing purposes in accordance  
2031 with regulations adopted by the Board of Pharmacy and the Board of Agriculture and Consumer  
2032 Services.

2033 **§ 3.2-4199.6. Interaction with provisions concerning pharmaceutical processing of**  
2034 **cannabidiol oil and THC-A oil.**

2035 Nothing in this article shall be construed to prohibit or penalize any conduct that is permitted by  
2036 Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

2037 **§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

2038 The Board may suspend or revoke any license other than a brewery license, in which case the  
2039 Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

2040 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is  
2041 an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if  
2042 the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its  
2043 capital stock, or if the licensee is a limited liability company, any member-manager or any member  
2044 owning 10 percent or more of the membership interest of the limited liability company:

2045 a. Has misrepresented a material fact in applying to the Board for such license;

2046 b. Within the five years immediately preceding the date of the hearing held in accordance with §  
2047 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth,  
2048 of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the  
2049 manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of  
2050 Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or  
2051 the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with  
2052 any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions

- 2053 or restrictions of the license granted by the Board;
- 2054 c. Has been convicted in any court of a felony or of any crime or offense involving moral  
2055 turpitude under the laws of any state, or of the United States;
- 2056 d. Is not the legitimate owner of the business conducted under the license granted by the Board,  
2057 or other persons have ownership interests in the business which have not been disclosed;
- 2058 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business  
2059 conducted under the license granted by the Board;
- 2060 f. Has been intoxicated or under the influence of some self-administered drug while upon the  
2061 licensed premises;
- 2062 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to  
2063 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1  
2064 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- 2065 h. Knowingly employs in the business conducted under such license, as agent, servant, or  
2066 employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any  
2067 court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of  
2068 the Commonwealth, of any other state, or of the United States, applicable to the manufacture,  
2069 transportation, possession, use or sale of alcoholic beverages;
- 2070 i. Subsequent to the granting of his original license, has demonstrated by his police record a lack  
2071 of respect for law and order;
- 2072 j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person  
2073 whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii)  
2074 intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter  
2075 upon such licensed premises;
- 2076 k. Has allowed any person to consume upon the licensed premises any alcoholic beverages  
2077 except as provided under this title;
- 2078 l. Is physically unable to carry on the business conducted under such license or has been



- 2079 adjudicated incapacitated;
- 2080 m. Has allowed any obscene literature, pictures or materials upon the licensed premises;
- 2081 n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;
- 2082 o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has
- 2083 knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or
- 2084 use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled
- 2085 paraphernalia as those terms are defined in Articles 1 (§ 3.2-4122 et seq.) and 7 (§ 3.2-4159 et seq.) of
- 2086 Chapter 41.2 of Title 3.2, Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of
- 2087 Title 18.2, and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-
- 2088 246.3; or (iii) conspired to commit any drug-related offense in violation of Article 7 of Chapter 41.2 of
- 2089 Title 3.2, Article 1 or 1.1 of Chapter 7 of Title 18.2, or the Drug Control Act. The provisions of this
- 2090 subdivision shall also apply to any conduct related to the operation of the licensed business that
- 2091 facilitates the commission of any of the offenses set forth herein;
- 2092 p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
- 2093 immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any
- 2094 portion of public property immediately adjacent to the licensed premises from becoming a place where
- 2095 patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et
- 2096 seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§
- 2097 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§
- 2098 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-346 et seq.) or 5 (§ 18.2-372 et seq.) of
- 2099 Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of
- 2100 Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to
- 2101 reasonably be deemed a continuing threat to the public safety; or
- 2102 q. Has failed to take reasonable measures to prevent an act of violence resulting in death or
- 2103 serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any
- 2104 premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii)

2105 any portion of public property immediately adjacent to the licensed premises.

2106 2. The place occupied by the licensee:

2107 a. Does not conform to the requirements of the governing body of the county, city or town in  
2108 which such establishment is located, with respect to sanitation, health, construction or equipment, or to  
2109 any similar requirements established by the laws of the Commonwealth or by Board regulations;

2110 b. Has been adjudicated a common nuisance under the provisions of this title or § 3.2-4190 or  
2111 18.2-258; or

2112 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics,  
2113 drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs  
2114 are regularly used or distributed. The Board may consider the general reputation in the community of  
2115 such establishment in addition to any other competent evidence in making such determination.

2116 3. The licensee or any employee of the licensee discriminated against any member of the armed  
2117 forces of the United States by prices charged or otherwise.

2118 4. The licensee, his employees, or any entertainer performing on the licensed premises has been  
2119 convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed  
2120 premises and the licensee allowed such conduct to occur.

2121 5. Any cause exists for which the Board would have been entitled to refuse to grant such license  
2122 had the facts been known.

2123 6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any  
2124 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is  
2125 located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality,  
2126 unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for  
2127 correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into  
2128 a payment plan approved by the same locality to settle the outstanding liability.

2129 7. Any other cause authorized by this title.

2130 **§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.**

2131 A. No attorney for the Commonwealth; or assistant attorney for the Commonwealth; shall be  
2132 required to carry out any duties as a part of his office in civil matters (i) of advising the governing body  
2133 and all boards, departments, agencies, officials, and employees of his county or city; (ii) of drafting or  
2134 preparing county or city ordinances; (iii) of defending or bringing actions in which the county or city, or  
2135 any of its boards, departments, or agencies, or officials and employees thereof, shall be a party; (iv) or in  
2136 any other manner of advising or representing the county or city, its boards, departments, agencies,  
2137 officials, and employees, except in matters involving the enforcement of the criminal law within the  
2138 county or city.

2139 B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a  
2140 part of the department of law enforcement of the county or city in which he is elected or appointed; and  
2141 shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all  
2142 warrants, indictments, or informations charging a felony, and he may in his discretion; prosecute Class 1,  
2143 2, and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement  
2144 in jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all forfeitures; and  
2145 carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of § ~~18.2-250.1~~ 3.2-  
2146 4160, 3.2-4161, 18.2-268.3, 29.1-738.2, or 46.2-341.26:3.

2147 **§ 16.1-69.48:1. (Effective until March 1, 2021) Fixed fee for misdemeanors, traffic**  
2148 **infractions and other violations in district court; additional fees to be added.**

2149 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for  
2150 court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court  
2151 hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence  
2152 resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the  
2153 defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or  
2154 a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-  
2155 305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance  
2156 with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752,

2157 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

2158 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs  
2159 whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is  
2160 shown for such failure to appear. No defendant with multiple charges arising from a single incident shall  
2161 be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single  
2162 appearance or trial in absence related to that incident. However, when a defendant who has multiple  
2163 charges arising from the same incident and who has been assessed a fixed fee for one of those charges is  
2164 later convicted of another charge that arises from that same incident and that has a higher fixed fee, he  
2165 shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

2166 A defendant with charges which arise from separate incidents shall be taxed a fee for each  
2167 incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in  
2168 absence.

2169 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk  
2170 shall also assess any costs otherwise specifically provided by statute.

2171 B. In misdemeanors tried in district court, except for those proceedings provided for in  
2172 subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or  
2173 in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional  
2174 amounts designated:

- 2175 1. Processing fee (General Fund)(.573770);
- 2176 2. Virginia Crime Victim-Witness Fund (.049180);
- 2177 3. Regional Criminal Justice Training Academies Fund (.016393);
- 2178 4. Courthouse Construction/Maintenance Fund (.032787);
- 2179 5. Criminal Injuries Compensation Fund (.098361);
- 2180 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 2181 7. Sentencing/supervision fee (General Fund)(.131148); and
- 2182 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

2183 C. In criminal actions and proceedings in district court for a violation of any provision of Article  
2184 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title  
2185 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part,  
2186 for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional  
2187 amounts designated:

- 2188 1. Processing fee (General Fund)(.257353);
- 2189 2. Virginia Crime Victim-Witness Fund (.022059);
- 2190 3. Regional Criminal Justice Training Academies Fund (.007353);
- 2191 4. Courthouse Construction/Maintenance Fund (.014706);
- 2192 5. Criminal Injuries Compensation Fund (.044118);
- 2193 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 2194 7. Drug Offender Assessment and Treatment Fund (.551471);
- 2195 8. Forensic laboratory fee and sentencing/supervision fee (General Fund)(.058824); and
- 2196 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

2197 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of  
2198 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by  
2199 law, to the following funds in the fractional amounts designated:

- 2200 1. Processing fee (General Fund)(.764706);
- 2201 2. Virginia Crime Victim-Witness Fund (.058824);
- 2202 3. Regional Criminal Justice Training Academies Fund (.019608);
- 2203 4. Courthouse Construction/Maintenance Fund (.039216);
- 2204 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
- 2205 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

2206 **§ 16.1-69.48:1. (Effective March 1, 2021) Fixed fee for misdemeanors, traffic infractions**  
2207 **and other violations in district court; additional fees to be added.**

2208 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for

2209 court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court  
2210 hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence  
2211 resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the  
2212 defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or  
2213 a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-  
2214 305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi) proof  
2215 of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716,  
2216 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

2217 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs  
2218 whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is  
2219 shown for such failure to appear. No defendant with multiple charges arising from a single incident shall  
2220 be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single  
2221 appearance or trial in absence related to that incident. However, when a defendant who has multiple  
2222 charges arising from the same incident and who has been assessed a fixed fee for one of those charges is  
2223 later convicted of another charge that arises from that same incident and that has a higher fixed fee, he  
2224 shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

2225 A defendant with charges which arise from separate incidents shall be taxed a fee for each  
2226 incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in  
2227 absence.

2228 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk  
2229 shall also assess any costs otherwise specifically provided by statute.

2230 B. In misdemeanors tried in district court, except for those proceedings provided for in  
2231 subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or  
2232 in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional  
2233 amounts designated:

2234 1. Processing fee (General Fund)(.573770);

- 2235 2. Virginia Crime Victim-Witness Fund (.049180);
- 2236 3. Regional Criminal Justice Training Academies Fund (.016393);
- 2237 4. Courthouse Construction/Maintenance Fund (.032787);
- 2238 5. Criminal Injuries Compensation Fund (.098361);
- 2239 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 2240 7. Sentencing/supervision fee (General Fund)(.131148); and
- 2241 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).
- 2242 C. In criminal actions and proceedings in district court for a violation of any provision of Article
- 2243 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title
- 2244 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part,
- 2245 for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional
- 2246 amounts designated:
- 2247 1. Processing fee (General Fund)(.257353);
- 2248 2. Virginia Crime Victim-Witness Fund (.022059);
- 2249 3. Regional Criminal Justice Training Academies Fund (.007353);
- 2250 4. Courthouse Construction/Maintenance Fund (.014706);
- 2251 5. Criminal Injuries Compensation Fund (.044118);
- 2252 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 2253 7. Drug Offender Assessment and Treatment Fund (.551471);
- 2254 8. Forensic laboratory fee and sentencing/supervision fee (General Fund)(.058824); and
- 2255 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).
- 2256 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
- 2257 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by
- 2258 law, to the following funds in the fractional amounts designated:
- 2259 1. Processing fee (General Fund)(.764706);
- 2260 2. Virginia Crime Victim-Witness Fund (.058824);

2261 3. Regional Criminal Justice Training Academies Fund (.019608);

2262 4. Courthouse Construction/Maintenance Fund (.039216);

2263 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and

2264 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

2265 **§ 16.1-69.48:3. Fees charged to drug offenders.**

2266 Whenever in a general district court the costs provided for in subsection C of § 16.1-69.48:1 are  
2267 assessed for a violation of any provision of Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or  
2268 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, a portion of the costs, as specified in subsection  
2269 C of § 16.1-69.48:1, shall be included in the taxed costs and paid into the Drug Offender Assessment and  
2270 Treatment Fund.

2271 **§ 16.1-228. (Effective until January 1, 2021) Definitions.**

2272 When used in this chapter, unless the context otherwise requires:

2273 "Abused or neglected child" means any child:

2274 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or  
2275 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than  
2276 accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental  
2277 functions, including, but not limited to, a child who is with his parent or other person responsible for his  
2278 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled  
2279 substance, or (ii) during the unlawful sale of such substance by that child's parents or other person  
2280 responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would  
2281 constitute a felony violation of § 18.2-248;

2282 2. Whose parents or other person responsible for his care neglects or refuses to provide care  
2283 necessary for his health; however, no child who in good faith is under treatment solely by spiritual  
2284 means through prayer in accordance with the tenets and practices of a recognized church or religious  
2285 denomination shall for that reason alone be considered to be an abused or neglected child;

2286 3. Whose parents or other person responsible for his care abandons such child;



2287 4. Whose parents or other person responsible for his care commits or allows to be committed any  
2288 sexual act upon a child in violation of the law;

2289 5. Who is without parental care or guardianship caused by the unreasonable absence or the  
2290 mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in  
2291 loco parentis;

2292 6. Whose parents or other person responsible for his care creates a substantial risk of physical or  
2293 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as  
2294 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the  
2295 parent or other person responsible for his care knows has been convicted of an offense against a minor  
2296 for which registration is required as a Tier III offender pursuant to § 9.1-902; or

2297 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined  
2298 in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for  
2299 Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

2300 If a civil proceeding under this chapter is based solely on the parent having left the child at a  
2301 hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely  
2302 delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency  
2303 medical services agency that employs emergency medical services personnel, within 14 days of the  
2304 child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for  
2305 adoption, the court may find such a child is a neglected child upon the ground of abandonment.

2306 "Adoptive home" means the place of residence of any natural person in which a child resides as a  
2307 member of the household and in which he has been placed for the purposes of adoption or in which he  
2308 has been legally adopted by another member of the household.

2309 "Adult" means a person 18 years of age or older.

2310 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a  
2311 part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a  
2312 delinquent act that would be a felony if committed by an adult.

2313 "Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly  
2314 structured components including, but not limited to, military style drill and ceremony, physical labor,  
2315 education and rigid discipline, and no less than six months of intensive aftercare.

2316 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for  
2317 purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title  
2318 63.2, less than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

2319 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or  
2320 results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of  
2321 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and  
2322 physical safety of another person; however, no child who in good faith is under treatment solely by  
2323 spiritual means through prayer in accordance with the tenets and practices of a recognized church or  
2324 religious denomination shall for that reason alone be considered to be a child in need of services, nor  
2325 shall any child who habitually remains away from or habitually deserts or abandons his family as a result  
2326 of what the court or the local child protective services unit determines to be incidents of physical,  
2327 emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

2328 However, to find that a child falls within these provisions, (i) the conduct complained of must  
2329 present a clear and substantial danger to the child's life or health or to the life or health of another person,  
2330 (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received,  
2331 and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services  
2332 needed by the child or his family.

2333 "Child in need of supervision" means:

2334 1. A child who, while subject to compulsory school attendance, is habitually and without  
2335 justification absent from school, and (i) the child has been offered an adequate opportunity to receive the  
2336 benefit of any and all educational services and programs that are required to be provided by law and  
2337 which meet the child's particular educational needs, (ii) the school system from which the child is absent  
2338 or other appropriate agency has made a reasonable effort to effect the child's regular attendance without

2339 success, and (iii) the school system has provided documentation that it has complied with the provisions  
2340 of § 22.1-258; or

2341 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian  
2342 or placement authority, remains away from or deserts or abandons his family or lawful custodian on  
2343 more than one occasion or escapes or remains away without proper authority from a residential care  
2344 facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial  
2345 danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or  
2346 services not presently being received, and (iii) the intervention of the court is essential to provide the  
2347 treatment, rehabilitation or services needed by the child or his family.

2348 "Child welfare agency" means a child-placing agency, child-caring institution or independent  
2349 foster home as defined in § 63.2-100.

2350 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the  
2351 juvenile and domestic relations district court of each county or city.

2352 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an  
2353 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-  
2354 308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other  
2355 than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed  
2356 by a child. For purposes of §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to take a  
2357 breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town. For purposes  
2358 of §§ 16.1-241, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, "delinquent act" includes a  
2359 violation of ~~§ 18.2-250.1~~ 3.2-4160 or 3.2-4161.

2360 "Delinquent child" means a child who has committed a delinquent act or an adult who has  
2361 committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court  
2362 has been terminated under the provisions of § 16.1-269.6.

2363 "Department" means the Department of Juvenile Justice and "Director" means the administrative  
2364 head in charge thereof or such of his assistants and subordinates as are designated by him to discharge

2365 the duties imposed upon him under this law.

2366 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or  
2367 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by  
2368 a person against such person's family or household member. Such act includes, but is not limited to, any  
2369 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of  
2370 Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable  
2371 apprehension of death, sexual assault, or bodily injury.

2372 "Family or household member" means (i) the person's spouse, whether or not he or she resides in  
2373 the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the  
2374 same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers,  
2375 sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons  
2376 reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law,  
2377 daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v)  
2378 any individual who has a child in common with the person, whether or not the person and that individual  
2379 have been married or have resided together at any time, or (vi) any individual who cohabits or who,  
2380 within the previous 12 months, cohabited with the person, and any children of either of them then  
2381 residing in the same home with the person.

2382 "Fictive kin" means persons who are not related to a child by blood or adoption but have an  
2383 established relationship with the child or his family.

2384 "Foster care services" means the provision of a full range of casework, treatment and community  
2385 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in  
2386 need of services as defined in this section and his family when the child (i) has been identified as  
2387 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through  
2388 an agreement between the local board of social services or a public agency designated by the community  
2389 policy and management team and the parents or guardians where legal custody remains with the parents  
2390 or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare

2391 agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to §  
2392 16.1-293.

2393 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is  
2394 in the custody of a local board or licensed child-placing agency by the local board or licensed child-  
2395 placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was  
2396 committed to the Department of Juvenile Justice immediately prior to placement by the Department of  
2397 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute  
2398 parental supervision.

2399 "Independent living services" means services and activities provided to a child in foster care 14  
2400 years of age or older and who has been committed or entrusted to a local board of social services, child  
2401 welfare agency, or private child-placing agency. "Independent living services" may also mean services  
2402 and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet  
2403 reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his  
2404 commitment to the Department of Juvenile Justice, was in the custody of a local board of social services;  
2405 or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed  
2406 to the Department of Juvenile Justice immediately prior to placement in an independent living  
2407 arrangement. "Independent living services" includes counseling, education, housing, employment, and  
2408 money management skills development and access to essential documents and other appropriate services  
2409 to help children or persons prepare for self-sufficiency.

2410 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of  
2411 this chapter.

2412 "Jail" or "other facility designed for the detention of adults" means a local or regional  
2413 correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court  
2414 holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the  
2415 transfer of a child to a juvenile facility.

2416 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district

2417 court of each county or city.

2418 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced  
2419 in this chapter.

2420 "Legal custody" means (i) a legal status created by court order which vests in a custodian the  
2421 right to have physical custody of the child, to determine and redetermine where and with whom he shall  
2422 live, the right and duty to protect, train and discipline him and to provide him with food, shelter,  
2423 education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii)  
2424 the legal status created by court order of joint custody as defined in § 20-107.2.

2425 "Permanent foster care placement" means the place of residence in which a child resides and in  
2426 which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation  
2427 and agreement between the placing agency and the place of permanent foster care that the child shall  
2428 remain in the placement until he reaches the age of majority unless modified by court order or unless  
2429 removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of  
2430 residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term  
2431 basis.

2432 "Qualified individual" means a trained professional or licensed clinician who is not an employee  
2433 of the local board of social services or licensed child-placing agency that placed the child in a qualified  
2434 residential treatment program and is not affiliated with any placement setting in which children are  
2435 placed by such local board of social services or licensed child-placing agency.

2436 "Qualified residential treatment program" means a program that (i) provides 24-hour residential  
2437 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that  
2438 meets the clinical and other needs of children with serious emotional or behavioral disorders, including  
2439 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this  
2440 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site  
2441 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts  
2442 outreach with the child's family members, including efforts to maintain connections between the child

2443 and his siblings and other family; documents and maintains records of such outreach efforts; and  
2444 maintains contact information for any known biological family and fictive kin of the child; (v) whenever  
2445 appropriate and in the best interest of the child, facilitates participation by family members in the child's  
2446 treatment program before and after discharge and documents the manner in which such participation is  
2447 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months  
2448 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an  
2449 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that  
2450 any child placed in the program receive an assessment within 30 days of such placement by a qualified  
2451 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-  
2452 based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b)  
2453 identifies whether the needs of the child can be met through placement with a family member or in a  
2454 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified  
2455 residential treatment program, that would provide the most effective and appropriate level of care for the  
2456 child in the least restrictive environment and be consistent with the short-term and long-term goals  
2457 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and  
2458 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to  
2459 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,  
2460 16.1-282.1, or 16.1-282.2.

2461 "Residual parental rights and responsibilities" means all rights and responsibilities remaining  
2462 with the parent after the transfer of legal custody or guardianship of the person, including but not limited  
2463 to the right of visitation, consent to adoption, the right to determine religious affiliation and the  
2464 responsibility for support.

2465 "Secure facility" or "detention home" means a local, regional or state public or private locked  
2466 residential facility that has construction fixtures designed to prevent escape and to restrict the movement  
2467 and activities of children held in lawful custody.

2468 "Shelter care" means the temporary care of children in physically unrestricting facilities.

2469 "State Board" means the State Board of Juvenile Justice.

2470 "Status offender" means a child who commits an act prohibited by law which would not be  
2471 criminal if committed by an adult.

2472 "Status offense" means an act prohibited by law which would not be an offense if committed by  
2473 an adult.

2474 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of §  
2475 16.1-269.1 when committed by a juvenile 14 years of age or older.

2476 **§ 16.1-228. (Effective January 1, 2021) Definitions.**

2477 As used in this chapter, unless the context requires a different meaning:

2478 "Abused or neglected child" means any child:

2479 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or  
2480 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than  
2481 accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental  
2482 functions, including, but not limited to, a child who is with his parent or other person responsible for his  
2483 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled  
2484 substance, or (ii) during the unlawful sale of such substance by that child's parents or other person  
2485 responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would  
2486 constitute a felony violation of § 18.2-248;

2487 2. Whose parents or other person responsible for his care neglects or refuses to provide care  
2488 necessary for his health; however, no child who in good faith is under treatment solely by spiritual  
2489 means through prayer in accordance with the tenets and practices of a recognized church or religious  
2490 denomination shall for that reason alone be considered to be an abused or neglected child;

2491 3. Whose parents or other person responsible for his care abandons such child;

2492 4. Whose parents or other person responsible for his care commits or allows to be committed any  
2493 sexual act upon a child in violation of the law;

2494 5. Who is without parental care or guardianship caused by the unreasonable absence or the



2495 mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in  
2496 loco parentis;

2497 6. Whose parents or other person responsible for his care creates a substantial risk of physical or  
2498 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as  
2499 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the  
2500 parent or other person responsible for his care knows has been convicted of an offense against a minor  
2501 for which registration is required as a Tier III offender pursuant to § 9.1-902; or

2502 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined  
2503 in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal  
2504 Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

2505 If a civil proceeding under this chapter is based solely on the parent having left the child at a  
2506 hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely  
2507 delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency  
2508 medical services agency that employs emergency medical services personnel, within 14 days of the  
2509 child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for  
2510 adoption, the court may find such a child is a neglected child upon the ground of abandonment.

2511 "Adoptive home" means the place of residence of any natural person in which a child resides as a  
2512 member of the household and in which he has been placed for the purposes of adoption or in which he  
2513 has been legally adopted by another member of the household.

2514 "Adult" means a person 18 years of age or older.

2515 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a  
2516 part of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a  
2517 delinquent act that would be a felony if committed by an adult.

2518 "Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly  
2519 structured components including, but not limited to, military style drill and ceremony, physical labor,  
2520 education and rigid discipline, and no less than six months of intensive aftercare.

2521 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for  
2522 purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title  
2523 63.2, less than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

2524 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or  
2525 results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of  
2526 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and  
2527 physical safety of another person; however, no child who in good faith is under treatment solely by  
2528 spiritual means through prayer in accordance with the tenets and practices of a recognized church or  
2529 religious denomination shall for that reason alone be considered to be a child in need of services, nor  
2530 shall any child who habitually remains away from or habitually deserts or abandons his family as a result  
2531 of what the court or the local child protective services unit determines to be incidents of physical,  
2532 emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

2533 However, to find that a child falls within these provisions, (i) the conduct complained of must  
2534 present a clear and substantial danger to the child's life or health or to the life or health of another person,  
2535 (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received,  
2536 and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services  
2537 needed by the child or his family.

2538 "Child in need of supervision" means:

2539 1. A child who, while subject to compulsory school attendance, is habitually and without  
2540 justification absent from school, and (i) the child has been offered an adequate opportunity to receive the  
2541 benefit of any and all educational services and programs that are required to be provided by law and  
2542 which meet the child's particular educational needs, (ii) the school system from which the child is absent  
2543 or other appropriate agency has made a reasonable effort to effect the child's regular attendance without  
2544 success, and (iii) the school system has provided documentation that it has complied with the provisions  
2545 of § 22.1-258; or

2546 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian

2547 or placement authority, remains away from or deserts or abandons his family or lawful custodian on  
2548 more than one occasion or escapes or remains away without proper authority from a residential care  
2549 facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial  
2550 danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or  
2551 services not presently being received, and (iii) the intervention of the court is essential to provide the  
2552 treatment, rehabilitation or services needed by the child or his family.

2553 "Child welfare agency" means a child-placing agency, child-caring institution or independent  
2554 foster home as defined in § 63.2-100.

2555 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the  
2556 juvenile and domestic relations district court of each county or city.

2557 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an  
2558 ordinance of any city, coun308.4.ty, town, or service district, or under federal law, (ii) a violation of §  
2559 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act  
2560 other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if  
2561 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, "delinquent act" includes a refusal to  
2562 take a breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town. For the  
2563 purposes of §§ 16.1-241, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, "delinquent act" includes  
2564 a violation of ~~§ 18.2-250.1~~ 3.2-4160 or 3.2-4161.

2565 "Delinquent child" means a child who has committed a delinquent act or an adult who has  
2566 committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court  
2567 has been terminated under the provisions of § 16.1-269.6.

2568 "Department" means the Department of Juvenile Justice and "Director" means the administrative  
2569 head in charge thereof or such of his assistants and subordinates as are designated by him to discharge  
2570 the duties imposed upon him under this law.

2571 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2,  
2572 or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the

2573 highways.

2574 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or  
2575 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by  
2576 a person against such person's family or household member. Such act includes, but is not limited to, any  
2577 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of  
2578 Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable  
2579 apprehension of death, sexual assault, or bodily injury.

2580 "Family or household member" means (i) the person's spouse, whether or not he or she resides in  
2581 the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the  
2582 same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers,  
2583 sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons  
2584 reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law,  
2585 daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v)  
2586 any individual who has a child in common with the person, whether or not the person and that individual  
2587 have been married or have resided together at any time, or (vi) any individual who cohabits or who,  
2588 within the previous 12 months, cohabited with the person, and any children of either of them then  
2589 residing in the same home with the person.

2590 "Fictive kin" means persons who are not related to a child by blood or adoption but have an  
2591 established relationship with the child or his family.

2592 "Foster care services" means the provision of a full range of casework, treatment and community  
2593 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in  
2594 need of services as defined in this section and his family when the child (i) has been identified as  
2595 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through  
2596 an agreement between the local board of social services or a public agency designated by the community  
2597 policy and management team and the parents or guardians where legal custody remains with the parents  
2598 or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare

2599 agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to §  
2600 16.1-293.

2601 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is  
2602 in the custody of a local board or licensed child-placing agency by the local board or licensed child-  
2603 placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was  
2604 committed to the Department of Juvenile Justice immediately prior to placement by the Department of  
2605 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute  
2606 parental supervision.

2607 "Independent living services" means services and activities provided to a child in foster care 14  
2608 years of age or older and who has been committed or entrusted to a local board of social services, child  
2609 welfare agency, or private child-placing agency. "Independent living services" may also mean services  
2610 and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet  
2611 reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his  
2612 commitment to the Department of Juvenile Justice, was in the custody of a local board of social services;  
2613 or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed  
2614 to the Department of Juvenile Justice immediately prior to placement in an independent living  
2615 arrangement. "Independent living services" includes counseling, education, housing, employment, and  
2616 money management skills development and access to essential documents and other appropriate services  
2617 to help children or persons prepare for self-sufficiency.

2618 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of  
2619 this chapter.

2620 "Jail" or "other facility designed for the detention of adults" means a local or regional  
2621 correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court  
2622 holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the  
2623 transfer of a child to a juvenile facility.

2624 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district

2625 court of each county or city.

2626 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced  
2627 in this chapter.

2628 "Legal custody" means (i) a legal status created by court order which vests in a custodian the  
2629 right to have physical custody of the child, to determine and redetermine where and with whom he shall  
2630 live, the right and duty to protect, train and discipline him and to provide him with food, shelter,  
2631 education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii)  
2632 the legal status created by court order of joint custody as defined in § 20-107.2.

2633 "Permanent foster care placement" means the place of residence in which a child resides and in  
2634 which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation  
2635 and agreement between the placing agency and the place of permanent foster care that the child shall  
2636 remain in the placement until he reaches the age of majority unless modified by court order or unless  
2637 removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of  
2638 residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term  
2639 basis.

2640 "Qualified individual" means a trained professional or licensed clinician who is not an employee  
2641 of the local board of social services or licensed child-placing agency that placed the child in a qualified  
2642 residential treatment program and is not affiliated with any placement setting in which children are  
2643 placed by such local board of social services or licensed child-placing agency.

2644 "Qualified residential treatment program" means a program that (i) provides 24-hour residential  
2645 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that  
2646 meets the clinical and other needs of children with serious emotional or behavioral disorders, including  
2647 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this  
2648 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site  
2649 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts  
2650 outreach with the child's family members, including efforts to maintain connections between the child

2651 and his siblings and other family; documents and maintains records of such outreach efforts; and  
2652 maintains contact information for any known biological family and fictive kin of the child; (v) whenever  
2653 appropriate and in the best interest of the child, facilitates participation by family members in the child's  
2654 treatment program before and after discharge and documents the manner in which such participation is  
2655 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months  
2656 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an  
2657 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that  
2658 any child placed in the program receive an assessment within 30 days of such placement by a qualified  
2659 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-  
2660 based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b)  
2661 identifies whether the needs of the child can be met through placement with a family member or in a  
2662 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified  
2663 residential treatment program, that would provide the most effective and appropriate level of care for the  
2664 child in the least restrictive environment and be consistent with the short-term and long-term goals  
2665 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and  
2666 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to  
2667 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,  
2668 16.1-282.1, or 16.1-282.2.

2669 "Residual parental rights and responsibilities" means all rights and responsibilities remaining  
2670 with the parent after the transfer of legal custody or guardianship of the person, including but not limited  
2671 to the right of visitation, consent to adoption, the right to determine religious affiliation and the  
2672 responsibility for support.

2673 "Secure facility" or "detention home" means a local, regional or state public or private locked  
2674 residential facility that has construction fixtures designed to prevent escape and to restrict the movement  
2675 and activities of children held in lawful custody.

2676 "Shelter care" means the temporary care of children in physically unrestricting facilities.

2677 "State Board" means the State Board of Juvenile Justice.

2678 "Status offender" means a child who commits an act prohibited by law which would not be  
2679 criminal if committed by an adult.

2680 "Status offense" means an act prohibited by law which would not be an offense if committed by  
2681 an adult.

2682 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of §  
2683 16.1-269.1 when committed by a juvenile 14 years of age or older.

2684 **§ 16.1-260. Intake; petition; investigation.**

2685 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing  
2686 of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition  
2687 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the  
2688 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,  
2689 and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However,  
2690 (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with  
2691 the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete,  
2692 sign, and file petitions and motions relating to the establishment, modification, or enforcement of  
2693 support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney  
2694 employees of a local department of social services may complete, sign, and file with the clerk, on forms  
2695 approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency  
2696 planning hearings, petitions to establish paternity, motions to establish or modify support, motions to  
2697 amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions  
2698 on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child  
2699 alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or  
2700 neglect of a child shall be referred initially to the local department of social services in accordance with  
2701 the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings  
2702 in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or



2703 motion is filed shall inquire whether the petitioner is receiving child support services or public  
2704 assistance. No individual who is receiving support services or public assistance shall be denied the right  
2705 to file a petition or motion to establish, modify, or enforce an order for support of a child. If the  
2706 petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of  
2707 process, shall forward a copy of the petition or motion, together with notice of the court date, to the  
2708 Division of Child Support Enforcement.

2709 B. The appearance of a child before an intake officer may be by (i) personal appearance before  
2710 the intake officer or (ii) use of two-way electronic video and audio communication. If two-way  
2711 electronic video and audio communication is used, an intake officer may exercise all powers conferred  
2712 by law. All communications and proceedings shall be conducted in the same manner as if the appearance  
2713 were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be  
2714 served or executed by the officer or person to whom sent, and returned in the same manner, and with the  
2715 same force, effect, authority, and liability as an original document. All signatures thereon shall be treated  
2716 as original signatures. Any two-way electronic video and audio communication system used for an  
2717 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

2718 When the court service unit of any court receives a complaint alleging facts which may be  
2719 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake  
2720 officer, may proceed informally to make such adjustment as is practicable without the filing of a petition  
2721 or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to  
2722 establish probable cause for the issuance of the petition.

2723 An intake officer may proceed informally on a complaint alleging a child is in need of services,  
2724 in need of supervision, or delinquent only if the juvenile (a) is not alleged to have committed a violent  
2725 juvenile felony or (b) has not previously been proceeded against informally or adjudicated delinquent for  
2726 an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed  
2727 a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for  
2728 an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile

2729 had previously been proceeded against informally by intake or had been adjudicated delinquent for an  
2730 offense that would be a felony if committed by an adult.

2731           If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258  
2732 and the attendance officer has provided documentation to the intake officer that the relevant school  
2733 division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with  
2734 the court. The intake officer may defer filing the petition and proceed informally by developing a  
2735 truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or  
2736 adjudicated in need of supervision on more than two occasions for failure to comply with compulsory  
2737 school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or  
2738 adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his  
2739 parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the  
2740 development of a truancy plan. The truancy plan may include requirements that the juvenile and his  
2741 parent or parents, guardian, or other person standing in loco parentis participate in such programs,  
2742 cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the  
2743 juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer  
2744 may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan  
2745 using an interagency interdisciplinary team approach. The team may include qualified personnel who are  
2746 reasonably available from the appropriate department of social services, community services board, local  
2747 school division, court service unit, and other appropriate and available public and private agencies and  
2748 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the  
2749 deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then  
2750 the intake officer shall file the petition.

2751           Whenever informal action is taken as provided in this subsection on a complaint alleging that a  
2752 child is in need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a  
2753 plan for the juvenile, which may include restitution and the performance of community service, based  
2754 upon community resources and the circumstances which resulted in the complaint, (B) create an official

2755 record of the action taken by the intake officer and file such record in the juvenile's case file, and (C)  
2756 advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the  
2757 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent  
2758 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241  
2759 may result in the filing of a petition with the court.

2760 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,  
2761 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has  
2762 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such  
2763 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,  
2764 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a  
2765 protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of  
2766 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-  
2767 152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such  
2768 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to  
2769 be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer  
2770 believes that probable cause does not exist, or that the authorization of a petition will not be in the best  
2771 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other  
2772 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a  
2773 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written  
2774 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders  
2775 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant  
2776 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the  
2777 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-  
2778 152.8, 19.2-152.9, or 19.2-152.10.

2779 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
2780 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be

2781 in need of supervision have utilized or attempted to utilize treatment and services available in the  
2782 community and have exhausted all appropriate nonjudicial remedies which are available to them. When  
2783 the intake officer determines that the parties have not attempted to utilize available treatment or services  
2784 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the  
2785 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility,  
2786 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake  
2787 officer determines that the parties have made a reasonable effort to utilize available community  
2788 treatment or services may he permit the petition to be filed.

2789 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by  
2790 an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified  
2791 in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate  
2792 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic  
2793 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake  
2794 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate  
2795 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the  
2796 juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake  
2797 officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a  
2798 status offense, or a misdemeanor other than Class 1, his decision is final.

2799 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256,  
2800 the intake officer shall accept and file a petition founded upon the warrant.

2801 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition  
2802 which alleges facts of an offense which would be a felony if committed by an adult.

2803 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a  
2804 report with the division superintendent of the school division in which any student who is the subject of  
2805 a petition alleging that such student who is a juvenile has committed an act, wherever committed, which  
2806 would be a crime if committed by an adult, or that such student who is an adult has committed a crime

2807 and is alleged to be within the jurisdiction of the court. The report shall notify the division  
2808 superintendent of the filing of the petition and the nature of the offense, if the violation involves:

2809 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-  
2810 299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

2811 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

2812 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4  
2813 of Title 18.2;

2814 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

2815 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,  
2816 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

2817 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (~~§ 18.2-247 et seq.~~) of  
2818 ~~Chapter 7 of Title 18.2~~ 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2;

2819 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

2820 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

2821 9. Robbery pursuant to § 18.2-58;

2822 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

2823 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

2824 12. An act of violence by a mob pursuant to § 18.2-42.1;

2825 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

2826 14. A threat pursuant to § 18.2-60.

2827 The failure to provide information regarding the school in which the student who is the subject of  
2828 the petition may be enrolled shall not be grounds for refusing to file a petition.

2829 The information provided to a division superintendent pursuant to this section may be disclosed  
2830 only as provided in § 16.1-305.2.

2831 H. The filing of a petition shall not be necessary:

2832 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking

2833 and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating  
2834 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.  
2835 In such cases the court may proceed on a summons issued by the officer investigating the violation in the  
2836 same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle  
2837 accident may, at the scene of the accident or at any other location where a juvenile who is involved in  
2838 such an accident may be located, proceed on a summons in lieu of filing a petition.

2839         2. In the case of seeking consent to apply for the issuance of a work permit pursuant to  
2840 subsection H of § 16.1-241.

2841         3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738, or the  
2842 commission of any other alcohol-related offense, or a violation of § ~~18.2-250.1~~ 3.2-4160 or 3.2-4161,  
2843 provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court  
2844 date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons  
2845 to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the  
2846 court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-  
2847 278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1,  
2848 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath  
2849 for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of  
2850 these sections shall be followed except that the magistrate shall authorize execution of the warrant as a  
2851 summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the  
2852 summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 3.2-  
2853 4160, 3.2-4161, or 4.1-305 ~~or 18.2-250.1~~ is charged by summons, the juvenile shall be entitled to have  
2854 the charge referred to intake for consideration of informal proceedings pursuant to subsection B,  
2855 provided that such right is exercised by written notification to the clerk not later than 10 days prior to  
2856 trial. At the time such summons alleging a violation of § 3.2-4160, 3.2-4161, or 4.1-305 ~~or 18.2-250.1~~ is  
2857 served, the officer shall also serve upon the juvenile written notice of the right to have the charge  
2858 referred to intake on a form approved by the Supreme Court and make return of such service to the

2859 court. If the officer fails to make such service or return, the court shall dismiss the summons without  
2860 prejudice.

2861 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or  
2862 Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in §  
2863 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided  
2864 by law for adults provided that notice of the summons to appear is mailed by the investigating officer  
2865 within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

2866 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court  
2867 of the jurisdiction granted it in § 16.1-241.

2868 **§ 16.1-273. Court may require investigation of social history and preparation of victim**  
2869 **impact statement.**

2870 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case  
2871 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a  
2872 violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing  
2873 curfew violations, the court before final disposition thereof may require an investigation, which (i) shall  
2874 include a drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8  
2875 shall, include a social history of the physical, mental, and social conditions, including an assessment of  
2876 any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the  
2877 facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated  
2878 delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if  
2879 committed by an adult, (b) a violation under Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or  
2880 Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such  
2881 offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, or (c) a  
2882 violation of ~~§ 18.2-250.1~~ 3.2-4160 or 3.2-4161, the court shall order the juvenile to undergo a drug  
2883 screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem,  
2884 an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500

2885 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an  
2886 individual employed by or currently under contract to such agencies and who is specifically trained to  
2887 conduct such assessments under the supervision of such counselor.

2888 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the  
2889 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with  
2890 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant  
2891 physical, psychological, or economic injury as a result of the violation of law.

2892 **§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment;**  
2893 **drug tests; costs and fees; education or treatment programs.**

2894 Whenever any juvenile who has not previously been found delinquent of any offense under  
2895 Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of  
2896 Title 18.2 or under any statute of the United States or of any state relating to narcotic drugs, marijuana,  
2897 or stimulant, depressant or hallucinogenic drugs, or has not previously had a proceeding against him for  
2898 a violation of such an offense dismissed as provided in this section or § 18.2-251, is found delinquent of  
2899 any offense concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana,  
2900 noxious chemical substances and like substances, the juvenile court or the circuit court shall require such  
2901 juvenile to undergo a substance abuse screening pursuant to § 16.1-273 and to submit to such periodic  
2902 substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be  
2903 conducted by a court services unit of the Department of Juvenile Justice, or by a locally operated court  
2904 services unit or by personnel of any program or agency approved by the Department. The cost of such  
2905 testing ordered by the court shall be paid by the Commonwealth from funds appropriated to the  
2906 Department for this purpose. The court shall also order the juvenile to undergo such treatment or  
2907 education program for substance abuse, if available, as the court deems appropriate based upon  
2908 consideration of the substance abuse assessment. The treatment or education shall be provided by a  
2909 program licensed by the Department of Behavioral Health and Developmental Services or by a similar  
2910 program available through a facility or program operated by or under contract to the Department of



2911 Juvenile Justice or a locally operated court services unit or a program funded through the Virginia  
2912 Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.).

2913 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**  
2914 **offenses; truancy.**

2915 A. If a court has found facts ~~which~~ that would justify a finding that a child at least 13 years of  
2916 age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a  
2917 similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-  
2918 268.2; (iii) a felony violation of § 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4170, 18.2-248, 18.2-248.1 or 18.2-  
2919 250; (iv) a misdemeanor violation of § 18.2-248, ~~18.2-248.1~~, or 18.2-250 ~~or a violation of § 18.2-250.1;~~  
2920 (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the  
2921 unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of §  
2922 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or  
2923 town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined  
2924 below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may  
2925 impose as provided by law for the offense, that the child be denied a driver's license. In addition to any  
2926 other penalty authorized by this section, if the offense involves a violation designated under clause (i)  
2927 and the child was transporting a person 17 years of age or younger, the court shall impose the additional  
2928 fine and order community service as provided in § 18.2-270. If the offense involves a violation  
2929 designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one  
2930 year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a  
2931 period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or  
2932 subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi), the  
2933 denial of driving privileges shall be for a period of six months unless the offense is committed by a child  
2934 under the age of 16 years and three months, in which case the child's ability to apply for a driver's  
2935 license shall be delayed for a period of six months following the date he reaches the age of 16 and three  
2936 months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose

2937 the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may  
2938 defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to  
2939 subsection F ~~of this section~~. If the offense involves a violation designated under clause (iii) or (iv), the  
2940 court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the  
2941 provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii),  
2942 the denial of driving privileges shall be for a period of not less than 30 days, except when the offense  
2943 involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any  
2944 semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of  
2945 holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two  
2946 years unless the offense is committed by a child under the age of 16 years and three months, in which  
2947 event the child's ability to apply for a driver's license shall be delayed for a period of two years following  
2948 the date he reaches the age of 16 and three months.

2949         A1. If a court finds that a child at least 13 years of age has failed to comply with school  
2950 attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the  
2951 child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child  
2952 under the age of 16 years and three months, the child's ability to apply for a driver's license shall be  
2953 delayed for a period of not less than 30 days following the date he reaches the age of 16 and three  
2954 months.

2955         If the court finds a second or subsequent such offense, it may order the denial of a driver's license  
2956 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the  
2957 child's ability to apply for a driver's license for a period of one year following the date he reaches the age  
2958 of 16 and three months, as may be appropriate.

2959         A2. If a court finds that a child at least 13 years of age has refused to take a blood test in  
2960 violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of  
2961 one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a  
2962 period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or

2963 subsequent such offense.

2964 B. Any child who has a driver's license at the time of the offense or at the time of the court's  
2965 finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall  
2966 be held in the physical custody of the court during any period of license denial.

2967 C. The court shall report any order issued under this section to the Department of Motor  
2968 Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to  
2969 whether the child was represented by or waived counsel or whether the order was issued pursuant to  
2970 subsection A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) ~~of this chapter~~ or  
2971 the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys  
2972 for the Commonwealth, and courts. No other record of the proceeding shall be forwarded to the  
2973 Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to  
2974 subsection F.

2975 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a  
2976 driver's license until such time as is stipulated in the court order or until notification by the court of  
2977 withdrawal of the order of denial under subsection E.

2978 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii), or (vi)  
2979 of subsection A or a violation designated under subsection A2, the child may be referred to a certified  
2980 alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the  
2981 court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv),  
2982 (v), (vii), or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational  
2983 services upon such terms and conditions as the court may set forth.

2984 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a  
2985 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the  
2986 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes  
2987 set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license  
2988 shall be issued for travel to and from home and school when school-provided transportation is available

2989 and no restricted license shall be issued if the finding as to such child involves a violation designated  
2990 under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense  
2991 designated in subsection A, a second finding by the court of failure to comply with school attendance  
2992 and meeting requirements as provided in subsection A1, or a second or subsequent finding by the court  
2993 of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall  
2994 be set forth within the court order, a copy of which shall be provided to the child, and shall specifically  
2995 enumerate the restrictions imposed and contain such information regarding the child as is reasonably  
2996 necessary to identify him. The child may operate a motor vehicle under the court order in accordance  
2997 with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant  
2998 to this section is guilty of a violation of § 46.2-301.

2999 E. Upon petition made at least 90 days after issuance of the order, the court may review and  
3000 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in  
3001 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed  
3002 and withdrawn until one year after its issuance.

3003 F. If the finding as to such child involves a first violation designated under clause (vii) of  
3004 subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's  
3005 driver's license has been restored, the court shall or, in the event the violation resulted in the injury or  
3006 death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of  
3007 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal  
3008 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be  
3009 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill  
3010 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves  
3011 a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed  
3012 pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-  
3013 251. If the finding as to such child involves a second violation under clause (v), (vi), or (vii) of  
3014 subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under

3015 § 16.1-278.8.

3016 **§ 16.1-309.1. Exception as to confidentiality.**

3017 A. Notwithstanding any other provision of this article, where consideration of public interest  
3018 requires, the judge shall make available to the public the name and address of a juvenile and the nature  
3019 of the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class  
3020 1, 2, or 3 felony, forcible rape, robbery or burglary or a related offense as set out in Article 2 (§ 18.2-89  
3021 et seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is  
3022 sentenced as an adult in circuit court.

3023 B. 1. a. At any time prior to disposition, if a juvenile charged with a delinquent act which would  
3024 constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a  
3025 secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the  
3026 Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a  
3027 locally operated court services unit, may, with notice to the juvenile's attorney of record, petition the  
3028 court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical  
3029 description and photograph, the charge for which he is sought or for which he was adjudicated and any  
3030 other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive  
3031 and for good cause, the court shall order release of this information to the public. If a juvenile charged  
3032 with a delinquent act that would constitute a felony if committed by an adult, or held in custody by a  
3033 law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from  
3034 justice at a time when the court is not in session, the Commonwealth's attorney, the Department of  
3035 Juvenile Justice, or a locally operated court services unit may, with notice to the juvenile's attorney of  
3036 record, authorize the public release of the juvenile's name, age, physical description and photograph, the  
3037 charge for which he is sought, and any other information which may expedite his apprehension.

3038 b. At any time prior to disposition, if a juvenile charged with a delinquent act which would  
3039 constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or  
3040 held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the

3041 Commonwealth may, with notice to the juvenile's attorney of record, petition the court having  
3042 jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description  
3043 and photograph, the charge for which he is sought or for which he was adjudicated and any other  
3044 information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for  
3045 good cause, the court shall order release of this information to the public. If a juvenile charged with a  
3046 delinquent act that would constitute a misdemeanor if committed by an adult, or held in custody by a  
3047 law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from  
3048 justice at a time when the court is not in session, the attorney for the Commonwealth may, with notice to  
3049 the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical  
3050 description and photograph, the charge for which he is sought, and any other information which may  
3051 expedite his apprehension.

3052           2. After final disposition, if a juvenile (i) found to have committed a delinquent act becomes a  
3053 fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to  
3054 subdivision A 14 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a  
3055 facility operated by or under contract with the Department or from the custody of any employee of such  
3056 facility, the Department may release to the public the juvenile's name, age, physical description and  
3057 photograph, the charge for which he is sought or for which he was committed, and any other information  
3058 which may expedite his apprehension. The Department shall promptly notify the attorney for the  
3059 Commonwealth of the jurisdiction in which the juvenile was tried whenever information is released  
3060 pursuant to this subdivision. If a juvenile specified in clause (i) being held after disposition in a secure  
3061 facility not operated by or under contract with the Department becomes a fugitive by such escape, the  
3062 attorney for the Commonwealth of the locality in which the facility is located may release the  
3063 information as provided in this subdivision.

3064           C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a  
3065 criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a  
3066 weapon, a felony violation of Article 7 (§ 3.2-4159 et. seq.) of Chapter 41.2 of Title 3.2, a felony

3067 violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as defined in  
3068 subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of the public  
3069 interest requires, make the juvenile's name and address available to the public.

3070 D. Upon the request of a victim of a delinquent act that would be a felony or that would be a  
3071 misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-57.2, 18.2-60.3, 18.2-60.4, 18.2-67.4, or 18.2-67.5  
3072 if committed by an adult, the court may order that such victim be informed of the charge or charges  
3073 brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim"  
3074 shall be defined as in § 19.2-11.01.

3075 E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile  
3076 pursuant to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has  
3077 not been terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

3078 F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew  
3079 or other restriction on a juvenile may be provided to the chief law-enforcement officer of the county or  
3080 city wherein the juvenile resides. The chief law-enforcement officer shall only disclose information  
3081 contained in the court order to other law-enforcement officers in the conduct of official duties.

3082 G. Notwithstanding any other provision of law, where consideration of public safety requires, the  
3083 Department and locally operated court service unit shall release information relating to a juvenile's  
3084 criminal street gang involvement, if any, and the criminal street gang-related activity and membership of  
3085 others, as criminal street gang is defined in § 18.2-46.1, obtained from an investigation or supervision of  
3086 a juvenile and shall include the identity or identifying information of the juvenile; however, the  
3087 Department and local court service unit shall not release the identifying information of a juvenile not  
3088 affiliated with or involved in a criminal street gang unless that information relates to a specific criminal  
3089 act. Such information shall be released to any State Police, local police department, sheriff's office, or  
3090 law-enforcement task force that is a part of or administered by the Commonwealth or any political  
3091 subdivision thereof, and that is responsible for the prevention and detection of crime and the  
3092 enforcement of the penal, traffic, or highway laws of the Commonwealth. The exchange of information

3093 shall be for the purpose of an investigation into criminal street gang activity.

3094 H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), a clerk of the court  
3095 shall report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of  
3096 Homeland Security a juvenile who has been detained in a secure facility but only upon an adjudication  
3097 of delinquency or finding of guilt for a violent juvenile felony and when there is evidence that the  
3098 juvenile is in the United States illegally.

3099 **§ 17.1-275. Fees collected by clerks of circuit courts; generally.**

3100 A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the  
3101 following fees:

3102 1. [Repealed.]

3103 2. For recording and indexing in the proper book any writing and all matters therewith, or for  
3104 recording and indexing anything not otherwise provided for, \$18 for an instrument or document  
3105 consisting of 10 or fewer pages or sheets; \$32 for an instrument or document consisting of 11 to 30  
3106 pages or sheets; and \$52 for an instrument or document consisting of 31 or more pages or sheets.  
3107 Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half  
3108 inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of  
3109 computing the recording fee due pursuant to this section. A fee of \$17 per page or sheet shall be charged  
3110 with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a single fee as  
3111 authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the  
3112 original deed of trust and any corrected or revised deeds of trust. Three dollars and fifty cents of the fee  
3113 collected for recording and indexing shall be designated for use in preserving the permanent records of  
3114 the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in  
3115 cooperation with the circuit court clerks.

3116 3. For appointing and qualifying any personal representative, committee, trustee, guardian, or  
3117 other fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not  
3118 exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No



3119 fee shall be charged for estates of \$5,000 or less.

3120 4. For entering and granting and for issuing any license, other than a marriage license or a  
3121 hunting and fishing license, and administering an oath when necessary, \$10.

3122 5. For issuing a marriage license, attaching certificate, administering or receiving all necessary  
3123 oaths or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage  
3124 pursuant to § 20-25, \$25 to be paid by the petitioner.

3125 6. For making out any bond, other than those under § 17.1-267 or subdivision ~~A~~ 4, administering  
3126 all necessary oaths and writing proper affidavits, \$3.

3127 7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's  
3128 fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

3129 8. For making out a copy of any paper, record, or electronic record to go out of the office, which  
3130 is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record,  
3131 each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies and  
3132 pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the  
3133 copies shall be deposited with the county or city treasurer or Director of Finance, and the governing  
3134 body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this  
3135 subdivision. For purposes of this section, the costs of making out the copies authorized under this section  
3136 shall include costs included in the lease and maintenance agreements for the equipment and the  
3137 technology needed to operate electronic systems in the clerk's office used to make out the copies, but  
3138 shall not include salaries or related benefits. The costs of copies shall otherwise be determined in  
3139 accordance with § 2.2-3704. However, there shall be no charge to the recipient of a final order or decree  
3140 to send an attested copy to such party.

3141 9. For annexing the seal of the court to any paper, writing the certificate of the clerk  
3142 accompanying it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is  
3143 requested to do so, the clerk shall charge an additional \$0.50.

3144 10. In any case in which a person is convicted of a violation of any provision of Article 7 (§ 3.2-

3145 4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is  
3146 subject to a disposition under § 18.2-251, the clerk shall assess a fee of \$150 for each felony conviction  
3147 and each felony disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be  
3148 paid into the Drug Offender Assessment and Treatment Fund as established in § 18.2-251.02.

3149 11. In any case in which a person is convicted of a violation of any provision of Article 7 (§ 3.2-  
3150 4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is  
3151 subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction  
3152 and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and  
3153 shall be paid as provided in § 17.1-275.8 into the Drug Offender Assessment and Treatment Fund as  
3154 ~~provided in § 17.1-275.8~~ established in § 18.2-251.02.

3155 12. Upon the defendant's being required to successfully complete traffic school, a mature driver  
3156 motor vehicle crash prevention course, or a driver improvement clinic in lieu of a finding of guilty, the  
3157 court shall charge the defendant fees and costs as if he had been convicted.

3158 13. In all civil actions that include one or more claims for the award of monetary damages the  
3159 clerk's fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999;  
3160 \$200 in cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking  
3161 recovery exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery  
3162 exceeding \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund  
3163 established under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a  
3164 condemnation case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim  
3165 or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon  
3166 the filing of a counterclaim or a claim impleading a third-party defendant. The fees prescribed above  
3167 shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall  
3168 not be applicable to cases filed in the Supreme Court of Virginia.

3169 13a. For the filing of any petition seeking court approval of a settlement where no action has yet  
3170 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the

3171 time of filing the petition.

3172 14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments  
3173 by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered  
3174 or certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the  
3175 amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering  
3176 judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as  
3177 prescribed in subdivision ~~A~~ 17.

3178 15. For qualifying notaries public, including the making out of the bond and any copies thereof,  
3179 administering the necessary oaths, and entering the order, \$10.

3180 16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required  
3181 thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

3182 17. For docketing and indexing a judgment from any other court of the Commonwealth, for  
3183 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of §  
3184 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant  
3185 to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a  
3186 fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.

3187 18. For all services rendered by the clerk in any court proceeding for which no specific fee is  
3188 provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of  
3189 filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the  
3190 entry of a decree of divorce from the bond of matrimony.

3191 19, 20. [Repealed.]

3192 21. For making the endorsements on a forthcoming bond and recording the matters relating to  
3193 such bond pursuant to the provisions of § 8.01-529, \$1.

3194 22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

3195 23. For preparation and issuance of a subpoena duces tecum, \$5.

3196 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,

3197 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to a  
3198 divorce.

3199 25. For providing court records or documents on microfilm, per frame, \$0.50.

3200 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include  
3201 one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be  
3202 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to  
3203 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly  
3204 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the filing  
3205 of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged for (i)  
3206 the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any other  
3207 responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce cases,  
3208 when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the  
3209 above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

3210 27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees,  
3211 including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the  
3212 person presenting such credit or debit card a reasonable convenience fee for the processing of such credit  
3213 or debit card. Such convenience fee shall not exceed four percent of the amount paid for the transaction  
3214 or a flat fee of \$2 per transaction. The clerk may set a lower convenience fee for electronic filing of civil  
3215 or criminal proceedings pursuant to § 17.1-258.3. Nothing herein shall be construed to prohibit the clerk  
3216 from outsourcing the processing of credit and debit card transactions to a third-party private vendor  
3217 engaged by the clerk. Convenience fees shall be used to cover operational expenses as defined in § 17.1-  
3218 295.

3219 28. For the return of any check unpaid by the financial institution on which it was drawn or  
3220 notice is received from the credit or debit card issuer that payment will not be made for any reason, the  
3221 clerk may collect a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

3222 29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-

**3223** 275.1, 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the  
**3224** fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption  
**3225** filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an  
**3226** additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Virginia Birth Father  
**3227** Registry Fund pursuant to § 63.2-1249.

**3228** 30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the  
**3229** same amount as the fee for the original license.

**3230** 31. For the filing of any petition as provided in §§ 33.2-1023, 33.2-1024, and 33.2-1027, a fee of  
**3231** \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in  
**3232** § 33.2-1021, as well as for any order of the court relating thereto, the clerk shall charge the same fee as  
**3233** for recording a deed as provided for in this section, to be paid by the party upon whose request such  
**3234** certificate is recorded or order is entered.

**3235** 32. For making up, certifying and transmitting original record pursuant to the Rules of the  
**3236** Supreme Court, including all papers necessary to be copied and other services rendered, except in cases  
**3237** in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7,  
**3238** 17.1-275.8, or 17.1-275.9, a fee of \$20.

**3239** 33. [Repealed.]

**3240** 34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55.1-653 et seq.), the  
**3241** fees shall be as prescribed in that Act.

**3242** 35. For filing the appointment of a resident agent for a nonresident property owner in accordance  
**3243** with § 55.1-1211 or 55.1-1401, a fee of \$10.

**3244** 36. [Repealed.]

**3245** 37. For recordation of certificate and registration of names of nonresident owners in accordance  
**3246** with § 59.1-74, a fee of \$10.

**3247** 38. For maintaining the information required under the Overhead High Voltage Line Safety Act  
**3248** (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

- 3249 39. For lodging, indexing and preserving a will in accordance with § 64.2-409, a fee of \$5.
- 3250 40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed  
3251 under § 8.9A-525.
- 3252 41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as  
3253 prescribed under § 8.9A-525.
- 3254 42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as  
3255 prescribed under § 8.9A-525.
- 3256 43. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.
- 3257 44. For issuing any execution, and recording the return thereof, a fee of \$1.50.
- 3258 45. For the preparation and issuance of a summons for interrogation by an execution creditor, a  
3259 fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed  
3260 an additional fee of \$1.50, in accordance with subdivision ~~A~~ 44.
- 3261 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16,  
3262 A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction,  
3263 renovation or maintenance.
- 3264 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16,  
3265 A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the  
3266 poor, without charge, by a nonprofit legal aid program.
- 3267 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16,  
3268 A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.
- 3269 E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk  
3270 into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.
- 3271 F. The provisions of this section shall control the fees charged by clerks of circuit courts for the  
3272 services above described.
- 3273 **§ 17.1-275.8. Fixed drug misdemeanor fee.**
- 3274 In circuit court, upon conviction of any and each misdemeanor charge, whether or not originally

3275 charged as a felony, for a violation of any provision of Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of  
3276 Title 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or upon a deferred disposition of  
3277 proceedings in the case of any and each misdemeanor charge, whether or not originally charged as a  
3278 felony, deferred pursuant to the terms and conditions of § 18.2-251, there shall be assessed as court costs  
3279 a fee of \$296.50, to be known as the fixed drug misdemeanor fee. This fee shall be in addition to any fee  
3280 assessed in the district court.

3281 The amount collected, in whole or in part, for the fixed drug misdemeanor fee shall be  
3282 apportioned, as provided by law, to the following funds in the fractional amounts designated:

- 3283 1. Sentencing/supervision fee (General Fund) (.1264755);
- 3284 2. Court Reporter Fund (.0168634);
- 3285 3. Witness expenses/expert witness fee (General Fund) (.0067454);
- 3286 4. Virginia Crime Victim-Witness Fund (.0101180);
- 3287 5. Intensified Drug Enforcement Jurisdiction Fund (.0134907);
- 3288 6. Criminal Injuries Compensation Fund (.0674536);
- 3289 7. Commonwealth's Attorney Fund (state share) (.0252951);
- 3290 8. Commonwealth's Attorney Fund (local share) (.0252951);
- 3291 9. Regional Criminal Justice Academy Training Fund (.0033727);
- 3292 10. Warrant fee, as prescribed by § 17.1-272 (.0404722);
- 3293 11. Courthouse Construction/Maintenance Fund (.0067454);
- 3294 12. Clerk of the circuit court (.0674536);
- 3295 13. Forensic laboratory fee (General Fund) (.3372681); and
- 3296 14. Drug Offender Assessment and Treatment Fund (.2529511).

3297 **§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.**

3298 A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which  
3299 shall become effective on January 1, 1995. The initial recommended sentencing range for each felony  
3300 offense shall be determined first, by computing the actual time-served distribution for similarly situated

3301 offenders, in terms of their conviction offense and prior criminal history, released from incarceration  
3302 during the base period of calendar years 1988 through 1992, increased by 13.4 percent, and second, by  
3303 eliminating from this range the upper and lower quartiles. The midpoint of each initial recommended  
3304 sentencing range shall be the median time served for the middle two quartiles and subject to the  
3305 following additional enhancements:

3306 1. The midpoint of the initial recommended sentencing range for first degree murder, second  
3307 degree murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and  
3308 aggravated sexual battery shall be further increased by (i) 125 percent in cases in which the defendant  
3309 has no previous conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant  
3310 has previously been convicted of a violent felony offense punishable by a maximum punishment of less  
3311 than 40 years; or (iii) 500 percent in cases in which the defendant has previously been convicted of a  
3312 violent felony offense punishable by a maximum punishment of 40 years or more, except that the  
3313 recommended sentence for a defendant convicted of first degree murder who has previously been  
3314 convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or  
3315 more shall be imprisonment for life;

3316 2. The midpoint of the initial recommended sentencing range for voluntary manslaughter,  
3317 robbery, aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or  
3318 statutory burglary of a dwelling house or any burglary committed while armed with a deadly weapon or  
3319 any statutory burglary committed while armed with a deadly weapon shall be further increased by (i)  
3320 100 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii)  
3321 300 percent in cases in which the defendant has previously been convicted of a violent felony offense  
3322 punishable by a maximum term of imprisonment of less than 40 years, or (iii) 500 percent in cases in  
3323 which the defendant has previously been convicted of a violent felony offense punishable by a maximum  
3324 term of imprisonment of 40 years or more;

3325 3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving,  
3326 or distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II



3327 controlled substance, shall be increased by (i) 200 percent in cases in which the defendant has previously  
3328 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years or  
3329 (ii) 400 percent in cases in which the defendant has previously been convicted of a violent felony offense  
3330 punishable by a maximum term of imprisonment of 40 years or more; and

3331 4. The midpoint of the initial recommended sentencing range for felony offenses not specified in  
3332 subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously  
3333 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years  
3334 and by 300 percent in cases in which the defendant has previously been convicted of a violent felony  
3335 offense punishable by a maximum term of imprisonment of 40 years or more.

3336 B. For purposes of this chapter, previous convictions shall include prior adult convictions and  
3337 juvenile convictions and adjudications of delinquency based on an offense which would have been at the  
3338 time of conviction a felony if committed by an adult under the laws of any state, the District of  
3339 Columbia, or the United States or its territories.

3340 C. For purposes of this chapter, violent felony offenses shall include any felony violation of §  
3341 3.2-4174, 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-  
3342 32, 18.2-32.1, 18.2-32.2, 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation  
3343 of § 18.2-40 or 18.2-41; any violation of clause (c) (i) or (ii) of subsection B of § 18.2-46.3; any  
3344 violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony  
3345 violation of § 18.2-48, 18.2-48.1, or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3,  
3346 18.2-51.4, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, or 18.2-55; any  
3347 violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or  
3348 18.2-58.1; any felony violation of § 18.2-60.1, 18.2-60.3, or 18.2-60.4; any violation of § 18.2-61, 18.2-  
3349 64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3, 18.2-67.5, or 18.2-67.5:1 involving a third  
3350 conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in violation of  
3351 subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of  
3352 § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any

**3353** Class 3 felony violation of § 18.2-80; any violation of § 18.2-85, 18.2-89, 18.2-90, 18.2-91, 18.2-92, or  
**3354** 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of § 18.2-153; any Class 4  
**3355** felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of §  
**3356** 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony violation of subsection  
**3357** A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of subsection A of § 18.2-282;  
**3358** any felony violation of § 18.2-282.1; any violation of § 18.2-286.1, 18.2-287.2, 18.2-289, or 18.2-290;  
**3359** any violation of subsection A of § 18.2-300; any felony violation of subsection C of § 18.2-308.1 or §  
**3360** 18.2-308.2; any violation of § 18.2-308.2:1 or subsection M or N of § 18.2-308.2:2; any violation of §  
**3361** 18.2-308.3 or 18.2-312; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of §  
**3362** 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of former § 18.2-358; any violation of  
**3363** subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368,  
**3364** 18.2-370, or 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-  
**3365** 369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of §  
**3366** 18.2-374.1:1; any violation of § 18.2-374.3 or 18.2-374.4; any second or subsequent offense under §§  
**3367** 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408,  
**3368** 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; any felony violation  
**3369** of § 18.2-460, 18.2-474.1, or 18.2-477.1; any violation of § 18.2-477, 18.2-478, 18.2-480, 18.2-481, or  
**3370** 18.2-485; any violation of § 37.2-917; any violation of § 52-48; any violation of § 53.1-203; any  
**3371** conspiracy or attempt to commit any offense specified in this subsection, or any substantially similar  
**3372** offense under the laws of any state, the District of Columbia, or the United States or its territories.

**3373**           **§ 18.2-46.1. Definitions.**

**3374**           As used in this article unless the context requires otherwise or it is otherwise provided:

**3375**           "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

**3376**           "Criminal street gang" means any ongoing organization, association, or group of three or more  
**3377** persons, whether formal or informal, (i) which has as one of its primary objectives or activities the  
**3378** commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or

3379 symbol; and (iii) whose members individually or collectively have engaged in the commission of,  
3380 attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least  
3381 one of which is an act of violence, provided such acts were not part of a common act or transaction.

3382 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 3.2-4168, 3.2-4172,  
3383 3.2-4173, 3.2-4175, 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6,  
3384 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-  
3385 89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147,  
3386 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289,  
3387 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-  
3388 357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346, 18.2-348, or 18.2-349; (iv) a felony violation of §  
3389 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4170, or 18.2-248 ~~or of 18.2-248.1~~ or a conspiracy to commit a felony  
3390 violation of § 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4170, or 18.2-248 ~~or 18.2-248.1~~; (v) any violation of a  
3391 local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the  
3392 laws of another state or territory of the United States, the District of Columbia, or the United States.

3393 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V and VI,"  
3394 "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

3395 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used  
3396 in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-  
3397 3400 et seq.).

3398 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit  
3399 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a  
3400 controlled substance subject to abuse, and:

3401 1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging  
3402 or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in  
3403 any other form whatsoever will be mistaken for a controlled substance unless such substance was  
3404 introduced into commerce prior to the initial introduction into commerce of the controlled substance

3405 which it is alleged to imitate; or

3406 2. Which by express or implied representations purports to act like a controlled substance as a  
3407 stimulant or depressant of the central nervous system and which is not commonly used or recognized for  
3408 use in that particular formulation for any purpose other than for such stimulant or depressant effect,  
3409 unless marketed, promoted, or sold as permitted by the U.S. Food and Drug Administration.

3410 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an  
3411 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,  
3412 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal  
3413 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the  
3414 packaging of the drug and its appearance in overall finished dosage form, promotional materials or  
3415 representations, oral or written, concerning the drug, and the methods of distribution of the drug and  
3416 where and how it is sold to the public.

3417 ~~D. The term "marijuana" when used in this article means any part of a plant of the genus  
3418 Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative,  
3419 mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more  
3420 cannabinoids. Marijuana does not include the mature stalks of such plant, fiber produced from such  
3421 stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with  
3422 other parts of plants of the genus Cannabis. Marijuana does not include (i) industrial hemp, as defined in  
3423 § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent  
3424 or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no  
3425 greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown,  
3426 dealt, or processed in compliance with state or federal law.~~

3427 ~~E. The term For purposes of this section, "counterfeit controlled substance" means a controlled  
3428 substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is  
3429 otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any  
3430 likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer,~~

3431 processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

3432 ~~F. The Department of Forensic Science shall determine the proper methods for detecting the~~  
3433 ~~concentration of delta-9-tetrahydrocannabinol (THC) in substances for the purposes of this title and §§~~  
3434 ~~54.1-3401 and 54.1-3446. The testing methodology shall use post-decarboxylation testing or other~~  
3435 ~~equivalent method and shall consider the potential conversion of delta-9-tetrahydrocannabinol acid~~  
3436 ~~(THC-A) into THC. The test result shall include the total available THC derived from the sum of the~~  
3437 ~~THC and THC-A content.~~

3438 **§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to**  
3439 **manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance**  
3440 **prohibited; penalties.**

3441 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it ~~shall be~~ is unlawful for  
3442 any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or  
3443 distribute a controlled substance or an imitation controlled substance.

3444 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation  
3445 controlled substance, the court may consider, in addition to all other relevant evidence, whether any  
3446 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form  
3447 whatsoever included an exchange of or a demand for money or other property as consideration, and, if  
3448 so, whether the amount of such consideration was substantially greater than the reasonable value of such  
3449 pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical  
3450 composition of such pill, capsule, tablet or substance in any other form whatsoever and, where  
3451 applicable, the price at which over-the-counter substances of like chemical composition sell.

3452 C. Except as provided in subsection C1, any person who violates this section with respect to a  
3453 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than  
3454 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a  
3455 violation, and it is alleged in the warrant, indictment, or information that the person has been before  
3456 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense

3457 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the  
3458 date of the offense alleged in the warrant, indictment, or information, any such person may, in the  
3459 discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any  
3460 period not less than five years, three years of which shall be a mandatory minimum term of  
3461 imprisonment to be served consecutively with any other sentence, and he shall be fined not more than  
3462 \$500,000.

3463           When a person is convicted of a third or subsequent offense under this subsection and it is  
3464 alleged in the warrant, indictment, or information that he has been before convicted of two or more such  
3465 offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if  
3466 committed in the Commonwealth and such prior convictions occurred before the date of the offense  
3467 alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a  
3468 period of not less than 10 years, 10 years of which shall be a mandatory minimum term of imprisonment  
3469 to be served consecutively with any other sentence, and he shall be fined not more than \$500,000.

3470           Any person who manufactures, sells, gives, distributes or possesses with the intent to  
3471 manufacture, sell, give, or distribute the following is guilty of a felony punishable by a fine of not more  
3472 than \$1 million and imprisonment for five years to life, five years of which shall be a mandatory  
3473 minimum term of imprisonment to be served consecutively with any other sentence:

- 3474           1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;  
3475           2. 500 grams or more of a mixture or substance containing a detectable amount of:
- 3476           a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
3477 derivatives of ecgonine or their salts have been removed;
  - 3478           b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - 3479           c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - 3480           d. Any compound, mixture, or preparation that contains any quantity of any of the substances  
3481 referred to in subdivisions 2a through 2c;
- 3482           3. 250 grams or more of a mixture or substance described in subdivisions 2a through 2d that

3483 contain cocaine base; or

3484 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or  
3485 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,  
3486 or salts of its isomers.

3487 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection  
3488 shall not be applicable if the court finds that:

3489 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-  
3490 805;

3491 b. The person did not use violence or credible threats of violence or possess a firearm or other  
3492 dangerous weapon in connection with the offense or induce another participant in the offense to do so;

3493 c. The offense did not result in death or serious bodily injury to any person;

3494 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and  
3495 was not engaged in a continuing criminal enterprise as defined in subsection I; and

3496 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the  
3497 Commonwealth all information and evidence the person has concerning the offense or offenses that were  
3498 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no  
3499 relevant or useful other information to provide or that the Commonwealth already is aware of the  
3500 information shall not preclude a determination by the court that the defendant has complied with this  
3501 requirement.

3502 C1. Any person who violates this section with respect to the manufacturing of methamphetamine,  
3503 its salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a  
3504 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,  
3505 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a  
3506 second conviction of such a violation, any such person may, in the discretion of the court or jury  
3507 imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years,  
3508 and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense under

3509 this subsection and it is alleged in the warrant, indictment, or information that he has been previously  
3510 convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction,  
3511 which offenses would be felonies if committed in the Commonwealth and such prior convictions  
3512 occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be  
3513 sentenced to imprisonment for life or for a period not less than 10 years, three years of which shall be a  
3514 mandatory minimum term of imprisonment to be served consecutively with any other sentence and he  
3515 shall be fined not more than \$500,000.

3516       Upon conviction, in addition to any other punishment, a person found guilty of this offense shall  
3517 be ordered by the court to make restitution, as the court deems appropriate, to any innocent property  
3518 owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such  
3519 methamphetamine production. This restitution shall include the person's or his estate's estimated or  
3520 actual expenses associated with cleanup, removal, or repair of the affected property. If the property that  
3521 is damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production  
3522 is property owned in whole or in part by the person convicted, the court shall order the person to pay to  
3523 the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual  
3524 expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated  
3525 expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of  
3526 certifying that any building that is cleaned up or repaired pursuant to this section is safe for human  
3527 occupancy according to the guidelines established pursuant to § 32.1-11.7.

3528       D. If such person proves that he gave, distributed or possessed with intent to give or distribute a  
3529 controlled substance classified in Schedule I or II only as an accommodation to another individual who  
3530 is not an inmate in a community correctional facility, local correctional facility or state correctional  
3531 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit  
3532 thereby from any consideration received or expected nor to induce the recipient or intended recipient of  
3533 the controlled substance to use or become addicted to or dependent upon such controlled substance, he  
3534 ~~shall be~~ is guilty of a Class 5 felony.



3535 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the  
3536 prescription of a person authorized under this article to issue the same, which prescription has not been  
3537 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact  
3538 received by the pharmacist within one week of the time of filling the same, or if such violation consists  
3539 of a request by such authorized person for the filling by a pharmacist of a prescription which has not  
3540 been received in writing by the pharmacist and such prescription is, in fact, written at the time of such  
3541 request and delivered to the pharmacist within one week thereof, either such offense shall constitute a  
3542 Class 4 misdemeanor.

3543 E1. Any person who violates this section with respect to a controlled substance classified in  
3544 Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-  
3545 248.5, ~~shall be~~ is guilty of a Class 5 felony.

3546 E2. Any person who violates this section with respect to a controlled substance classified in  
3547 Schedule IV ~~shall be~~ is guilty of a Class 6 felony.

3548 E3. Any person who proves that he gave, distributed or possessed with the intent to give or  
3549 distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified  
3550 in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual  
3551 who is not an inmate in a community correctional facility, local correctional facility or state correctional  
3552 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit  
3553 thereby from any consideration received or expected nor to induce the recipient or intended recipient of  
3554 the controlled substance to use or become addicted to or dependent upon such controlled substance, is  
3555 guilty of a Class 1 misdemeanor.

3556 F. Any person who violates this section with respect to a controlled substance classified in  
3557 Schedule V or Schedule VI or an imitation controlled substance ~~which~~ that imitates a controlled  
3558 substance classified in Schedule V or Schedule VI, ~~shall be~~ is guilty of a Class 1 misdemeanor.

3559 G. Any person who violates this section with respect to an imitation controlled substance ~~which~~  
3560 that imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ is guilty of a Class 6

3561 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this  
3562 subsection that the defendant believed the imitation controlled substance to actually be a controlled  
3563 substance.

3564 H. Any person who manufactures, sells, gives, distributes, or possesses with the intent to  
3565 manufacture, sell, give, or distribute the following:

3566 1. ~~1.0 kilograms~~ kilogram or more of a mixture or substance containing a detectable amount of  
3567 heroin;

3568 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

3569 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
3570 derivatives of ecgonine or their salts have been removed;

3571 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

3572 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

3573 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the  
3574 substances referred to in subdivisions a through c;

3575 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 ~~which~~ that contains  
3576 cocaine base; or

3577 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana;~~  
3578 or

3579 5: 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams  
3580 or more of a mixture or substance containing a detectable amount of methamphetamine, its salts,  
3581 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1  
3582 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum  
3583 sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person  
3584 does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did  
3585 not use violence or credible threats of violence or possess a firearm or other dangerous weapon in  
3586 connection with the offense or induce another participant in the offense to do so; (iii) the offense did not

3587 result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader,  
3588 manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise  
3589 as defined in subsection I ~~of this section~~; and (v) not later than the time of the sentencing hearing, the  
3590 person has truthfully provided to the Commonwealth all information and evidence the person has  
3591 concerning the offense or offenses that were part of the same course of conduct or of a common scheme  
3592 or plan, but the fact that the person has no relevant or useful other information to provide or that the  
3593 Commonwealth already is aware of the information shall not preclude a determination by the court that  
3594 the defendant has complied with this requirement.

3595 H1. Any person who was the principal or one of several principal administrators, organizers, or  
3596 leaders of a continuing criminal enterprise ~~shall be~~ is guilty of a felony if (i) the enterprise received at  
3597 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from  
3598 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or  
3599 the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the  
3600 enterprise to manufacture, sell, give, distribute, or possess with the intent to manufacture, sell, give, or  
3601 distribute the following during any 12-month period of its existence:

3602 1. At least 1.0 ~~kilograms~~ kilogram but less than 5.0 kilograms of a mixture or substance  
3603 containing a detectable amount of heroin;

3604 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a  
3605 detectable amount of:

3606 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and  
3607 derivatives of ecgonine or their salts have been removed;

3608 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

3609 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

3610 d. Any compound, mixture, or preparation ~~which~~ that contains any quantity of any of the  
3611 substances referred to in subdivisions a through c;

3612 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in

- 3613 subdivision 2 ~~which that~~ contains cocaine base; or
- 3614 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
- 3615 ~~detectable amount of marijuana; or~~
- 3616 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of
- 3617 its isomers or at least 200 grams but less than 1.0 ~~kilograms~~ kilogram of a mixture or substance
- 3618 containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.
- 3619 A conviction under this section ~~shall be~~ is punishable by a fine of not more than \$1 million and
- 3620 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.
- 3621 H2. Any person who was the principal or one of several principal administrators, organizers, or
- 3622 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross
- 3623 receipts during any 12-month period of its existence from the manufacture, importation, or distribution
- 3624 of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of
- 3625 isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give,
- 3626 distribute, or possess with the intent to manufacture, sell, give, or distribute the following during any 12-
- 3627 month period of its existence:
- 3628 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;
- 3629 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:
- 3630 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
- 3631 derivatives of ecgonine or their salts have been removed;
- 3632 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 3633 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- 3634 d. Any compound, mixture, or preparation ~~which that~~ contains any quantity of any of the
- 3635 substances referred to in subdivisions a through c;
- 3636 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 ~~which that~~ contains
- 3637 cocaine base; or
- 3638 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana;~~

3639 or

3640 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0  
3641 ~~kilograms~~ kilogram of a mixture or substance containing a detectable amount of methamphetamine, its  
3642 salts, isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than  
3643 \$1 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such  
3644 punishment shall be made to run consecutively with any other sentence. However, the court may impose  
3645 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated  
3646 with law-enforcement authorities.

3647 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he  
3648 violates any provision of this section; the punishment for which is a felony and either (ii) such violation  
3649 is a part of a continuing series of violations of this section which are undertaken by such person in  
3650 concert with five or more other persons with respect to whom such person occupies a position of  
3651 organizer, a supervisory position, or any other position of management, and from which such person  
3652 obtains substantial income or resources or (iii) such violation is committed; with respect to  
3653 methamphetamine or other controlled substance classified in Schedule I or II; for the benefit of, at the  
3654 direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

3655 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses  
3656 any two or more different substances listed below with the intent to manufacture methamphetamine,  
3657 methcathinone, or amphetamine is guilty of a Class 6 felony: liquefied ammonia gas, ammonium nitrate,  
3658 ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture  
3659 of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium,  
3660 sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate, potassium  
3661 permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs, trichloroethane,  
3662 or 2-propanone.

3663 K. The term "methamphetamine precursor drug," when used in this article, means a drug or  
3664 product containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical

3665 isomers, or salts of optical isomers.

3666 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

3667 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person  
3668 to transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of  
3669 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II  
3670 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~  
3671 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.  
3672 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years  
3673 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not  
3674 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a  
3675 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any  
3676 other sentence.

3677 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**  
3678 **substance abuse screening, assessment treatment and education programs or services; drug tests;**  
3679 **costs and fees; violations; discharge.**

3680 Whenever any person who has not previously been convicted of any criminal offense under this  
3681 article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or  
3682 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for  
3683 violation of such an offense dismissed as provided in this section, or pleads guilty to or enters a plea of  
3684 not guilty to possession of a controlled substance under § 18.2-250, the court, upon such plea if the facts  
3685 found by the court would justify a finding of guilt, without entering a judgment of guilt and with the  
3686 consent of the accused, may defer further proceedings and place him on probation upon terms and  
3687 conditions. If the court defers further proceedings, at that time the court shall determine whether the  
3688 clerk of court has been provided with the fingerprint identification information or fingerprints of the  
3689 person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the  
3690 fingerprints and photograph of the person be taken by a law-enforcement officer.

3691 As a term or condition, the court shall require the accused to undergo a substance abuse  
3692 assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment ~~and/or~~ or an  
3693 education program or services, or any combination thereof, if available, such as, in the opinion of the  
3694 court, may be best suited to the needs of the accused based upon consideration of the substance abuse  
3695 assessment. The program or services may be located in the judicial district in which the charge is  
3696 brought or in any other judicial district as the court may provide. The services shall be provided by (i) a  
3697 program licensed by the Department of Behavioral Health and Developmental Services; or by a similar  
3698 program ~~which~~ that is made available through the Department of Corrections, (ii) a local community-  
3699 based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by  
3700 the Commission on VASAP.

3701 The court shall require the person entering such program under the provisions of this section to  
3702 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and  
3703 treatment, based upon the accused's ability to pay unless the person is determined by the court to be  
3704 indigent.

3705 As a condition of probation, the court shall require the accused (a) to successfully complete  
3706 treatment or education program or services, (b) to remain drug and alcohol free during the period of  
3707 probation and submit to such tests during that period as may be necessary and appropriate to determine if  
3708 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,  
3709 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours  
3710 of community service for a misdemeanor. Such testing shall be conducted by personnel of the  
3711 supervising probation agency or personnel of any program or agency approved by the supervising  
3712 probation agency.

3713 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as  
3714 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of  
3715 court has been provided with the fingerprint identification information or fingerprints of such person, the  
3716 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under

3717 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying  
3718 this section in subsequent proceedings.

3719 Notwithstanding any other provision of this section, whenever a court places an individual on  
3720 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction  
3721 for purposes of § 22.1-315. The provisions of this paragraph shall not be applicable to any offense for  
3722 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

3723 **§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

3724 There is hereby established in the state treasury the Drug Offender Assessment and Treatment  
3725 Fund, which shall consist of moneys received from (i) fees imposed on certain drug offense convictions  
3726 pursuant to § 16.1-69.48:3 and subdivisions A 10 and 11 of § 17.1-275 and (ii) civil penalties imposed  
3727 for violations of ~~§ 18.2-250.1~~ §§ 3.2-4160, 3.2-4161, 3.2-4163, 3.2-4167, and 3.2-4177. All interest  
3728 derived from the deposit and investment of moneys in the Fund shall be credited to the Fund. Any  
3729 moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and  
3730 Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All  
3731 moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department  
3732 of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and  
3733 operate the offender substance abuse screening and assessment program; the Department of Criminal  
3734 Justice Services for the support of community-based probation and local pretrial services agencies; and  
3735 the Office of the Executive Secretary of the Supreme Court of Virginia for the support of drug treatment  
3736 court programs.

3737 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting overdoses.**

3738 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the  
3739 consumption or use of a controlled substance, alcohol, or any combination of such substances.

3740 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession,  
3741 or consumption of alcohol pursuant to § 4.1-305, possession of a controlled substance pursuant to §  
3742 18.2-250, ~~possession of marijuana pursuant to § 18.2-250.1~~, intoxication in public pursuant to § 18.2-



3743 388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

3744 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself,  
3745 if he is experiencing an overdose, or (b) for another individual, if such other individual is experiencing  
3746 an overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains  
3747 emergency medical attention for such individual, by contemporaneously reporting such overdose to a  
3748 firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a  
3749 law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

3750 2. Such individual remains at the scene of the overdose or at any alternative location to which he  
3751 or the person requiring emergency medical attention has been transported until a law-enforcement  
3752 officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the  
3753 overdose or at the alternative location, then such individual shall cooperate with law enforcement as  
3754 otherwise set forth herein;

3755 3. Such individual identifies himself to the law-enforcement officer who responds to the report of  
3756 the overdose; and

3757 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a  
3758 result of the individual seeking or obtaining emergency medical attention.

3759 C. The provisions of this section shall not apply to any person who seeks or obtains emergency  
3760 medical attention for himself or another individual, or to a person experiencing an overdose when  
3761 another individual seeks or obtains emergency medical attention for him, during the execution of a  
3762 search warrant or during the conduct of a lawful search or a lawful arrest.

3763 D. This section does not establish protection from arrest or prosecution for any individual or  
3764 offense other than those listed in subsection B.

3765 E. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is  
3766 later determined that the person arrested was immune from prosecution under this section.

3767 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment,**  
3768 **testing, and treatment or education.**

3769           The trial judge or court trying the case of any person found guilty of a criminal violation of any  
3770 law concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious  
3771 chemical substances and like substances shall condition any suspended sentence by first requiring such  
3772 person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such  
3773 periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing  
3774 shall be conducted by the supervising probation agency or by personnel of any program or agency  
3775 approved by the supervising probation agency. The cost of such testing ordered by the court shall be  
3776 paid by the Commonwealth and taxed as a part of the costs of such proceedings. The judge or court shall  
3777 order the person, as a condition of any suspended sentence, to undergo such treatment or education for  
3778 substance abuse, if available, as the judge or court deems appropriate based upon consideration of the  
3779 substance abuse assessment. The treatment or education shall be provided by a program or agency  
3780 licensed by the Department of Behavioral Health and Developmental Services, by a similar program or  
3781 services available through the Department of Corrections if the court imposes a sentence of one year or  
3782 more or, if the court imposes a sentence of 12 months or less, by a similar program or services available  
3783 through a local or regional jail, a local community-based probation services agency established pursuant  
3784 to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

3785           **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

3786           A. Whenever any person who has not previously been convicted of any criminal offense under  
3787 this article or under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~,  
3788 stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for  
3789 violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law  
3790 concerning the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious  
3791 chemical substances, and like substances, the judge or court shall require such person to undergo a  
3792 substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse  
3793 testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by  
3794 the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal

3795 proceedings. The judge or court shall also order the person to undergo such treatment or education for  
3796 substance abuse, if available, as the judge or court deems appropriate based upon consideration of the  
3797 substance abuse assessment. The treatment or education shall be provided by a program or agency  
3798 licensed by the Department of Behavioral Health and Developmental Services or by a similar program or  
3799 services available through the Department of Corrections if the court imposes a sentence of one year or  
3800 more or, if the court imposes a sentence of 12 months or less, by a similar program or services available  
3801 through a local or regional jail, a local community-based probation services agency established pursuant  
3802 to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

3803           B. The court trying the case of any person alleged to have committed any criminal offense  
3804 designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case  
3805 in which the commission of the offense was motivated by or closely related to the use of drugs and  
3806 determined by the court, pursuant to a substance abuse screening and assessment, to be in need of  
3807 treatment for the use of drugs may commit, based upon a consideration of the substance abuse  
3808 assessment, such person, upon his conviction, to any facility for the treatment of persons with substance  
3809 abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is  
3810 available in such facility, for a period of time not in excess of the maximum term of imprisonment  
3811 specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in  
3812 excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in  
3813 all regards, treated as confinement in a penal institution and the person so committed may be convicted  
3814 of escape if he leaves the place of commitment without authority. A charge of escape may be prosecuted  
3815 in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was  
3816 sentenced to commitment. The court may revoke such commitment at any time and transfer the person to  
3817 an appropriate state or local correctional facility. Upon presentation of a certified statement from the  
3818 director of the treatment facility to the effect that the confined person has successfully responded to  
3819 treatment, the court may release such confined person prior to the termination of the period of time for  
3820 which such person was confined and may suspend the remainder of the term upon such conditions as the

3821 court may prescribe.

3822 C. The court trying a case in which commission of the criminal offense was related to the  
3823 defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse  
3824 screening and assessment, that such defendant is in need of treatment, may commit, based upon a  
3825 consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the  
3826 treatment of persons with substance abuse licensed by the Department of Behavioral Health and  
3827 Developmental Services, if space is available in such facility, for a period of time not in excess of the  
3828 maximum term of imprisonment specified as the penalty for conviction. Confinement under such  
3829 commitment shall be, in all regards, treated as confinement in a penal institution and the person so  
3830 committed may be convicted of escape if he leaves the place of commitment without authority. The  
3831 court may revoke such commitment at any time and transfer the person to an appropriate state or local  
3832 correctional facility. Upon presentation of a certified statement from the director of the treatment facility  
3833 to the effect that the confined person has successfully responded to treatment, the court may release such  
3834 confined person prior to the termination of the period of time for which such person was confined and  
3835 may suspend the remainder of the term upon such conditions as the court may prescribe.

3836 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3837 A. Except as authorized in the Drug Control Act, ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1,~~  
3838 ~~it shall be~~ is unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)  
3839 distribute any drug classified in Schedule I, II, III, or IV ~~or marijuana~~ to any person under 18 years of  
3840 age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such  
3841 distribution of any drug classified in Schedule I, II, III, or IV ~~or marijuana~~. Any person violating this  
3842 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10  
3843 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a  
3844 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~  
3845 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~  
3846 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

3847 B. It ~~shall be~~ is unlawful for any person who is at least 18 years of age to knowingly or  
3848 intentionally (i) distribute any imitation controlled substance to a person under 18 years of age who is at  
3849 least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of  
3850 any imitation controlled substance. Any person violating this provision ~~shall be~~ is guilty of a Class 6  
3851 felony.

3852 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for**  
3853 **use in administering controlled substances to minors; penalty.**

3854 It ~~shall be~~ is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for  
3855 sale to a minor any book, pamphlet, periodical, or other printed matter ~~which~~ that he knows advertises  
3856 for sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting,  
3857 smoking, administering, preparing, or growing ~~marijuana~~ or a controlled substance.

3858 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**  
3859 **penalty.**

3860 A. It ~~shall be~~ is unlawful for any person to manufacture, sell, or distribute or possess with intent  
3861 to sell, give, or distribute any controlled substance; or imitation controlled substance; ~~or marijuana~~  
3862 while:

3863 1. (Effective until July 1, 2021) Upon the property, including buildings and grounds, of any  
3864 public or private elementary or secondary school, any institution of higher education, or any clearly  
3865 marked licensed child day center as defined in § 63.2-100;

3866 1. (Effective July 1, 2021) Upon the property, including buildings and grounds, of any public or  
3867 private elementary or secondary school, any institution of higher education, or any clearly marked  
3868 licensed child day center as defined in § 22.1-289.02;

3869 2. Upon public property or any property open to public use within 1,000 feet of the property  
3870 described in subdivision 1;

3871 3. On any school bus as defined in § 46.2-100;

3872 4. Upon a designated school bus stop, or upon either public property or any property open to

3873 public use ~~which~~ that is within 1,000 feet of such school bus stop, during the time when school children  
3874 are waiting to be picked up and transported to or are being dropped off from school or a school-  
3875 sponsored activity;

3876 5. Upon the property, including buildings and grounds, of any publicly owned or publicly  
3877 operated recreation or community center facility or any public library; or

3878 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or  
3879 property open to public use within 1,000 feet of such an institution.

3880 It is a violation of the provisions of this section if the person possessed the controlled substance;  
3881 or imitation controlled substance, ~~or marijuana~~ on the property described in subdivisions 1 through 6,  
3882 regardless of where the person intended to sell, give, or distribute the controlled substance; or imitation  
3883 controlled substance, ~~or marijuana~~. Nothing in this section shall prohibit the authorized distribution of  
3884 controlled substances.

3885 B. ~~Violation~~ A violation of this section shall constitute a separate and distinct felony. Any person  
3886 violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than  
3887 one year nor more than five years and fined not more than \$100,000. A second or subsequent conviction  
3888 hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug  
3889 Control Act (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a  
3890 mandatory minimum term of imprisonment of one year to be served consecutively with any other  
3891 sentence. However, if such person proves that he sold such controlled substance ~~or marijuana~~ only as an  
3892 accommodation to another individual and not with intent to profit thereby from any consideration  
3893 received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or~~  
3894 ~~marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or marijuana~~, he is  
3895 guilty of a Class 1 misdemeanor.

3896 C. If a person commits an act violating the provisions of this section, and the same act also  
3897 violates another provision of law that provides for penalties greater than those provided for by this  
3898 section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other

3899 provision of law or the imposition of any penalties provided for thereby.

3900 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3901 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,  
3902 warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with  
3903 the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator,  
3904 or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances  
3905 ~~or marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,  
3906 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,  
3907 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.  
3908 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant  
3909 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1  
3910 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

3911 **§ 18.2-258.01. Enjoining nuisances involving illegal drug transactions.**

3912 The attorney for the Commonwealth, or any citizen of the county, city, or town, where such a  
3913 nuisance as is described in § 3.2-4190 or 18.2-258 exists, may, in addition to the remedies given in and  
3914 punishment imposed by this chapter, maintain a suit in equity in the name of the Commonwealth to  
3915 enjoin the same; provided, however, the attorney for the Commonwealth shall not be required to  
3916 prosecute any suit brought by a citizen under this section. In every case where the bill charges, on the  
3917 knowledge or belief of complainant, and is sworn to by two witnesses, that a nuisance exists as described  
3918 in § 3.2-4190 or 18.2-258, a temporary injunction may be granted as soon as the bill is presented to the  
3919 court provided reasonable notice has been given. The injunction shall enjoin and restrain any owners,  
3920 tenants, their agents, employees, and any other person from contributing to or maintaining the nuisance  
3921 and may impose such other requirements as the court deems appropriate. If, after hearing, the court finds  
3922 that the material allegations of the bill are true, although the premises complained of may not then be  
3923 unlawfully used, it shall continue the injunction against such persons or premises for such period of time  
3924 as it deems appropriate, with the right to dissolve the injunction upon a proper showing by the owner of

3925 the premises.

3926 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3927 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,  
3928 warehouse, dwelling house, apartment or building or structure of any kind ~~which~~ that is (i) substantially  
3929 altered from its original status by means of reinforcement with the intent to impede, deter, or delay  
3930 lawful entry by a law-enforcement officer into such structure; (ii) being used for the purpose of  
3931 manufacturing or distributing controlled substances ~~or marijuana~~; and (iii) the object of a valid search  
3932 warrant; shall be considered a fortified drug house. Any person who maintains or operates a fortified  
3933 drug house is guilty of a Class 5 felony.

3934 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by**  
3935 **fraud, deceit, forgery, etc.; penalties.**

3936 A. It ~~shall be~~ is unlawful for any person to obtain or attempt to obtain any drug or procure or  
3937 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,  
3938 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of  
3939 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the  
3940 giving of a false address.

3941 B. It ~~shall be~~ is unlawful for any person to furnish false or fraudulent information in or omit any  
3942 information from, or willfully make a false statement in, any prescription, order, report, record, or other  
3943 document required by ~~Chapter 34~~ the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~.

3944 C. It ~~shall be~~ is unlawful for any person to use in the course of the manufacture or distribution of  
3945 a controlled substance ~~or marijuana~~ a license number ~~which~~ that is fictitious, revoked, suspended, or  
3946 issued to another person.

3947 D. It ~~shall be~~ is unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~  
3948 ~~marijuana~~, to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler,  
3949 pharmacist, physician, dentist, veterinarian, or other authorized person.

3950 E. It ~~shall be~~ is unlawful for any person to make or utter any false or forged prescription or false



3951 or forged written order.

3952 F. It ~~shall be~~ is unlawful for any person to affix any false or forged label to a package or  
3953 receptacle containing any controlled substance.

3954 G. This section shall not apply to officers and employees of the United States, of this  
3955 Commonwealth or of a political subdivision of this Commonwealth acting in the course of their  
3956 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or  
3957 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for  
3958 investigative, research or analytical purposes and who are acting in the course of their employment;  
3959 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and  
3960 Cosmetic Act; and provided, further, that such pharmaceutical manufacturer, its agents and duly  
3961 authorized representatives file with the Board such information as the Board may deem appropriate.

3962 H. Except as otherwise provided in this subsection, any person who ~~shall violate~~ violates any  
3963 provision herein ~~shall be~~ is guilty of a Class 6 felony.

3964 Whenever any person who has not previously been convicted of any offense under this article or  
3965 under any statute of the United States or of any state relating to narcotic drugs, ~~marijuana~~, or stimulant,  
3966 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of  
3967 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not  
3968 guilty to the court for violating this section, upon such plea if the facts found by the court would justify a  
3969 finding of guilt, the court may place him on probation upon terms and conditions.

3970 As a term or condition, the court shall require the accused to be evaluated and enter a treatment  
3971 ~~and/or~~ or an education program, or any combination thereof, if available, such as, in the opinion of the  
3972 court, may be best suited to the needs of the accused. This program may be located in the judicial circuit  
3973 in which the charge is brought or in any other judicial circuit as the court may provide. The services  
3974 shall be provided by a program certified or licensed by the Department of Behavioral Health and  
3975 Developmental Services. The court shall require the person entering such program under the provisions  
3976 of this section to pay all or part of the costs of the program, including the costs of the screening,

3977 evaluation, testing, and education, based upon the person's ability to pay unless the person is determined  
3978 by the court to be indigent.

3979 As a condition of supervised probation, the court shall require the accused to remain drug free  
3980 during the period of probation and submit to such tests during that period as may be necessary and  
3981 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of  
3982 any screening, evaluation, and education program to which the person is referred or by the supervising  
3983 agency.

3984 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to  
3985 report to the original arresting law-enforcement agency to submit to fingerprinting.

3986 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the  
3987 felony and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the  
3988 court shall find the defendant guilty of a Class 1 misdemeanor.

3989 **§ 18.2-265.1. Definition.**

3990 As used in this article, the term "drug paraphernalia" means all equipment, products, and  
3991 materials of any kind ~~which~~ that are either designed for use or which are intended by the person charged  
3992 with violating § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting,  
3993 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,  
3994 packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise  
3995 introducing into the human body ~~marijuana or~~ a controlled substance. It includes, but is not limited to:

3996 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or  
3997 harvesting of ~~marijuana or~~ any species of plant which is a controlled substance or from which a  
3998 controlled substance can be derived;

3999 2. Kits intended for use or designed for use in manufacturing, compounding, converting,  
4000 producing, processing, or preparing ~~marijuana or~~ controlled substances;

4001 3. Isomerization devices intended for use or designed for use in increasing the potency of  
4002 ~~marijuana or~~ any species of plant which is a controlled substance;

- 4003 4. Testing equipment intended for use or designed for use in identifying or in analyzing the  
4004 strength or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used  
4005 to determine whether a controlled substance contains fentanyl or a fentanyl analog;
- 4006 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~  
4007 ~~or~~ controlled substances;
- 4008 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use  
4009 or designed for use in cutting controlled substances;
- 4010 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds~~  
4011 ~~from, or in otherwise cleaning or refining, marijuana;~~
- 4012 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use  
4013 in compounding controlled substances;
- 4014 9-8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in  
4015 packaging small quantities of ~~marijuana~~ or controlled substances;
- 4016 ~~10-9.~~ Containers and other objects intended for use or designed for use in storing or concealing  
4017 ~~marijuana~~ or controlled substances;
- 4018 ~~11-10.~~ Hypodermic syringes, needles, and other objects intended for use or designed for use in  
4019 parenterally injecting controlled substances into the human body;
- 4020 ~~12-11.~~ Objects intended for use or designed for use in ingesting, inhaling, or otherwise  
4021 introducing ~~marijuana~~, cocaine, hashish, or hashish oil into the human body, such as:
- 4022 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens,  
4023 permanent screens, hashish heads, or punctured metal bowls;
- 4024 b. Water pipes;
- 4025 c. Carburetion tubes and devices;
- 4026 d. Smoking and carburetion masks;
- 4027 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that  
4028 has become too small or too short to be held in the hand;

4029 f. Miniature cocaine spoons; and cocaine vials;

4030 g. Chamber pipes;

4031 h. Carburetor pipes;

4032 i. Electric pipes;

4033 j. Air-driven pipes;

4034 k. Chillums;

4035 l. Bongs;

4036 m. Ice pipes or chillers.

4037 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

4038 In determining whether an object is drug paraphernalia, the court may consider, in addition to all  
4039 other relevant evidence, the following:

4040 1. Constitutionally admissible statements by the accused concerning the use of the object;

4041 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually  
4042 known to the accused;

4043 3. Instructions, oral or written, provided with the object concerning its use;

4044 4. Descriptive materials accompanying the object ~~which~~ that explain or depict its use;

4045 5. National and local advertising within the actual knowledge of the accused concerning its use;

4046 6. The manner in which the object is displayed for sale;

4047 7. Whether the accused is a legitimate supplier of like or related items to the community, such as  
4048 a licensed distributor or dealer of tobacco products;

4049 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the  
4050 business enterprise;

4051 9. The existence and scope of legitimate uses for the object in the community;

4052 10. Expert testimony concerning its use or the purpose for which it was designed; and

4053 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or  
4054 should reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of

4055 anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the  
4056 object is intended for use or designed for use as drug paraphernalia.

4057 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

4058 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under  
4059 circumstances where one reasonably should know, that it is either designed for use or intended by such  
4060 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
4061 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or  
4062 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ is guilty of a  
4063 Class 1 misdemeanor.

4064 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug  
4065 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ is guilty of a  
4066 Class 6 felony.

4067 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor  
4068 ~~shall be~~ is guilty of a Class 1 misdemeanor.

4069 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

4070 Any person who, while committing a crime of violence as defined in § 18.2-288 ~~(2) or,~~ a  
4071 violation of § 3.2-4170, a felony violation of § 18.2-248, or a violation of subdivision (a) 2 or 3 of §  
4072 ~~18.2-248.1 B 2 or 3 of § 3.2-4166,~~ has in his possession a firearm or knife and is wearing body armor  
4073 designed to diminish the effect of the impact of a bullet or projectile ~~shall be~~ is guilty of a Class 4  
4074 felony.

4075 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

4076 The following persons shall be deemed disqualified from obtaining a permit:

4077 1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to §  
4078 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other  
4079 state or of the United States.

4080 1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to §

4081 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, or 18.2-308.1:7 or the substantially similar law  
4082 of any other state or of the United States.

4083 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was  
4084 discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before  
4085 the date of his application for a concealed handgun permit.

4086 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose  
4087 competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his  
4088 application for a concealed handgun permit.

4089 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was  
4090 released from commitment less than five years before the date of this application for a concealed  
4091 handgun permit.

4092 5. An individual who is subject to a restraining order, or to a protective order and prohibited by §  
4093 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

4094 6. (Effective until January 1, 2021) An individual who is prohibited by § 18.2-308.2 from  
4095 possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection  
4096 C of that section.

4097 6. (Effective January 1, 2021) An individual who is prohibited by § 18.2-308.2 from possessing  
4098 or transporting a firearm, except that a restoration order may be obtained in accordance with subsection  
4099 C of that section.

4100 7. An individual who has been convicted of two or more misdemeanors within the five-year  
4101 period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor,  
4102 but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class  
4103 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of  
4104 this disqualification.

4105 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic  
4106 cannabinoids, or any controlled substance.

4107 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar  
4108 local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any  
4109 other state, the District of Columbia, the United States, or its territories within the three-year period  
4110 immediately preceding the application.

4111 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

4112 11. An individual who has been discharged from the armed forces of the United States under  
4113 dishonorable conditions.

4114 12. An individual who is a fugitive from justice.

4115 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts  
4116 by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff,  
4117 chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement  
4118 indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based  
4119 upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely  
4120 to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of  
4121 police, or the attorney for the Commonwealth shall be based upon personal knowledge of such  
4122 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the  
4123 specific acts, or upon a written statement made under oath before a notary public of a competent person  
4124 having personal knowledge of the specific acts.

4125 14. An individual who has been convicted of any assault, assault and battery, sexual battery,  
4126 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation  
4127 of § 18.2-282 within the three-year period immediately preceding the application.

4128 15. An individual who has been convicted of stalking.

4129 16. An individual whose previous convictions or adjudications of delinquency were based on an  
4130 offense that would have been at the time of conviction a felony if committed by an adult under the laws  
4131 of any state, the District of Columbia, the United States or its territories. For purposes of this  
4132 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the

4133 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or  
4134 adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall  
4135 not apply to an individual with previous adjudications of delinquency who has completed a term of  
4136 service of no less than two years in the Armed Forces of the United States and, if such person has been  
4137 discharged from the Armed Forces of the United States, received an honorable discharge.

4138 17. An individual who has a felony charge pending or a charge pending for an offense listed in  
4139 subdivision 14 or 15.

4140 18. An individual who has received mental health treatment or substance abuse treatment in a  
4141 residential setting within five years prior to the date of his application for a concealed handgun permit.

4142 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year  
4143 period immediately preceding the application for the permit, was found guilty of any criminal offense set  
4144 forth in Article 1 (§ 18.2-247 et seq.)~~or~~<sub>2</sub> former § 18.2-248.1:1, or Article 7 (§ 3.2-4159 et seq.) of  
4145 Chapter 41.2 of Title 3.2 or of a criminal offense of illegal possession or distribution of marijuana,  
4146 synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of  
4147 Columbia, or the United States or its territories.

4148 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within  
4149 the three-year period immediately preceding the application, upon a charge of any criminal offense set  
4150 forth in Article 1 (§ 18.2-247 et seq.)~~or~~<sub>2</sub> former § 18.2-248.1:1, or Article 7 (§ 3.2-4159 et seq.) of  
4151 Chapter 41.2 of Title 3.2 or upon a charge of illegal possession or distribution of marijuana, synthetic  
4152 cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the  
4153 United States or its territories, the trial court found that the facts of the case were sufficient for a finding  
4154 of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other  
4155 state, the District of Columbia, or the United States or its territories.

4156 **§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug**  
4157 **offenses prohibited.**

4158 Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor



4159 offenses under subsection B of former § 18.2-248.1:1; or § 18.2-250 ~~or 18.2-250.1~~ shall be ineligible to  
4160 purchase or transport a handgun. However, upon expiration of a period of five years from the date of the  
4161 second conviction and provided the person has not been convicted of any such offense within that  
4162 period, the ineligibility shall be removed.

4163 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

4164 A. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance  
4165 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~ to  
4166 simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class  
4167 6 felony and constitutes a separate and distinct felony.

4168 B. It ~~shall be~~ is unlawful for any person unlawfully in possession of a controlled substance  
4169 classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with  
4170 knowledge and intent possess any firearm on or about his person. A violation of this subsection is a  
4171 Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be  
4172 sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be  
4173 separate and apart from, and shall be made to run consecutively with, any punishment received for the  
4174 commission of the primary felony.

4175 C. It ~~shall be~~ is unlawful for any person to possess, use, or attempt to use any pistol, shotgun,  
4176 rifle, or other firearm, or to display such weapon in a threatening manner, while committing or  
4177 attempting to commit the illegal manufacture, sale, or distribution; ~~or the possession~~ possessing with the  
4178 intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of  
4179 the Drug Control Act (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this  
4180 subsection is a Class 6 felony; and constitutes a separate and distinct felony and any person convicted  
4181 hereunder shall be sentenced to a mandatory minimum term of imprisonment of five years. Such  
4182 punishment shall be separate and apart from, and shall be made to run consecutively with, any  
4183 punishment received for the commission of the primary felony.

4184 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**

**4185 penalties.**

**4186** A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror,  
**4187** attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer  
**4188** employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just  
**4189** cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror,  
**4190** attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer employed  
**4191** pursuant to § 3.2-6555, he is guilty of a Class 1 misdemeanor.

**4192** B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts  
**4193** to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any  
**4194** law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged  
**4195** in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a  
**4196** Class 1 misdemeanor.

**4197** C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a  
**4198** judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer,  
**4199** lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in  
**4200** any court relating to a violation of or conspiracy to violate ~~§ 18.2-248 or subdivision (a)(3), (b) or (c) of~~  
**4201** ~~§ 18.2-248.~~ § 3.2-4164, subdivision B 3 of § 3.2-4166, subsection B of § 3.2-4167, or § 3.2-4170, 18.2-  
**4202** ~~46.2 or §, 18.2-46.3, or 18.2-248~~ or relating to the violation of or conspiracy to violate any violent felony  
**4203** offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

**4204** D. Any person who knowingly and willfully makes any materially false statement or  
**4205** representation to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555  
**4206** who is in the course of conducting an investigation of a crime by another is guilty of a Class 1  
**4207** misdemeanor.

**4208** E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from  
**4209** lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of  
**4210** this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a

4211 law-enforcement officer when (i) the officer applies physical force to the person; or (ii) the officer  
4212 communicates to the person that he is under arrest and (a) the officer has the legal authority and the  
4213 immediate physical ability to place the person under arrest; and (b) a reasonable person who receives  
4214 such communication knows or should know that he is not free to leave.

4215 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed**  
4216 **persons; penalties.**

4217 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner  
4218 deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority  
4219 of the Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to  
4220 the Department of Juvenile Justice in any juvenile correctional center, any drug which is a controlled  
4221 substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 or  
4222 marijuana is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or,  
4223 attempt to deliver, or conspire to deliver to any such prisoner or confined or committed person, firearms,  
4224 ammunitions, or explosives of any nature is guilty of a Class 3 felony.

4225 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

4226 **§ 18.2-513. Definitions.**

4227 As used in this chapter:

4228 "Criminal street gang" means the same as that term is defined in § 18.2-46.1.

4229 "Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business  
4230 trust, criminal street gang; or other group of three or more individuals associated for the purpose of  
4231 criminal activity.

4232 "Proceeds" means the same as that term is defined in § 18.2-246.2.

4233 "Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit,  
4234 coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§  
4235 18.2-46.1 et seq.) of Chapter 4, § 18.2-460; a felony offense of Article 7 (§ 3.2-4159) of Chapter 41.2 of  
4236 Title 3.2, § 3.2-4212, 3.2-4219, 3.2-6571, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35,

4237 Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4, § 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2,  
4238 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-  
4239 92, 18.2-93, or 18.2-95, Article 4 (§ 18.2-111 et seq.) of Chapter 5, Article 1 (§ 18.2-168 et seq.) of  
4240 Chapter 6, § 18.2-178 or 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6, Article 9 (§ 18.2-246.1 et  
4241 seq.) of Chapter 6, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7, § 18.2-279, 18.2-286.1,  
4242 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-346, 18.2-348, 18.2-348.1, 18.2-349, 18.2-  
4243 355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.)  
4244 of Chapter 9, Article 1 (§ 18.2-434 et seq.) of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, or  
4245 Article 3 (§ 18.2-446 et seq.) of Chapter 10, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, or ~~§ 3.2-~~  
4246 ~~6571~~, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses  
4247 under the laws of any other state, the District of Columbia, or the United States or its territories.

4248 **§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions;**  
4249 **testimonial privilege.**

4250 Upon request of any witness in a criminal prosecution under § 3.2-4170, 18.2-46.2, 18.2-46.3, or  
4251 18.2-248 or of any violent felony as defined by subsection C of § 17.1-805, or any crime victim, neither  
4252 a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor  
4253 the Department of Corrections, nor any employee of any of them, may disclose, except among  
4254 themselves, the residential address, any telephone number, email address, or place of employment of the  
4255 witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i)  
4256 of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-  
4257 enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

4258 Except with the written consent of the victim of any crime involving any sexual assault, sexual  
4259 abuse, or family abuse or the victim's next of kin if the victim is a minor and the victim's death results  
4260 from any crime, a law-enforcement agency may not disclose to the public information that directly or  
4261 indirectly identifies the victim of such crime except to the extent that disclosure is (a) of the site of the  
4262 crime, (b) required by law, (c) necessary for law-enforcement purposes, or (d) permitted by the court for

4263 good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme  
4264 Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or  
4265 sexual abuse, no appellate decision shall contain the first or last name of the victim.

4266 Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the  
4267 conduct of any criminal proceeding.

4268 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**  
4269 **authorizing interception of communications.**

4270 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so  
4271 designates in writing, in any case where the Attorney General is authorized by law to prosecute or  
4272 pursuant to a request in his official capacity of an attorney for the Commonwealth in any city or county,  
4273 may apply to a judge of competent jurisdiction for an order authorizing the interception of wire,  
4274 electronic or oral communications by the Department of State Police, when such interception may  
4275 reasonably be expected to provide evidence of the commission of a felonious offense of extortion,  
4276 bribery, kidnapping, murder, any felony violation of § 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4170, or 18.2-  
4277 248 or 18.2-248.1, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony  
4278 violation of Article 2 (§ 18.2-38 et seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et  
4279 seq.), Article 5 (§ 18.2-58 et seq.), or Article 6 (§ 18.2-59 et seq.) or of any felonies felony that are is not  
4280 a Class 6 felonies felony in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any conspiracy to  
4281 commit any of the foregoing offenses. The Attorney General or Chief Deputy Attorney General may  
4282 apply for authorization for the observation or monitoring of the interception by a police department of a  
4283 county or city, by a sheriff's office, or by law-enforcement officers of the United States. Such application  
4284 shall be made, and such order may be granted, in conformity with the provisions of § 19.2-68.

4285 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

4286 1. In the case of an application for a wire or electronic interception, a judge of competent  
4287 jurisdiction shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable  
4288 cause to believe that an offense was committed, is being committed, or will be committed or the person

4289 or persons whose communications are to be intercepted live, work, subscribe to a wire or electronic  
4290 communication system, maintain an address or a post office box, or are making the communication  
4291 within the territorial jurisdiction of the court.

4292 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have  
4293 the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that  
4294 an offense was committed, is being committed, or will be committed or the physical location of the oral  
4295 communication to be intercepted is within the territorial jurisdiction of the court.

4296 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception  
4297 of a wire or electronic communication, such communication shall be deemed to be intercepted in the  
4298 jurisdiction where the order is entered, regardless of the physical location or the method by which the  
4299 communication is captured or routed to the monitoring location.

4300 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

4301 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in §  
4302 19.2-81, persons for crimes involving:

4303 ~~(a)~~ 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;

4304 ~~(b)~~ 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;

4305 ~~(c)~~ 3. The delivery of contraband to an inmate in violation of § 3.2-4174, 18.2-474, or ~~§~~ 18.2-  
4306 474.1; and

4307 ~~(d)~~ 4. Any other criminal offense which may contribute to the disruption of the safety, welfare, or  
4308 security of the population of a correctional institution.

4309 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

4310 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement  
4311 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who  
4312 is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary  
4313 teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1  
4314 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division

4315 superintendent of the employing division as soon as practicable. The contents of the report required  
4316 pursuant to this section shall be utilized by the local school division solely to implement the provisions  
4317 of subsection B of § 22.1-296.2 and § 22.1-315.

4318 B. Every state official or agency and every sheriff, police officer, or other local law-enforcement  
4319 officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as  
4320 practicable, with the division superintendent of the school division in which the student is enrolled upon  
4321 arresting a person who is known or discovered by the arresting official to be a student age 18 or older in  
4322 any public school division in ~~this~~ the Commonwealth for:

4323 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-  
4324 299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

4325 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

4326 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4  
4327 of Title 18.2;

4328 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

4329 5. Manufacture, sale, gift, distribution, or possession of Schedule I or II controlled substances,  
4330 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

4331 6. Manufacture, sale or distribution of marijuana pursuant to ~~Article 1 (§ 18.2-247 et seq.) of~~  
4332 ~~Chapter 7 of Title 18.2~~ 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2;

4333 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

4334 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

4335 9. Robbery pursuant to § 18.2-58;

4336 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

4337 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

4338 12. An act of violence by a mob pursuant to § 18.2-42.1; or

4339 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

4340 **§ 19.2-120. Admission to bail.**

4341 Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall,  
4342 to the extent feasible, obtain the person's criminal history.

4343 A. A person who is held in custody pending trial or hearing for an offense, civil or criminal  
4344 contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to  
4345 believe that:

4346 1. He will not appear for trial or hearing or at such other time and place as may be directed, or

4347 2. His liberty will constitute an unreasonable danger to himself or the public.

4348 B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of  
4349 conditions will reasonably assure the appearance of the person or the safety of the public if the person is  
4350 currently charged with:

4351 1. An act of violence as defined in § 19.2-297.1;

4352 2. An offense for which the maximum sentence is life imprisonment or death;

4353 3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II  
4354 controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was  
4355 previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as  
4356 defined in § 18.2-248;

4357 4. A violation of § 3.2-4173, 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm  
4358 and provides for a mandatory minimum sentence;

4359 5. Any felony, if the person has been convicted of two or more offenses described in subdivision  
4360 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;

4361 6. Any felony committed while the person is on release pending trial for a prior felony under  
4362 federal or state law or on release pending imposition or execution of sentence or appeal of sentence or  
4363 conviction;

4364 7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been  
4365 convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any  
4366 state or the United States and the judicial officer finds probable cause to believe that the person who is



4367 currently charged with one of these offenses committed the offense charged;

4368 8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the  
4369 solicited person is under 15 years of age and the offender is at least five years older than the solicited  
4370 person;

4371 9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

4372 10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the  
4373 past five years of the instant offense, been convicted three times on different dates of a violation of any  
4374 combination of these Code sections, or any ordinance of any county, city, or town or the laws of any  
4375 other state or of the United States substantially similar thereto, and has been at liberty between each  
4376 conviction;

4377 11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar  
4378 offense under the laws of any state or the United States;

4379 12. A violation of subsection B of § 18.2-57.2;

4380 13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force  
4381 to knowingly attempt to intimidate or impede a witness;

4382 14. A violation of § 18.2-51.6 if the alleged victim is a family or household member as defined in  
4383 § 16.1-228; or

4384 15. A violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.

4385 C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of  
4386 conditions will reasonably assure the appearance of the person or the safety of the public if the person is  
4387 being arrested pursuant to § 19.2-81.6.

4388 D. For a person who is charged with an offense giving rise to a rebuttable presumption against  
4389 bail, any judicial officer may set or admit such person to bail in accordance with this section.

4390 E. The judicial officer shall consider the following factors and such others as it deems  
4391 appropriate in determining, for the purpose of rebuttal of the presumption against bail described in  
4392 subsection B, whether there are conditions of release that will reasonably assure the appearance of the

4393 person as required and the safety of the public:

4394 1. The nature and circumstances of the offense charged;

4395 2. The history and characteristics of the person, including his character, physical and mental  
4396 condition, family ties, employment, financial resources, length of residence in the community,  
4397 community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in  
4398 a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings;  
4399 and

4400 3. The nature and seriousness of the danger to any person or the community that would be posed  
4401 by the person's release.

4402 F. The judicial officer shall inform the person of his right to appeal from the order denying bail  
4403 or fixing terms of bond or recognizance consistent with § 19.2-124.

4404 G. If the judicial officer sets a secured bond and the person engages the services of a licensed bail  
4405 bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon  
4406 request, with a copy of the person's Virginia criminal history record, if readily available, to be used by  
4407 the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his  
4408 release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary  
4409 Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389.  
4410 The bondsman shall review the record on the premises and promptly return the record to the magistrate  
4411 after reviewing it.

4412 **§ 19.2-120.1. Presumption of no bail for illegal aliens charged with certain crimes.**

4413 A. In addition to the presumption against the admission to bail under subsection B of § 19.2-120,  
4414 the judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will  
4415 reasonably assure the appearance of the person or the safety of the public if (i) the person is currently  
4416 charged with an offense listed in subsection A of § 19.2-297.1, subsection C of § 17.1-805, any offense  
4417 under Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 except any offense under subsection A of § 18.2-57.2,  
4418 any felony offense under Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-

4419 247 et seq.) of Chapter 7 of Title 18.2, or any offense under Article 2 (§ 18.2-266 et seq.), or any local  
4420 ordinance substantially similar thereto, 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
4421 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2, and (ii) the person  
4422 has been identified as being illegally present in the United States by United States Immigration and  
4423 Customs Enforcement.

4424 B. Notwithstanding subsection A, no presumption shall exist under this section as to any  
4425 misdemeanor offense, or any felony offense under Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title  
4426 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, unless United States Immigration and  
4427 Customs Enforcement has guaranteed that, in all such cases in the Commonwealth, it will issue a  
4428 detainer for the initiation of removal proceedings and agree to reimburse for the cost of incarceration  
4429 from the time of the issuance of the detainer.

4430 **§ 19.2-188.1. Testimony regarding identification of controlled substances or marijuana.**

4431 A. In any preliminary hearing on a violation of Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of  
4432 Title 3.2, a violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or a violation of  
4433 subdivision 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of  
4434 field tests that have been approved by the Department of Forensic Science pursuant to regulations  
4435 adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or  
4436 not any substance the identity of which is at issue in such hearing is a controlled substance; or imitation  
4437 controlled substance, ~~or marijuana~~, as defined in § 18.2-247 or marijuana as defined in § 3.2-4122.

4438 B. In any trial for a violation of ~~§ 18.2-250.1~~ 3.2-4160 or 3.2-4161, any law-enforcement officer  
4439 shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable  
4440 by the Department of Forensic Science pursuant to regulations adopted in accordance with the  
4441 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity  
4442 of which is at issue, is marijuana provided the defendant has been given written notice of his right to  
4443 request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall  
4444 be provided to the defendant prior to trial.

4445 In any case in which the person accused of a violation of § ~~18.2-250.1~~ 3.2-4160 or 3.2-4161, or  
4446 the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he  
4447 may, by motion prior to trial before the court in which the charge is pending, request such a chemical  
4448 analysis. Upon such motion, the court shall order that the analysis be performed by the Department of  
4449 Forensic Science in accordance with the provisions of § ~~18.2-247~~ 3.2-4197 and shall prescribe in its  
4450 order the method of custody, transfer, and return of evidence submitted for chemical analysis.

4451 **§ 19.2-215.1. Functions of a multi-jurisdiction grand jury.**

4452 The functions of a multi-jurisdiction grand jury are:

4453 1. To investigate any condition that involves or tends to promote criminal violations of:

4454 a. Title 10.1 for which punishment as a felony is authorized;

4455 b. § 13.1-520;

4456 c. §§ 18.2-47 and 18.2-48;

4457 d. §§ 18.2-111 and 18.2-112;

4458 e. Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2;

4459 f. Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2;

4460 g. Article 1 (§ 18.2-247 et seq.) and Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2;

4461 h. Article 1 (§ 18.2-325 et seq.) and Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title  
4462 18.2, Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or any other provision prohibiting, limiting,  
4463 regulating, or otherwise affecting gaming or gambling activity;

4464 i. § 18.2-434, when violations occur before a multi-jurisdiction grand jury;

4465 j. Article 2 (§ 18.2-438 et seq.) and Article 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2;

4466 k. § 18.2-460 for which punishment as a felony is authorized;

4467 l. Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2;

4468 m. Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1;

4469 n. Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1;

4470 o. Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2;

- 4471 p. Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 4472 q. Article 2.1 (§ 18.2-46.1 et seq.) and Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of Title 18.2;
- 4473 r. Article 5 (§ 18.2-186 et seq.) and Article 6 (§ 18.2-191 et seq.) of Chapter 6 of Title 18.2;
- 4474 s. Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1;
- 4475 t. § 18.2-178 where the violation involves insurance fraud;
- 4476 u. § 18.2-346, 18.2-348, or 18.2-349 for which punishment as a felony is authorized or § 18.2-
- 4477 355, 18.2-356, 18.2-357, or 18.2-357.1;
- 4478 v. Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2;
- 4479 w. Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2;
- 4480 x. Malicious felonious assault and malicious bodily wounding under Article 4 (§ 18.2-51 et seq.)
- 4481 of Chapter 4 of Title 18.2;
- 4482 y. Article 5 (§ 18.2-58 et seq.) of Chapter 4 of Title 18.2;
- 4483 z. Felonious sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 4484 aa. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony
- 4485 violation of § 18.2-79;
- 4486 ab. Chapter 13 (§ 18.2-512 et seq.) of Title 18.2;
- 4487 ac. § 18.2-246.14 and Chapter 10 (§ 58.1-1000 et seq.) of Title 58.1;
- 4488 ad. Subsection A or B of § 18.2-57 where the victim was selected because of his race, religious
- 4489 conviction, gender, disability, gender identity, sexual orientation, color, or national origin;
- 4490 ae. § 18.2-121 for which punishment as a felony is authorized;
- 4491 af. Article 5 (§ 18.2-420 et seq.) of Chapter 9 of Title 18.2; ~~and~~
- 4492 ag. Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2; and
- 4493 ah. Any other provision of law when such condition is discovered in the course of an
- 4494 investigation that a multi-jurisdiction grand jury is otherwise authorized to undertake and to investigate
- 4495 any condition that involves or tends to promote any attempt, solicitation, or conspiracy to violate the
- 4496 laws enumerated in this section.

4497 2. To report evidence of any criminal offense enumerated in subdivision 1 and for which a court  
4498 reporter has recorded all oral testimony as provided by § 19.2-215.9 to the attorney for the  
4499 Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or  
4500 investigated, or to the chief law-enforcement officer of any jurisdiction where such offense could be  
4501 prosecuted or investigated, or to a sworn investigator designated pursuant to § 19.2-215.6, or, when  
4502 appropriate, to the Attorney General.

4503 3. To consider bills of indictment prepared by a special counsel to determine whether there is  
4504 sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment ~~which~~  
4505 that allege an offense enumerated in subdivision 1 may be submitted to a multi-jurisdiction grand jury.

4506 4. The provisions of this section shall not abrogate the authority of an attorney for the  
4507 Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

4508 **§ 19.2-291.1. Report of conviction of school employees for certain offenses.**

4509 The clerk of any circuit court or any district court in the Commonwealth shall report to the  
4510 Superintendent of Public Instruction and the division superintendent of any employing school division  
4511 the conviction of any person, known by such clerk to hold a license issued by the Board of Education,  
4512 for any felony involving the sexual molestation, physical or sexual abuse, or rape of a child or involving  
4513 drugs pursuant to Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et  
4514 seq.) of Chapter 7 of Title 18.2.

4515 **§ 19.2-299. Investigations and reports by probation officers in certain cases.**

4516 A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of  
4517 § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4,  
4518 attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-  
4519 266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the  
4520 attorney for the Commonwealth, the court may, or on motion of the defendant shall; or (ii) upon a felony  
4521 charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the  
4522 defendant and the Commonwealth and shall, unless waived by the defendant and the attorney for the

4523 Commonwealth, when the defendant pleads guilty or nolo contendere without a plea agreement or is  
4524 found guilty by the court after a plea of not guilty or nolo contendere; or (iii) the court shall when a  
4525 person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to  
4526 commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49, § 18.2-61,  
4527 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-  
4528 355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1, or 18.2-370.2,  
4529 or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or  
4530 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history  
4531 of the accused, including a report of the accused's criminal record as an adult and available juvenile  
4532 court records, any information regarding the accused's participation or membership in a criminal street  
4533 gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may  
4534 determine the appropriate sentence to be imposed. Unless the defendant or the attorney for the  
4535 Commonwealth objects, the court may order that the report contain no more than the defendant's  
4536 criminal history, any history of substance abuse, any physical or health-related problems as may be  
4537 pertinent, and any applicable sentencing guideline worksheets. This expedited report shall be subject to  
4538 all the same procedures as all other sentencing reports and sentencing guidelines worksheets. The  
4539 probation officer, after having furnished a copy of this report at least five days prior to sentencing to  
4540 counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his  
4541 report in advance of the sentencing hearing to the judge in chambers, who shall keep such report  
4542 confidential. Counsel for the accused may provide the accused with a copy of the presentence report.  
4543 The probation officer shall be available to testify from this report in open court in the presence of the  
4544 accused, who shall have been provided with a copy of the presentence report by his counsel or advised  
4545 of its contents and be given the right to cross-examine the investigating officer as to any matter  
4546 contained therein and to present any additional facts bearing upon the matter. The report of the  
4547 investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part  
4548 of the record in the case. Any report so filed shall be made available only by court order and shall be

4549 sealed upon final order by the court, except that such reports or copies thereof shall be available at any  
4550 time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United  
4551 States; to any agency where the accused is referred for treatment by the court or by probation and parole  
4552 services; and to counsel for any person who has been indicted jointly for the same felony as the person  
4553 subject to the report. Subject to the limitations set forth in § 37.2-901, any report prepared pursuant to  
4554 the provisions hereof shall without court order be made available to counsel for the person who is the  
4555 subject of the report if that person (a) is charged with a felony subsequent to the time of the preparation  
4556 of the report or (b) has been convicted of the crime or crimes for which the report was prepared and is  
4557 pursuing a post-conviction remedy. Such report shall be made available for review without a court order  
4558 to incarcerated persons who are eligible for release by the Virginia Parole Board, or such person's  
4559 counsel, pursuant to regulations promulgated by the Virginia Parole Board for that purpose. The  
4560 presentence report shall be in a form prescribed by the Department of Corrections. In all cases where  
4561 such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department  
4562 of Corrections. For the purposes of this subsection, information regarding the accused's participation or  
4563 membership in a criminal street gang may include the characteristics, specific rivalries, common  
4564 practices, social customs and behavior, terminology, and types of crimes that are likely to be committed  
4565 by that criminal street gang.

4566 B. As a part of any presentence investigation conducted pursuant to subsection A when the  
4567 offense for which the defendant was convicted was a felony, the court probation officer shall advise any  
4568 victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to  
4569 be given the opportunity to submit to the Board a written statement in advance of any parole hearing  
4570 describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii)  
4571 to receive copies of such other notifications pertaining to the defendant as the Board may provide  
4572 pursuant to subsection B of § 53.1-155.

4573 C. As part of any presentence investigation conducted pursuant to subsection A when the offense  
4574 for which the defendant was convicted was a felony drug offense set forth in Article 7 (§ 3.2-4159 et



4575 seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the  
4576 presentence report shall include any known association of the defendant with illicit drug operations or  
4577 markets.

4578 D. As a part of any presentence investigation conducted pursuant to subsection A, when the  
4579 offense for which the defendant was convicted was a felony, not a capital offense, committed on or after  
4580 January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to §  
4581 18.2-251.01.

4582 **§ 19.2-299.2. Alcohol and substance abuse screening and assessment for designated Class 1**  
4583 **misdemeanor convictions.**

4584 A. When a person is convicted of any offense committed on or after January 1, 2000, under  
4585 Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) or Article 1.1  
4586 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2, and such offense is punishable as a Class 1  
4587 misdemeanor, or when a person is convicted for a second offense of petit larceny, the court shall order  
4588 the person to undergo a substance abuse screening as part of the sentence if the defendant's sentence  
4589 includes probation supervision by a local community-based probation services agency established  
4590 pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1 or participation in a local alcohol safety  
4591 action program. Whenever a court requires a person to enter into and successfully complete an alcohol  
4592 safety action program pursuant to § 18.2-271.1 for a second offense of the type described therein, or  
4593 orders an evaluation of a person to be conducted by an alcohol safety action program pursuant to any  
4594 provision of § 46.2-391, the alcohol safety action program shall assess such person's degree of alcohol  
4595 abuse before determining the appropriate level of treatment to be provided or to be recommended for  
4596 such person being evaluated pursuant to § 46.2-391.

4597 The court may order such screening upon conviction as part of the sentence of any other Class 1  
4598 misdemeanor if the defendant's sentence includes probation supervision by a local community-based  
4599 probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1,  
4600 participation in a local alcohol safety action program or any other sanction and the court has reason to

4601 believe the defendant has a substance abuse or dependence problem.

4602 B. A substance abuse screening ordered pursuant to this section shall be conducted by the local  
4603 alcohol safety action program. When an offender is ordered to enter local community-based probation  
4604 services established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, rather than the  
4605 local alcohol safety action program, the local community-based probation services agency shall be  
4606 responsible for the screening. However, if a local community-based probation services agency has not  
4607 been established for the locality, the local alcohol safety action program shall conduct the screening as  
4608 part of the sentence.

4609 C. If the screening indicates that the person has a substance abuse or dependence problem, an  
4610 assessment shall be completed and if the assessment confirms that the person has a substance abuse or  
4611 dependence problem, as a condition of a suspended sentence and probation, the court shall order the  
4612 person to complete the substance abuse education and intervention component, or both as appropriate, of  
4613 the local alcohol safety action program or such other agency providing treatment programs or services, if  
4614 available, such as in the opinion of the court would be best suited to the needs of the person. If the  
4615 referral is to the local alcohol safety action program, the program may charge a fee for the education and  
4616 intervention component, or both, not to exceed \$300, based upon the defendant's ability to pay.

4617 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

4618 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the  
4619 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of  
4620 the final judgment order, provided substantial assistance in investigating or prosecuting another person  
4621 for (i) an act of violence as defined in § 19.2-297.1, an act of larceny of a firearm in violation of § 18.2-  
4622 95, or any violation of § 3.2-4164 or 3.2-4166, subsection B of § 3.2-4167, or § 3.2-4168, 3.2-4170, 3.2-  
4623 4171, 3.2-4172, 3.2-4175, 3.2-4190, 3.2-4191, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-  
4624 248.4, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or  
4625 18.2-258.2, or any substantially similar offense in any other jurisdiction, which offense would be a  
4626 felony if committed in the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in~~

4627 clause (i); or (iii) violations as a principal in the second degree or accessory before the fact of any of the  
4628 offenses listed in clause (i). In determining whether the defendant has provided substantial assistance  
4629 pursuant to the provisions of this section, the court shall consider (a) the court's evaluation of the  
4630 significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's  
4631 evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any  
4632 information or testimony provided by the defendant; (c) the nature and extent of the defendant's  
4633 assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting  
4634 from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than  
4635 one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's  
4636 substantial assistance involved (1) information not known to the defendant until more than one year after  
4637 entry of the final judgment order, (2) information provided by the defendant within one year of entry of  
4638 the final judgment order but that did not become useful to the Commonwealth until more than one year  
4639 after entry of the final judgment order, or (3) information the usefulness of which could not reasonably  
4640 have been anticipated by the defendant until more than one year after entry of the final judgment order  
4641 and which was promptly provided to the Commonwealth by the defendant after its usefulness was  
4642 reasonably apparent.

4643 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**  
4644 **transactions.**

4645 A. The following property shall be subject to lawful seizure by any officer charged with  
4646 enforcing the provisions of Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§  
4647 18.2-247 et seq.) of Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment,  
4648 laboratory equipment, motor vehicles, and all other personal and real property of any kind or character,  
4649 used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled  
4650 substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248,  
4651 (b) the sale or distribution of marijuana or possession with intent to distribute marijuana in violation of §  
4652 3.2-4164 or subdivisions (a)(2), (a)(3) and (c) of § 18.2-248.1 B 2 or 3 of § 3.2-4166, or (c) a drug-

4653 related offense in violation of § 18.2-474.1; (ii) everything of value furnished, or intended to be  
4654 furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation  
4655 of ~~§ 18.2-248.1~~ 3.2-4166 or for a controlled substance ~~or marijuana~~ in violation of § 18.2-474.1; and (iii)  
4656 all moneys or other property, real or personal, traceable to such an exchange, together with any interest  
4657 or profits derived from the investment of such money or other property. Under the provisions of clause  
4658 (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment for the  
4659 violation is a term of not less than five years.

4660 B. All seizures and forfeitures under this section shall be governed by the procedures contained  
4661 in Chapter 22.1 (§ 19.2-386.1 et seq.).

4662 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, drug paraphernalia, and**  
4663 **marijuana paraphernalia.**

4664 A. All controlled substances, imitation controlled substances, marijuana, ~~or~~ drug paraphernalia,  
4665 or marijuana paraphernalia, the lawful possession of which is not established or the title to which cannot  
4666 be ascertained, which have come into the custody of a peace officer or have been seized in connection  
4667 with violations of Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Chapter 7 (§ 18.2-247 et  
4668 seq.) of Title 18.2, shall be forfeited and disposed of as follows:

4669 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of  
4670 State Police, or (iii) any police department or sheriff's office in a locality, the court may order the  
4671 forfeiture of any such substance ~~or, drug paraphernalia, or marijuana paraphernalia~~ to the Department of  
4672 Forensic Science, the Department of State Police, or to such police department or sheriff's office for  
4673 research and training purposes and for destruction pursuant to regulations of the United States  
4674 Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these  
4675 purposes have been fulfilled.

4676 2. In the event no application is made under subdivision 1, the court shall order the destruction of  
4677 all such substances ~~or, drug paraphernalia, or marijuana paraphernalia~~, which order shall state the  
4678 existence and nature of the substance ~~or, drug paraphernalia, or marijuana paraphernalia~~, the quantity

4679 thereof, the location where seized, the person or persons from whom the substance ~~or~~, drug  
4680 paraphernalia, or marijuana paraphernalia was seized, if known, and the manner whereby such item shall  
4681 be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-  
4682 265.1 not be destroyed and that it be given to a person or entity that makes a showing to the court of  
4683 sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use.  
4684 A return under oath, reporting the time, place, and manner of destruction shall be made to the court by  
4685 the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the  
4686 record of any criminal prosecution in which the substance ~~or~~, drug paraphernalia, or marijuana  
4687 paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the  
4688 event a law-enforcement agency recovers, seizes, finds, is given, or otherwise comes into possession of  
4689 any such substances ~~or~~, drug paraphernalia, or marijuana paraphernalia that are not evidence in a trial in  
4690 the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the  
4691 written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided  
4692 that a statement under oath, reporting a description of the substances and drug or marijuana  
4693 paraphernalia destroyed and the time, place and manner of destruction, is made to the chief law-  
4694 enforcement officer by the officer to whom the order is directed.

4695 B. No such substance ~~or~~, drug paraphernalia, or marijuana paraphernalia used or to be used in a  
4696 criminal prosecution under Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Chapter 7 (§  
4697 18.2-247 et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal  
4698 have been exhausted, except as provided in § 19.2-386.24.

4699 C. The amount of any specific controlled substance, or imitation controlled substance, retained  
4700 by any law-enforcement agency pursuant to a court order issued under this section shall not exceed five  
4701 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled  
4702 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall  
4703 not result in the requesting agency's exceeding the limits allowed by this subsection.

4704 D. A law-enforcement agency that retains any controlled substance, imitation controlled

4705 substance, or marijuana, pursuant to a court order issued under this section shall (i) be required to  
4706 conduct an inventory of such substance on a monthly basis, which shall include a description and weight  
4707 of the substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for  
4708 research and training purposes. A written report outlining the details of the inventory shall be made to  
4709 the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and  
4710 the agency shall detail the substances that were used for research and training pursuant to a court order  
4711 in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court  
4712 along with a statement prepared under oath, reporting a description of the substance destroyed, and the  
4713 time, place, and manner of destruction.

4714 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

4715 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in  
4716 connection with any prosecution or investigation under Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of  
4717 Title 3.2 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may  
4718 retain 10 pounds of the substance randomly selected from the seized substance for representative  
4719 purposes as evidence and destroy the remainder of the seized substance.

4720 Before any destruction is carried out under this section, the law-enforcement agency shall cause  
4721 the material seized to be photographed with identification case numbers or other means of identification  
4722 and shall prepare a report identifying the seized material. It shall also notify the accused, or other  
4723 interested party, if known, or his attorney, at least five days in advance that the photography will take  
4724 place and that they may be present. Prior to any destruction under this section, the law-enforcement  
4725 agency shall also notify the accused or other interested party, if known, and his attorney at least seven  
4726 days prior to the destruction of the time and place the destruction will occur. Any notice required under  
4727 the provisions of this section shall be by first-class mail to the last known address of the person required  
4728 to be notified. In addition to the substance retained for representative purposes as evidence, all  
4729 photographs and records made under this section and properly identified shall be admissible in any court  
4730 proceeding for any purposes for which the seized substance itself would have been admissible.

4731           **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**  
4732 **substances, etc.**

4733           Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency  
4734 to take into its custody or to maintain custody of substantial quantities of any controlled substances,  
4735 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal  
4736 prosecution under Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Chapter 7 (§ 18.2-247 et  
4737 seq.) of Title 18.2. The court in its order may make provision for ensuring integrity of these items until  
4738 further order of the court.

4739           **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried**  
4740 **in violation of law.**

4741           Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon concealed, possessed,  
4742 transported or carried in violation of § 3.2-4173, 18.2-283.1, 18.2-287.01, 18.2-287.4, 18.2-308.1:2,  
4743 18.2-308.1:3, 18.2-308.1:4, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7,  
4744 or 18.2-308.8 shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

4745           **§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record**  
4746 **information.**

4747           A. Criminal history record information shall be disseminated, whether directly or through an  
4748 intermediary, only to:

4749           1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
4750 purposes of the administration of criminal justice and the screening of an employment application or  
4751 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
4752 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-  
4753 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,  
4754 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
4755 purposes of this subdivision, criminal history record information includes information sent to the Central  
4756 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time

4757 or part-time employee of the State Police, a police department or sheriff's office that is a part of or  
4758 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the  
4759 prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the  
4760 Commonwealth for the purposes of the administration of criminal justice;

4761           2. Such other individuals and agencies that require criminal history record information to  
4762 implement a state or federal statute or executive order of the President of the United States or Governor  
4763 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon  
4764 such conduct, except that information concerning the arrest of an individual may not be disseminated to  
4765 a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
4766 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
4767 pending;

4768           3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to  
4769 provide services required for the administration of criminal justice pursuant to that agreement which  
4770 shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure  
4771 the security and confidentiality of the data;

4772           4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
4773 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,  
4774 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
4775 security of the data;

4776           5. Agencies of state or federal government that are authorized by state or federal statute or  
4777 executive order of the President of the United States or Governor to conduct investigations determining  
4778 employment suitability or eligibility for security clearances allowing access to classified information;

4779           6. Individuals and agencies where authorized by court order or court rule;

4780           7. Agencies of any political subdivision of the Commonwealth, public transportation companies  
4781 owned, operated or controlled by any political subdivision, and any public service corporation that  
4782 operates a public transit system owned by a local government for the conduct of investigations of



4783 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is  
4784 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a  
4785 conviction record would be compatible with the nature of the employment, permit, or license under  
4786 consideration;

4787         7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et  
4788 seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been  
4789 offered a position of employment whenever, in the interest of public welfare or safety and as authorized  
4790 in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a  
4791 person with a conviction record would be compatible with the nature of the employment under  
4792 consideration;

4793         8. Public or private agencies when authorized or required by federal or state law or interstate  
4794 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the  
4795 adult members of that individual's household, with whom the agency is considering placing a child or  
4796 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,  
4797 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that  
4798 the data shall not be further disseminated to any party other than a federal or state authority or court as  
4799 may be required to comply with an express requirement of law;

4800         9. To the extent permitted by federal law or regulation, public service companies as defined in §  
4801 56-1, for the conduct of investigations of applicants for employment when such employment involves  
4802 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
4803 with the nature of the employment under consideration;

4804         10. The appropriate authority for purposes of granting citizenship and for purposes of  
4805 international travel, including, but not limited to, issuing visas and passports;

4806         11. A person requesting a copy of his own criminal history record information as defined in §  
4807 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
4808 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of

4809 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
4810 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
4811 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
4812 Solvers or Crime Line program as defined in § 15.2-1713.1;

4813 12. Administrators and board presidents of and applicants for licensure or registration as a child  
4814 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
4815 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
4816 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved  
4817 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,  
4818 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction  
4819 that the data shall not be further disseminated by the facility or agency to any party other than the data  
4820 subject, the Commissioner of Social Services' representative or a federal or state authority or court as  
4821 may be required to comply with an express requirement of law for such further dissemination;

4822 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
4823 offered or who accept public school employment and those current school board employees for whom a  
4824 report of arrest has been made pursuant to § 19.2-83.1;

4825 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
4826 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,  
4827 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth  
4828 in Article 1 (§ 3.2-4122 et seq.) of Chapter 41.2 of Title 3.2 and Article 1.1:1 (§ 18.2-340.15 et seq.) of  
4829 Chapter 8 of Title 18.2;

4830 15. Licensed nursing homes, hospitals and home care organizations for the conduct of  
4831 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-  
4832 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-  
4833 162.9:1, subject to the limitations set out in subsection E;

4834 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of

- 4835 investigations of applicants for compensated employment in licensed assisted living facilities and  
4836 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
- 4837 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set  
4838 forth in § 4.1-103.1;
- 4839 18. The State Board of Elections and authorized officers and employees thereof and general  
4840 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with  
4841 respect to voter registration, limited to any record of felony convictions;
- 4842 19. The Commissioner of Behavioral Health and Developmental Services for those individuals  
4843 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-  
4844 182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment  
4845 planning;
- 4846 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol  
4847 Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with  
4848 first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
- 4849 21. Residential facilities for juveniles regulated or operated by the Department of Social  
4850 Services, the Department of Education, or the Department of Behavioral Health and Developmental  
4851 Services for the purpose of determining applicants' fitness for employment or for providing volunteer or  
4852 contractual services;
- 4853 22. The Department of Behavioral Health and Developmental Services and facilities operated by  
4854 the Department for the purpose of determining an individual's fitness for employment pursuant to  
4855 departmental instructions;
- 4856 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
4857 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
4858 records information on behalf of such governing boards or administrators pursuant to a written  
4859 agreement with the Department of State Police;
- 4860 24. Public institutions of higher education and nonprofit private institutions of higher education

4861 for the purpose of screening individuals who are offered or accept employment;

4862 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-  
4863 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit  
4864 institution of higher education, for the purpose of assessing or intervening with an individual whose  
4865 behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose  
4866 any criminal history record information obtained pursuant to this section or otherwise use any record of  
4867 an individual beyond the purpose that such disclosure was made to the threat assessment team;

4868 26. Executive directors of community services boards or the personnel director serving the  
4869 community services board for the purpose of determining an individual's fitness for employment,  
4870 approval as a sponsored residential service provider, or permission to enter into a shared living  
4871 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§  
4872 37.2-506 and 37.2-607;

4873 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose  
4874 of determining an individual's fitness for employment, approval as a sponsored residential service  
4875 provider, or permission to enter into a shared living arrangement with a person receiving medical  
4876 assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

4877 28. The Commissioner of Social Services for the purpose of locating persons who owe child  
4878 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only  
4879 the name, address, demographics and social security number of the data subject shall be released;

4880 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)  
4881 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
4882 purpose of determining if any applicant who accepts employment in any direct care position or requests  
4883 approval as a sponsored residential service provider or permission to enter into a shared living  
4884 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted  
4885 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with  
4886 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-

4887 607;

4888 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating  
4889 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters  
4890 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

4891 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of  
4892 Delegates for the purpose of determining if any person being considered for election to any judgeship  
4893 has been convicted of a crime;

4894 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
4895 determining an individual's fitness for employment in positions designated as sensitive under  
4896 Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

4897 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted  
4898 under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of  
4899 Sexually Violent Predators Act (§ 37.2-900 et seq.);

4900 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,  
4901 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary  
4902 companies, for the conduct of investigations of applications for employment or for access to facilities, by  
4903 contractors, leased laborers, and other visitors;

4904 35. Any employer of individuals whose employment requires that they enter the homes of others,  
4905 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

4906 36. Public agencies when and as required by federal or state law to investigate (i) applicants as  
4907 providers of adult foster care and home-based services or (ii) any individual with whom the agency is  
4908 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,  
4909 subject to the restriction that the data shall not be further disseminated by the agency to any party other  
4910 than a federal or state authority or court as may be required to comply with an express requirement of  
4911 law for such further dissemination, subject to limitations set out in subsection G;

4912 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening

4913 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
4914 or have accepted a position related to the provision of transportation services to enrollees in the  
4915 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other  
4916 program administered by the Department of Medical Assistance Services;

4917           38. The State Corporation Commission for the purpose of investigating individuals who are  
4918 current or proposed members, senior officers, directors, and principals of an applicant or person licensed  
4919 under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding  
4920 any other provision of law, if an application is denied based in whole or in part on information obtained  
4921 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the  
4922 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or  
4923 its designee;

4924           39. The Department of Professional and Occupational Regulation for the purpose of investigating  
4925 individuals for initial licensure pursuant to § 54.1-2106.1;

4926           40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
4927 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
4928 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
4929 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

4930           41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

4931           42. The State Treasurer for the purpose of determining whether a person receiving compensation  
4932 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

4933           43. The Department of Social Services and directors of local departments of social services for  
4934 the purpose of screening individuals seeking to enter into a contract with the Department of Social  
4935 Services or a local department of social services for the provision of child care services for which child  
4936 care subsidy payments may be provided;

4937           44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult  
4938 members of a juvenile's household when completing a predispositional or postdispositional report

4939 required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;  
4940 and

4941 45. Other entities as otherwise provided by law.

4942 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
4943 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
4944 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
4945 designated in the order on whom a report has been made under the provisions of this chapter.

4946 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn  
4947 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
4948 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
4949 copy of conviction data covering the person named in the request to the person making the request;  
4950 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
4951 making of such request. A person receiving a copy of his own conviction data may utilize or further  
4952 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
4953 subject, the person making the request shall be furnished at his cost a certification to that effect.

4954 B. Use of criminal history record information disseminated to noncriminal justice agencies under  
4955 this section shall be limited to the purposes for which it was given and may not be disseminated further.

4956 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal  
4957 history record information for employment or licensing inquiries except as provided by law.

4958 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
4959 Exchange prior to dissemination of any criminal history record information on offenses required to be  
4960 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
4961 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
4962 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
4963 time period. A criminal justice agency to whom a request has been made for the dissemination of  
4964 criminal history record information that is required to be reported to the Central Criminal Records

4965 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.  
4966 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
4967 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

4968 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
4969 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange  
4970 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

4971 F. Criminal history information provided to licensed assisted living facilities and licensed adult  
4972 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the  
4973 Exchange for any offense specified in § 63.2-1720.

4974 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall  
4975 be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the  
4976 definition of barrier crime in § 19.2-392.02.

4977 H. Upon receipt of a written request from an employer or prospective employer, the Central  
4978 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be  
4979 reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the  
4980 person named in the request to the employer or prospective employer making the request, provided that  
4981 the person on whom the data is being obtained has consented in writing to the making of such request  
4982 and has presented a photo-identification to the employer or prospective employer. In the event no  
4983 conviction data is maintained on the person named in the request, the requesting employer or prospective  
4984 employer shall be furnished at his cost a certification to that effect. The criminal history record search  
4985 shall be conducted on forms provided by the Exchange.

4986 I. Nothing in this section shall preclude the dissemination of a person's criminal history record  
4987 information pursuant to the rules of court for obtaining discovery or for review by the court.

4988 **§ 19.2-389. (Effective January 1, 2021 and until July 1, 2021) Dissemination of criminal**  
4989 **history record information.**

4990 A. Criminal history record information shall be disseminated, whether directly or through an



4991 intermediary, only to:

4992 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
4993 purposes of the administration of criminal justice and the screening of an employment application or  
4994 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
4995 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-  
4996 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,  
4997 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
4998 purposes of this subdivision, criminal history record information includes information sent to the Central  
4999 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time  
5000 or part-time employee of the State Police, a police department or sheriff's office that is a part of or  
5001 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the  
5002 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the  
5003 Commonwealth for the purposes of the administration of criminal justice;

5004 2. Such other individuals and agencies that require criminal history record information to  
5005 implement a state or federal statute or executive order of the President of the United States or Governor  
5006 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon  
5007 such conduct, except that information concerning the arrest of an individual may not be disseminated to  
5008 a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
5009 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
5010 pending;

5011 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to  
5012 provide services required for the administration of criminal justice pursuant to that agreement which  
5013 shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure  
5014 the security and confidentiality of the data;

5015 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
5016 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,

5017 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
5018 security of the data;

5019           5. Agencies of state or federal government that are authorized by state or federal statute or  
5020 executive order of the President of the United States or Governor to conduct investigations determining  
5021 employment suitability or eligibility for security clearances allowing access to classified information;

5022           6. Individuals and agencies where authorized by court order or court rule;

5023           7. Agencies of any political subdivision of the Commonwealth, public transportation companies  
5024 owned, operated or controlled by any political subdivision, and any public service corporation that  
5025 operates a public transit system owned by a local government for the conduct of investigations of  
5026 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is  
5027 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a  
5028 conviction record would be compatible with the nature of the employment, permit, or license under  
5029 consideration;

5030           7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et  
5031 seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been  
5032 offered a position of employment whenever, in the interest of public welfare or safety and as authorized  
5033 in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a  
5034 person with a conviction record would be compatible with the nature of the employment under  
5035 consideration;

5036           8. Public or private agencies when authorized or required by federal or state law or interstate  
5037 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the  
5038 adult members of that individual's household, with whom the agency is considering placing a child or  
5039 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,  
5040 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that  
5041 the data shall not be further disseminated to any party other than a federal or state authority or court as  
5042 may be required to comply with an express requirement of law;

5043 9. To the extent permitted by federal law or regulation, public service companies as defined in §  
5044 56-1, for the conduct of investigations of applicants for employment when such employment involves  
5045 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
5046 with the nature of the employment under consideration;

5047 10. The appropriate authority for purposes of granting citizenship and for purposes of  
5048 international travel, including, but not limited to, issuing visas and passports;

5049 11. A person requesting a copy of his own criminal history record information as defined in §  
5050 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
5051 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
5052 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
5053 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
5054 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
5055 Solvers or Crime Line program as defined in § 15.2-1713.1;

5056 12. Administrators and board presidents of and applicants for licensure or registration as a child  
5057 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
5058 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
5059 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved  
5060 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,  
5061 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction  
5062 that the data shall not be further disseminated by the facility or agency to any party other than the data  
5063 subject, the Commissioner of Social Services' representative or a federal or state authority or court as  
5064 may be required to comply with an express requirement of law for such further dissemination;

5065 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
5066 offered or who accept public school employment and those current school board employees for whom a  
5067 report of arrest has been made pursuant to § 19.2-83.1;

5068 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law

5069 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,  
5070 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth  
5071 in Article 1 (§ 3.2-4122 et seq.) of Chapter 41.2 of Title 3.2 and Article 1.1:1 (§ 18.2-340.15 et seq.) of  
5072 Chapter 8 of Title 18.2;

5073 15. Licensed nursing homes, hospitals and home care organizations for the conduct of  
5074 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-  
5075 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-  
5076 162.9:1, subject to the limitations set out in subsection E;

5077 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
5078 investigations of applicants for compensated employment in licensed assisted living facilities and  
5079 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5080 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set  
5081 forth in § 4.1-103.1;

5082 18. The State Board of Elections and authorized officers and employees thereof and general  
5083 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with  
5084 respect to voter registration, limited to any record of felony convictions;

5085 19. The Commissioner of Behavioral Health and Developmental Services for those individuals  
5086 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-  
5087 182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment  
5088 planning;

5089 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol  
5090 Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with  
5091 first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

5092 21. Residential facilities for juveniles regulated or operated by the Department of Social  
5093 Services, the Department of Education, or the Department of Behavioral Health and Developmental  
5094 Services for the purpose of determining applicants' fitness for employment or for providing volunteer or

5095 contractual services;

5096 22. The Department of Behavioral Health and Developmental Services and facilities operated by  
5097 the Department for the purpose of determining an individual's fitness for employment pursuant to  
5098 departmental instructions;

5099 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
5100 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
5101 records information on behalf of such governing boards or administrators pursuant to a written  
5102 agreement with the Department of State Police;

5103 24. Public institutions of higher education and nonprofit private institutions of higher education  
5104 for the purpose of screening individuals who are offered or accept employment;

5105 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-  
5106 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit  
5107 institution of higher education, for the purpose of assessing or intervening with an individual whose  
5108 behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose  
5109 any criminal history record information obtained pursuant to this section or otherwise use any record of  
5110 an individual beyond the purpose that such disclosure was made to the threat assessment team;

5111 26. Executive directors of community services boards or the personnel director serving the  
5112 community services board for the purpose of determining an individual's fitness for employment,  
5113 approval as a sponsored residential service provider, or permission to enter into a shared living  
5114 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§  
5115 37.2-506 and 37.2-607;

5116 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose  
5117 of determining an individual's fitness for employment, approval as a sponsored residential service  
5118 provider, or permission to enter into a shared living arrangement with a person receiving medical  
5119 assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

5120 28. The Commissioner of Social Services for the purpose of locating persons who owe child

5121 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only  
5122 the name, address, demographics and social security number of the data subject shall be released;

5123 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)  
5124 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
5125 purpose of determining if any applicant who accepts employment in any direct care position or requests  
5126 approval as a sponsored residential service provider or permission to enter into a shared living  
5127 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted  
5128 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with  
5129 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-  
5130 607;

5131 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating  
5132 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters  
5133 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5134 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of  
5135 Delegates for the purpose of determining if any person being considered for election to any judgeship  
5136 has been convicted of a crime;

5137 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
5138 determining an individual's fitness for employment in positions designated as sensitive under  
5139 Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

5140 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted  
5141 under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of  
5142 Sexually Violent Predators Act (§ 37.2-900 et seq.);

5143 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,  
5144 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary  
5145 companies, for the conduct of investigations of applications for employment or for access to facilities, by  
5146 contractors, leased laborers, and other visitors;

5147 35. Any employer of individuals whose employment requires that they enter the homes of others,  
5148 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

5149 36. Public agencies when and as required by federal or state law to investigate (i) applicants as  
5150 providers of adult foster care and home-based services or (ii) any individual with whom the agency is  
5151 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,  
5152 subject to the restriction that the data shall not be further disseminated by the agency to any party other  
5153 than a federal or state authority or court as may be required to comply with an express requirement of  
5154 law for such further dissemination, subject to limitations set out in subsection G;

5155 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
5156 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
5157 or have accepted a position related to the provision of transportation services to enrollees in the  
5158 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other  
5159 program administered by the Department of Medical Assistance Services;

5160 38. The State Corporation Commission for the purpose of investigating individuals who are  
5161 current or proposed members, senior officers, directors, and principals of an applicant or person licensed  
5162 under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding  
5163 any other provision of law, if an application is denied based in whole or in part on information obtained  
5164 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the  
5165 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or  
5166 its designee;

5167 39. The Department of Professional and Occupational Regulation for the purpose of investigating  
5168 individuals for initial licensure pursuant to § 54.1-2106.1;

5169 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
5170 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
5171 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
5172 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

- 5173** 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
- 5174** 42. The State Treasurer for the purpose of determining whether a person receiving compensation  
**5175** for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
- 5176** 43. The Department of Social Services and directors of local departments of social services for  
**5177** the purpose of screening individuals seeking to enter into a contract with the Department of Social  
**5178** Services or a local department of social services for the provision of child care services for which child  
**5179** care subsidy payments may be provided;
- 5180** 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult  
**5181** members of a juvenile's household when completing a predispositional or postdispositional report  
**5182** required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
- 5183** 45. The State Corporation Commission, for the purpose of screening applicants for insurance  
**5184** licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and
- 5185** 46. Other entities as otherwise provided by law.
- 5186** Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
**5187** requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
**5188** Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
**5189** designated in the order on whom a report has been made under the provisions of this chapter.
- 5190** Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn  
**5191** to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
**5192** criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
**5193** copy of conviction data covering the person named in the request to the person making the request;  
**5194** however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
**5195** making of such request. A person receiving a copy of his own conviction data may utilize or further  
**5196** disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
**5197** subject, the person making the request shall be furnished at his cost a certification to that effect.
- 5198** B. Use of criminal history record information disseminated to noncriminal justice agencies under



5199 this section shall be limited to the purposes for which it was given and may not be disseminated further.

5200 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal  
5201 history record information for employment or licensing inquiries except as provided by law.

5202 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
5203 Exchange prior to dissemination of any criminal history record information on offenses required to be  
5204 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
5205 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
5206 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
5207 time period. A criminal justice agency to whom a request has been made for the dissemination of  
5208 criminal history record information that is required to be reported to the Central Criminal Records  
5209 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.  
5210 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
5211 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

5212 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
5213 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange  
5214 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

5215 F. Criminal history information provided to licensed assisted living facilities and licensed adult  
5216 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the  
5217 Exchange for any offense specified in § 63.2-1720.

5218 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall  
5219 be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the  
5220 definition of barrier crime in § 19.2-392.02.

5221 H. Upon receipt of a written request from an employer or prospective employer, the Central  
5222 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be  
5223 reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the  
5224 person named in the request to the employer or prospective employer making the request, provided that

5225 the person on whom the data is being obtained has consented in writing to the making of such request  
5226 and has presented a photo-identification to the employer or prospective employer. In the event no  
5227 conviction data is maintained on the person named in the request, the requesting employer or prospective  
5228 employer shall be furnished at his cost a certification to that effect. The criminal history record search  
5229 shall be conducted on forms provided by the Exchange.

5230 I. Nothing in this section shall preclude the dissemination of a person's criminal history record  
5231 information pursuant to the rules of court for obtaining discovery or for review by the court.

5232 **§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

5233 A. Criminal history record information shall be disseminated, whether directly or through an  
5234 intermediary, only to:

5235 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
5236 purposes of the administration of criminal justice and the screening of an employment application or  
5237 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
5238 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-  
5239 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4,  
5240 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
5241 purposes of this subdivision, criminal history record information includes information sent to the Central  
5242 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time  
5243 or part-time employee of the State Police, a police department or sheriff's office that is a part of or  
5244 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the  
5245 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the  
5246 Commonwealth for the purposes of the administration of criminal justice;

5247 2. Such other individuals and agencies that require criminal history record information to  
5248 implement a state or federal statute or executive order of the President of the United States or Governor  
5249 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon  
5250 such conduct, except that information concerning the arrest of an individual may not be disseminated to

5251 a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
5252 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
5253 pending;

5254 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to  
5255 provide services required for the administration of criminal justice pursuant to that agreement which  
5256 shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure  
5257 the security and confidentiality of the data;

5258 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
5259 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,  
5260 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
5261 security of the data;

5262 5. Agencies of state or federal government that are authorized by state or federal statute or  
5263 executive order of the President of the United States or Governor to conduct investigations determining  
5264 employment suitability or eligibility for security clearances allowing access to classified information;

5265 6. Individuals and agencies where authorized by court order or court rule;

5266 7. Agencies of any political subdivision of the Commonwealth, public transportation companies  
5267 owned, operated or controlled by any political subdivision, and any public service corporation that  
5268 operates a public transit system owned by a local government for the conduct of investigations of  
5269 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is  
5270 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a  
5271 conviction record would be compatible with the nature of the employment, permit, or license under  
5272 consideration;

5273 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et  
5274 seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been  
5275 offered a position of employment whenever, in the interest of public welfare or safety and as authorized  
5276 in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a

5277 person with a conviction record would be compatible with the nature of the employment under  
5278 consideration;

5279 8. Public or private agencies when authorized or required by federal or state law or interstate  
5280 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the  
5281 adult members of that individual's household, with whom the agency is considering placing a child or  
5282 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,  
5283 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that  
5284 the data shall not be further disseminated to any party other than a federal or state authority or court as  
5285 may be required to comply with an express requirement of law;

5286 9. To the extent permitted by federal law or regulation, public service companies as defined in §  
5287 56-1, for the conduct of investigations of applicants for employment when such employment involves  
5288 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
5289 with the nature of the employment under consideration;

5290 10. The appropriate authority for purposes of granting citizenship and for purposes of  
5291 international travel, including, but not limited to, issuing visas and passports;

5292 11. A person requesting a copy of his own criminal history record information as defined in §  
5293 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
5294 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
5295 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
5296 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
5297 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
5298 Solvers or Crime Line program as defined in § 15.2-1713.1;

5299 12. Administrators and board presidents of and applicants for licensure or registration as a child  
5300 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
5301 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
5302 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing

5303 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data  
5304 shall not be further disseminated by the facility or agency to any party other than the data subject, the  
5305 Commissioner of Social Services' representative or a federal or state authority or court as may be  
5306 required to comply with an express requirement of law for such further dissemination;

5307 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
5308 offered or who accept public school employment and those current school board employees for whom a  
5309 report of arrest has been made pursuant to § 19.2-83.1;

5310 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
5311 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,  
5312 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth  
5313 in Article 1 (§ 3.2-4122 et seq.) of Chapter 41.2 of Title 3.2 and Article 1.1:1 (§ 18.2-340.15 et seq.) of  
5314 Chapter 8 of Title 18.2;

5315 15. Licensed nursing homes, hospitals and home care organizations for the conduct of  
5316 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-  
5317 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-  
5318 162.9:1, subject to the limitations set out in subsection E;

5319 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
5320 investigations of applicants for compensated employment in licensed assisted living facilities and  
5321 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

5322 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set  
5323 forth in § 4.1-103.1;

5324 18. The State Board of Elections and authorized officers and employees thereof and general  
5325 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with  
5326 respect to voter registration, limited to any record of felony convictions;

5327 19. The Commissioner of Behavioral Health and Developmental Services for those individuals  
5328 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-

5329 182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment  
5330 planning;

5331 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol  
5332 Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with  
5333 first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

5334 21. Residential facilities for juveniles regulated or operated by the Department of Social  
5335 Services, the Department of Education, or the Department of Behavioral Health and Developmental  
5336 Services for the purpose of determining applicants' fitness for employment or for providing volunteer or  
5337 contractual services;

5338 22. The Department of Behavioral Health and Developmental Services and facilities operated by  
5339 the Department for the purpose of determining an individual's fitness for employment pursuant to  
5340 departmental instructions;

5341 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
5342 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
5343 records information on behalf of such governing boards or administrators pursuant to a written  
5344 agreement with the Department of State Police;

5345 24. Public institutions of higher education and nonprofit private institutions of higher education  
5346 for the purpose of screening individuals who are offered or accept employment;

5347 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-  
5348 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit  
5349 institution of higher education, for the purpose of assessing or intervening with an individual whose  
5350 behavior may present a threat to safety; however, no member of a threat assessment team shall disclose  
5351 any criminal history record information obtained pursuant to this section or otherwise use any record of  
5352 an individual beyond the purpose that such disclosure was made to the threat assessment team;

5353 26. Executive directors of community services boards or the personnel director serving the  
5354 community services board for the purpose of determining an individual's fitness for employment,

5355 approval as a sponsored residential service provider, or permission to enter into a shared living  
5356 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§  
5357 37.2-506 and 37.2-607;

5358 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose  
5359 of determining an individual's fitness for employment, approval as a sponsored residential service  
5360 provider, or permission to enter into a shared living arrangement with a person receiving medical  
5361 assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

5362 28. The Commissioner of Social Services for the purpose of locating persons who owe child  
5363 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only  
5364 the name, address, demographics and social security number of the data subject shall be released;

5365 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)  
5366 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
5367 purpose of determining if any applicant who accepts employment in any direct care position or requests  
5368 approval as a sponsored residential service provider or permission to enter into a shared living  
5369 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted  
5370 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with  
5371 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-  
5372 607;

5373 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating  
5374 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters  
5375 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

5376 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of  
5377 Delegates for the purpose of determining if any person being considered for election to any judgeship  
5378 has been convicted of a crime;

5379 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
5380 determining an individual's fitness for employment in positions designated as sensitive under

5381 Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

5382 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted  
5383 under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of  
5384 Sexually Violent Predators Act (§ 37.2-900 et seq.);

5385 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,  
5386 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary  
5387 companies, for the conduct of investigations of applications for employment or for access to facilities, by  
5388 contractors, leased laborers, and other visitors;

5389 35. Any employer of individuals whose employment requires that they enter the homes of others,  
5390 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

5391 36. Public agencies when and as required by federal or state law to investigate (i) applicants as  
5392 providers of adult foster care and home-based services or (ii) any individual with whom the agency is  
5393 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,  
5394 subject to the restriction that the data shall not be further disseminated by the agency to any party other  
5395 than a federal or state authority or court as may be required to comply with an express requirement of  
5396 law for such further dissemination, subject to limitations set out in subsection G;

5397 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
5398 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
5399 or have accepted a position related to the provision of transportation services to enrollees in the  
5400 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other  
5401 program administered by the Department of Medical Assistance Services;

5402 38. The State Corporation Commission for the purpose of investigating individuals who are  
5403 current or proposed members, senior officers, directors, and principals of an applicant or person licensed  
5404 under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.)  
5405 of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in  
5406 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or



5407 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information  
5408 to the applicant or its designee;

5409 39. The Department of Professional and Occupational Regulation for the purpose of investigating  
5410 individuals for initial licensure pursuant to § 54.1-2106.1;

5411 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
5412 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
5413 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
5414 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

5415 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

5416 42. The State Treasurer for the purpose of determining whether a person receiving compensation  
5417 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

5418 43. The Department of Education or its agents or designees for the purpose of screening  
5419 individuals seeking to enter into a contract with the Department of Education or its agents or designees  
5420 for the provision of child care services for which child care subsidy payments may be provided;

5421 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult  
5422 members of a juvenile's household when completing a predispositional or postdispositional report  
5423 required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

5424 45. The State Corporation Commission, for the purpose of screening applicants for insurance  
5425 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

5426 46. Administrators and board presidents of and applicants for licensure or registration as a child  
5427 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
5428 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
5429 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
5430 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the  
5431 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's  
5432 representative, or a federal or state authority or court as may be required to comply with an express

5433 requirement of law for such further dissemination; and

5434 47. Other entities as otherwise provided by law.

5435 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
5436 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
5437 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
5438 designated in the order on whom a report has been made under the provisions of this chapter.

5439 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn  
5440 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
5441 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
5442 copy of conviction data covering the person named in the request to the person making the request;  
5443 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
5444 making of such request. A person receiving a copy of his own conviction data may utilize or further  
5445 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
5446 subject, the person making the request shall be furnished at his cost a certification to that effect.

5447 B. Use of criminal history record information disseminated to noncriminal justice agencies under  
5448 this section shall be limited to the purposes for which it was given and may not be disseminated further.

5449 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal  
5450 history record information for employment or licensing inquiries except as provided by law.

5451 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
5452 Exchange prior to dissemination of any criminal history record information on offenses required to be  
5453 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
5454 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
5455 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
5456 time period. A criminal justice agency to whom a request has been made for the dissemination of  
5457 criminal history record information that is required to be reported to the Central Criminal Records  
5458 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.

5459 Dissemination of information regarding offenses not required to be reported to the Exchange shall be  
5460 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

5461 E. Criminal history information provided to licensed nursing homes, hospitals and to home care  
5462 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange  
5463 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

5464 F. Criminal history information provided to licensed assisted living facilities and licensed adult  
5465 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the  
5466 Exchange for any offense specified in § 63.2-1720.

5467 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall  
5468 be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the  
5469 definition of barrier crime in § 19.2-392.02.

5470 H. Upon receipt of a written request from an employer or prospective employer, the Central  
5471 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be  
5472 reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the  
5473 person named in the request to the employer or prospective employer making the request, provided that  
5474 the person on whom the data is being obtained has consented in writing to the making of such request  
5475 and has presented a photo-identification to the employer or prospective employer. In the event no  
5476 conviction data is maintained on the person named in the request, the requesting employer or prospective  
5477 employer shall be furnished at his cost a certification to that effect. The criminal history record search  
5478 shall be conducted on forms provided by the Exchange.

5479 I. Nothing in this section shall preclude the dissemination of a person's criminal history record  
5480 information pursuant to the rules of court for obtaining discovery or for review by the court.

5481 **§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by**  
5482 **businesses and organizations regarding employees or volunteers providing care to children or the**  
5483 **elderly or disabled.**

5484 A. For purposes of this section:

**5485** "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,  
**5486** 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony  
**5487** violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6,  
**5488** or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or  
**5489** 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6,  
**5490** 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1,  
**5491** 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-  
**5492** 60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1,  
**5493** 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1,  
**5494** 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-  
**5495** 86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282,  
**5496** 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 3.2-4173, 18.2-289, 18.2-290, 18.2-300, 18.2-  
**5497** 308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-  
**5498** 355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of §  
**5499** 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6,  
**5500** 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any  
**5501** felony violation of § 18.2-405 or 18.2-406; any violation of § 3.2-4174, 18.2-408, 18.2-413, 18.2-414,  
**5502** 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-  
**5503** 477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203;  
**5504** or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89,  
**5505** 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of  
**5506** another jurisdiction; (iii) any felony violation of § 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4168, 3.2-4170,  
**5507** 3.2-4171, 3.2-4172, 3.2-4175, 3.2-4190, 3.2-4191, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03,  
**5508** ~~18.2-248.4~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-  
**5509** 258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any  
**5510** felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction;

5511 (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex  
5512 Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person  
5513 is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of  
5514 an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender  
5515 and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the  
5516 laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against  
5517 minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)  
5518 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the  
5519 date of the conviction.

5520 "Barrier crime information" means the following facts concerning a person who has been  
5521 arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or  
5522 adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight,  
5523 fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or  
5524 has been convicted, the disposition of the charge, and any other information that may be useful in  
5525 identifying persons arrested for or convicted of a barrier crime.

5526 "Care" means the provision of care, treatment, education, training, instruction, supervision, or  
5527 recreation to children or the elderly or disabled.

5528 "Department" means the Department of State Police.

5529 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,  
5530 or seeks to volunteer for a qualified entity.

5531 "Identification document" means a document made or issued by or under the authority of the  
5532 United States government, a state, a political subdivision of a state, a foreign government, political  
5533 subdivision of a foreign government, an international governmental or an international quasi-  
5534 governmental organization that, when completed with information concerning a particular individual, is  
5535 of a type intended or commonly accepted for the purpose of identification of individuals.

5536 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or

5537 may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity  
5538 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised  
5539 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or  
5540 operate a qualified entity.

5541 "Qualified entity" means a business or organization that provides care to children or the elderly  
5542 or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations  
5543 exempt pursuant to subdivision A 7 of § 63.2-1715.

5544 B. A qualified entity may request the Department of State Police to conduct a national criminal  
5545 background check on any provider who is employed by such entity. No qualified entity may request a  
5546 national criminal background check on a provider until such provider has:

5547 1. Been fingerprinted; and

5548 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,  
5549 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
5550 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or  
5551 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
5552 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a  
5553 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background  
5554 check report, to challenge the accuracy and completeness of any information contained in any such  
5555 report, and to obtain a prompt determination as to the validity of such challenge before a final  
5556 determination is made by the Department; and (v) a notice to the provider that prior to the completion of  
5557 the background check the qualified entity may choose to deny the provider unsupervised access to  
5558 children or the elderly or disabled for whom the qualified entity provides care.

5559 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a  
5560 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in  
5561 subsection B, the Department shall make a determination whether the provider has been convicted of or  
5562 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier

5563 crime information, the Department shall access the national criminal history background check system,  
5564 which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other  
5565 methods of identification, and shall access the Central Criminal Records Exchange maintained by the  
5566 Department. If the Department receives a background report lacking disposition data, the Department  
5567 shall conduct research in whatever state and local recordkeeping systems are available in order to obtain  
5568 complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry  
5569 within 15 business days.

5570 D. Any background check conducted pursuant to this section for a provider employed by a  
5571 private entity shall be screened by the Department of State Police. If the provider has been convicted of  
5572 or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not  
5573 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly  
5574 or disabled.

5575 E. Any background check conducted pursuant to this section for a provider employed by a  
5576 governmental entity shall be provided to that entity.

5577 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a  
5578 national criminal background check, the Department and the Federal Bureau of Investigation may each  
5579 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted  
5580 with the fingerprints.

5581 G. The failure to request a criminal background check pursuant to subsection B shall not be  
5582 considered negligence per se in any civil action.

5583 H. [Expired.]

5584 **§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses**  
5585 **and organizations regarding employees or volunteers providing care to children or the elderly or**  
5586 **disabled.**

5587 A. For purposes of this section:

5588 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,

**5589** 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony  
**5590** violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6,  
**5591** or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or  
**5592** 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6,  
**5593** 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1,  
**5594** 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-  
**5595** 60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1,  
**5596** 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1,  
**5597** 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-  
**5598** 86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282,  
**5599** 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 3.2-4173, 18.2-289, 18.2-290, 18.2-300, 18.2-  
**5600** 308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-  
**5601** 355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of §  
**5602** 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6,  
**5603** 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any  
**5604** felony violation of § 18.2-405 or 18.2-406; any violation of § 3.2-4174, 18.2-408, 18.2-413, 18.2-414,  
**5605** 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-  
**5606** 477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203;  
**5607** or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89,  
**5608** 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of  
**5609** another jurisdiction; (iii) any felony violation of § 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4168, 3.2-4170,  
**5610** 3.2-4172, 3.2-4172, 3.2-4175, 3.2-4190, 3.2-4191, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03,  
**5611** ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-  
**5612** 258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any  
**5613** felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction;  
**5614** (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex



5615 Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person  
5616 is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of  
5617 an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender  
5618 and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the  
5619 laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against  
5620 minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi)  
5621 any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the  
5622 date of the conviction.

5623 "Barrier crime information" means the following facts concerning a person who has been  
5624 arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or  
5625 adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight,  
5626 fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or  
5627 has been convicted, the disposition of the charge, and any other information that may be useful in  
5628 identifying persons arrested for or convicted of a barrier crime.

5629 "Care" means the provision of care, treatment, education, training, instruction, supervision, or  
5630 recreation to children or the elderly or disabled.

5631 "Department" means the Department of State Police.

5632 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by,  
5633 or seeks to volunteer for a qualified entity.

5634 "Identification document" means a document made or issued by or under the authority of the  
5635 United States government, a state, a political subdivision of a state, a foreign government, political  
5636 subdivision of a foreign government, an international governmental or an international quasi-  
5637 governmental organization that, when completed with information concerning a particular individual, is  
5638 of a type intended or commonly accepted for the purpose of identification of individuals.

5639 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or  
5640 may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity

5641 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised  
5642 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or  
5643 operate a qualified entity.

5644 "Qualified entity" means a business or organization that provides care to children or the elderly  
5645 or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations  
5646 exempt pursuant to subdivision A 7 of § 22.1-289.030.

5647 B. A qualified entity may request the Department of State Police to conduct a national criminal  
5648 background check on any provider who is employed by such entity. No qualified entity may request a  
5649 national criminal background check on a provider until such provider has:

5650 1. Been fingerprinted; and

5651 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address,  
5652 and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
5653 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or  
5654 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
5655 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a  
5656 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background  
5657 check report, to challenge the accuracy and completeness of any information contained in any such  
5658 report, and to obtain a prompt determination as to the validity of such challenge before a final  
5659 determination is made by the Department; and (v) a notice to the provider that prior to the completion of  
5660 the background check the qualified entity may choose to deny the provider unsupervised access to  
5661 children or the elderly or disabled for whom the qualified entity provides care.

5662 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a  
5663 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in  
5664 subsection B, the Department shall make a determination whether the provider has been convicted of or  
5665 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier  
5666 crime information, the Department shall access the national criminal history background check system,

5667 which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other  
5668 methods of identification, and shall access the Central Criminal Records Exchange maintained by the  
5669 Department. If the Department receives a background report lacking disposition data, the Department  
5670 shall conduct research in whatever state and local recordkeeping systems are available in order to obtain  
5671 complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry  
5672 within 15 business days.

5673 D. Any background check conducted pursuant to this section for a provider employed by a  
5674 private entity shall be screened by the Department of State Police. If the provider has been convicted of  
5675 or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not  
5676 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly  
5677 or disabled.

5678 E. Any background check conducted pursuant to this section for a provider employed by a  
5679 governmental entity shall be provided to that entity.

5680 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a  
5681 national criminal background check, the Department and the Federal Bureau of Investigation may each  
5682 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted  
5683 with the fingerprints.

5684 G. The failure to request a criminal background check pursuant to subsection B shall not be  
5685 considered negligence per se in any civil action.

5686 H. [Expired.]

5687 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

5688 A. School boards shall expel from school attendance any student whom such school board has  
5689 determined, in accordance with the procedures set forth in this article, to have brought a controlled  
5690 substance; or imitation controlled substance; ~~or marijuana~~ as defined in § 18.2-247 or marijuana as  
5691 defined in § 3.2-4122 onto school property or to a school-sponsored activity. A school administrator,  
5692 pursuant to school board policy, or a school board may, however, determine, based on the facts of a

5693 particular situation, that special circumstances exist and no disciplinary action or another disciplinary  
5694 action or another term of expulsion is appropriate. A school board may, by regulation, authorize the  
5695 division superintendent or his designee to conduct a preliminary review of such cases to determine  
5696 whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a  
5697 determination is made that another disciplinary action is appropriate, any such subsequent disciplinary  
5698 action is to be taken in accordance with the procedures set forth in this article. Nothing in this section  
5699 shall be construed to require a student's expulsion regardless of the facts of the particular situation.

5700 B. Each school board shall revise its standards of student conduct to incorporate the requirements  
5701 of this section no later than three months after the date on which this act becomes effective.

5702 **§ 22.1-315. Grounds and procedure for suspension.**

5703 A. A teacher or other public school employee, whether full-time or part-time, permanent, or  
5704 temporary, may be suspended for good and just cause when the safety or welfare of the school division  
5705 or the students therein is threatened or when the teacher or school employee has been charged by  
5706 summons, warrant, indictment or information with the commission of a felony; a misdemeanor involving  
5707 (i) sexual assault as established in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (ii) obscenity  
5708 and related offenses as established in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, (iii) drugs  
5709 as established in Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et  
5710 seq.) of Chapter 7 of Title 18.2, (iv) moral turpitude, or (v) the physical or sexual abuse or neglect of a  
5711 child; or an equivalent offense in another state. Except when a teacher or school employee is suspended  
5712 because of being charged by summons, warrant, indictment or information with the commission of one  
5713 of the ~~above-listed~~ foregoing criminal offenses, a division superintendent or appropriate central office  
5714 designee shall not suspend a teacher or school employee for longer than ~~sixty~~ 60 days and shall not  
5715 suspend a teacher or school employee for a period in excess of five days unless such teacher or school  
5716 employee is advised in writing of the reason for the suspension and afforded an opportunity for a hearing  
5717 before the school board in accordance with §§ 22.1-311 and 22.1-313, if applicable. Any teacher or other  
5718 school employee so suspended shall continue to receive his or her ~~then-applicable~~ then-applicable salary

5719 unless and until the school board, after a hearing, determines otherwise. No teacher or school employee  
5720 shall be suspended solely on the basis of his-or-her refusal to submit to a polygraph examination  
5721 requested by the school board.

5722 B. Any school employee suspended because of being charged by summons, warrant, information  
5723 or indictment with one of the offenses listed in subsection A may be suspended with or without pay. In  
5724 the event any school employee is suspended without pay, an amount equal to his-or-her salary while on  
5725 suspended status shall be placed in an interest-bearing demand escrow account. Upon being found not  
5726 guilty of one of the offenses listed in subsection A or upon the dismissal or nolle prosequi of the charge,  
5727 such school employee shall be reinstated with all unpaid salary and accrued interest from the escrow  
5728 account, less any earnings received by the school employee during the period of suspension, but in no  
5729 event shall such payment exceed one year's salary.

5730 C. In the event any school employee is found guilty by an appropriate court of one of the  
5731 offenses listed in subsection A and, after all available appeals have been exhausted and such conviction  
5732 is upheld, all funds in the escrow account shall be repaid to the school board.

5733 D. No school employee shall have his-or-her insurance benefits suspended or terminated because  
5734 of such suspension in accordance with this section.

5735 E. Nothing in this section shall be construed to limit the authority of a school board to dismiss or  
5736 place on probation a teacher or school employee pursuant to Article 3 (§ 22.1-306 et seq.)-of this  
5737 chapter.

5738 F. For the purposes of this section, the placing of a school employee on probation pursuant to the  
5739 terms and conditions of § 18.2-251 shall be deemed a finding of guilt.

5740 **§ 24.2-233. Removal of elected and certain appointed officers by courts.**

5741 Upon petition, a circuit court may remove from office any elected officer or officer who has been  
5742 appointed to fill an elective office, residing within the jurisdiction of the court:

5743 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that  
5744 neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse

5745 effect upon the conduct of the office;

5746 2. Upon conviction of a misdemeanor pursuant to Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2  
5747 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title  
5748 18.2 and after all rights of appeal have terminated involving the:

5749 a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or  
5750 distribute a controlled substance or marijuana;

5751 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug  
5752 paraphernalia or marijuana paraphernalia; or

5753 c. Possession of any controlled substance or marijuana and such conviction under subdivision a,  
5754 b, or c has a material adverse effect upon the conduct of such office;

5755 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a  
5756 "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon  
5757 the conduct of such office; or

5758 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation  
5759 of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying  
5760 into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years  
5761 of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose  
5762 himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of  
5763 such office.

5764 The petition must be signed by a number of registered voters who reside within the jurisdiction  
5765 of the officer equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office  
5766 that the officer holds.

5767 Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be  
5768 subsequently subject to the provisions of this section for the same criminal offense.

5769 **§ 37.2-314. Background check required.**

5770 A. As a condition of employment, the Department shall require any applicant who (i) accepts a

5771 position of employment at a state facility and was not employed by that state facility prior to July 1,  
5772 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the  
5773 Commonwealth and was not employed by the Department prior to July 1, 1996, to submit to  
5774 fingerprinting and provide personal descriptive information to be forwarded along with the applicant's  
5775 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation  
5776 (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

5777 B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated  
5778 employment persons who have been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the  
5779 definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of  
5780 barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) if  
5781 such person continues on probation or parole or has failed to pay required court costs for such offense  
5782 set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

5783 C. Notwithstanding the provisions of subsection B, the Department may hire for compensated  
5784 employment at an adult substance abuse or adult mental health treatment program a person who was  
5785 convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or  
5786 subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of §  
5787 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 or 18.2-346; any offense  
5788 set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to  
5789 subsection B or C of § 3.2-4170 or subsection H1 or H2 of § 18.2-248; or any substantially similar  
5790 offense under the laws of another jurisdiction, if the Department determines, based upon a screening  
5791 assessment, that the criminal behavior was substantially related to the applicant's substance abuse or  
5792 mental illness and that the person has been successfully rehabilitated and is not a risk to individuals  
5793 receiving services based on his criminal history background and his substance abuse or mental illness  
5794 history.

5795 D. The Department and a screening contractor designated by the Department shall screen  
5796 applicants who meet the criteria set forth in subsection C to assess whether the applicants have been

5797 rehabilitated successfully and are not a risk to individuals receiving services based on their criminal  
5798 history backgrounds and substance abuse or mental illness histories. To be eligible for such screening,  
5799 the applicant shall have completed all prison or jail terms; shall not be under probation or parole  
5800 supervision; shall have no pending charges in any locality; shall have paid all fines, restitution, and court  
5801 costs for any prior convictions; and shall have been free of parole or probation for at least five years for  
5802 all convictions. In addition to any supplementary information the Department or screening contractor  
5803 may require or the applicant may wish to present, the applicant shall provide to the screening contractor  
5804 a statement from his most recent probation or parole officer, if any, outlining his period of supervision  
5805 and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The  
5806 cost of this screening shall be paid by the applicant, unless the Department decides to pay the cost.

5807 E. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification  
5808 that no record exists, shall submit a report to the state facility or to the Department. If an applicant is  
5809 denied employment because of information appearing on his criminal history record and the applicant  
5810 disputes the information upon which the denial was based, the Central Criminal Records Exchange shall,  
5811 upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history  
5812 record from the FBI. The information provided to the state facility or Department shall not be  
5813 disseminated except as provided in this section.

5814 F. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or  
5815 Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any  
5816 investigation of child abuse or neglect undertaken on them.

5817 G. The Board may adopt regulations to comply with the provisions of this section. Copies of any  
5818 information received by the state facility or Department pursuant to this section shall be available to the  
5819 Department and to the applicable state facility but shall not be disseminated further, except as permitted  
5820 by state or federal law. The cost of obtaining the criminal history record and the central registry  
5821 information shall be borne by the applicant, unless the Department or state facility decides to pay the  
5822 cost.



**5823 § 37.2-416. Background checks required.**

**5824** A. As used in this section:

**5825** "Direct care position" means any position that includes responsibility for (i) treatment, case  
**5826** management, health, safety, development, or well-being of an individual receiving services or (ii)  
**5827** immediately supervising a person in a position with this responsibility.

**5828** "Hire for compensated employment" does not include (i) a promotion from one adult substance  
**5829** abuse or adult mental health treatment position to another such position within the same licensee  
**5830** licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental  
**5831** health treatment position in another office or program licensed pursuant to this article if the person  
**5832** employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the  
**5833** application date for employment. "Hire for compensated employment" includes (a) a promotion or  
**5834** transfer from an adult substance abuse treatment position to any mental health or developmental services  
**5835** direct care position within the same licensee licensed pursuant to this article or (b) new employment in  
**5836** any mental health or developmental services direct care position in another office or program of the  
**5837** same licensee licensed pursuant to this article for which the person has previously worked in an adult  
**5838** substance abuse treatment position.

**5839** "Shared living" means an arrangement in which the Commonwealth's program of medical  
**5840** assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing  
**5841** with and providing companionship, support, and other limited, basic assistance to a person with  
**5842** developmental disabilities receiving medical assistance services in accordance with a waiver for whom  
**5843** he has no legal responsibility.

**5844** B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts  
**5845** employment in any direct care position, (ii) any applicant for approval as a sponsored residential service  
**5846** provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service  
**5847** provider, (iv) any person employed by a sponsored residential service provider to provide services in the  
**5848** home, and (v) any person who enters into a shared living arrangement with a person receiving medical

5849 assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive  
5850 information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of  
5851 Investigation (FBI) for the purpose of obtaining national criminal history record information regarding  
5852 the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to  
5853 this article shall:

5854 1. Hire for compensated employment any person who has been convicted of (i) any offense set  
5855 forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set  
5856 forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the  
5857 application date for employment or (b) if such person continues on probation or parole or has failed to  
5858 pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in §  
5859 19.2-392.02;

5860 2. Approve an applicant as a sponsored residential service provider if the applicant, any adult  
5861 residing in the home of the applicant, or any person employed by the applicant has been convicted of (i)  
5862 any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii)  
5863 any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years  
5864 prior to the application date to be a sponsored residential service provider or (b) if such applicant  
5865 continues on probation or parole or has failed to pay required court costs for such offense set forth in  
5866 clause (iv) of the definition of barrier crime in § 19.2-392.02; or

5867 3. Permit to enter into a shared living arrangement with a person receiving medical assistance  
5868 services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause (i),  
5869 (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of  
5870 the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a shared living  
5871 arrangement or (b) if such person continues on probation or parole or has failed to pay required court  
5872 costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

5873 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that  
5874 no record exists, shall submit a report to the requesting authorized officer or director of a provider

5875 licensed pursuant to this article. If any applicant is denied employment because of information appearing  
5876 on the criminal history record and the applicant disputes the information upon which the denial was  
5877 based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the  
5878 procedures for obtaining a copy of the criminal history record from the FBI. The information provided to  
5879 the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated  
5880 except as provided in this section.

5881 C. Notwithstanding the provisions of subsection B, a provider may hire for compensated  
5882 employment at adult substance abuse or adult mental health treatment programs a person who was  
5883 convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or  
5884 subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of §  
5885 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 or 18.2-346; any offense  
5886 set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to  
5887 subsections B or C of § 3.2-4170 or subsections H1 and H2 of § 18.2-248; or any substantially similar  
5888 offense under the laws of another jurisdiction, if the hiring provider determines, based upon a screening  
5889 assessment, that the criminal behavior was substantially related to the applicant's substance abuse or  
5890 mental illness and that the person has been successfully rehabilitated and is not a risk to individuals  
5891 receiving services based on his criminal history background and his substance abuse or mental illness  
5892 history.

5893 D. Notwithstanding the provisions of subsection B, a provider may hire for compensated  
5894 employment at adult substance abuse treatment facilities a person who has been convicted of not more  
5895 than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of  
5896 another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony  
5897 committed in Virginia, or the equivalent if the person was convicted under the laws of another  
5898 jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider  
5899 determines, based upon a screening assessment, that the criminal behavior was substantially related to  
5900 the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to

5901 individuals receiving services based on his criminal history background and his substance abuse history.

5902 E. The hiring provider and a screening contractor designated by the Department shall screen  
5903 applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have  
5904 been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal  
5905 history backgrounds and substance abuse or mental illness histories. To be eligible for such screening,  
5906 the applicant shall have completed all prison or jail terms, shall not be under probation or parole  
5907 supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court  
5908 costs for any prior convictions, and shall have been free of parole or probation for at least five years for  
5909 all convictions. In addition to any supplementary information the provider or screening contractor may  
5910 require or the applicant may wish to present, the applicant shall provide to the screening contractor a  
5911 statement from his most recent probation or parole officer, if any, outlining his period of supervision and  
5912 a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The  
5913 cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

5914 F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated  
5915 employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a shared  
5916 living arrangement persons who have been convicted of not more than one misdemeanor offense under §  
5917 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10  
5918 years have elapsed following the conviction, unless the person committed the offense while employed in  
5919 a direct care position. A provider may also approve a person as a sponsored residential service provider  
5920 if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide  
5921 services in the home in which sponsored residential services are provided has been convicted of not  
5922 more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense  
5923 under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the  
5924 person committed the offense while employed in a direct care position.

5925 G. Providers licensed pursuant to this article also shall require, as a condition of employment,  
5926 approval as a sponsored residential service provider, or permission to enter into a shared living

5927 arrangement with a person receiving medical assistance services pursuant to a waiver, written consent  
5928 and personal information necessary to obtain a search of the registry of founded complaints of child  
5929 abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

5930 H. The cost of obtaining the criminal history record and search of the child abuse and neglect  
5931 registry record shall be borne by the applicant, unless the provider licensed pursuant to this article  
5932 decides to pay the cost.

5933 I. A person who complies in good faith with the provisions of this section shall not be liable for  
5934 any civil damages for any act or omission in the performance of duties under this section unless the act  
5935 or omission was the result of gross negligence or willful misconduct.

5936 J. Notwithstanding any other provision of law, a provider licensed pursuant to this article that  
5937 provides services to individuals receiving services under the state plan for medical assistance services or  
5938 any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal  
5939 history background check has been completed for a person described in subsection B for whom a  
5940 criminal history background check is required and (ii) whether the person described in subsection B is  
5941 eligible for employment, to provide sponsored residential services, to provide services in the home of a  
5942 sponsored residential service provider, or to enter into a shared living arrangement with a person  
5943 receiving medical assistance services pursuant to a waiver.

5944 **§ 37.2-506. Background checks required.**

5945 A. As used in this section:

5946 "Direct care position" means any position that includes responsibility for (i) treatment, case  
5947 management, health, safety, development, or well-being of an individual receiving services or (ii)  
5948 immediately supervising a person in a position with this responsibility.

5949 "Hire for compensated employment" does not include (i) a promotion from one adult substance  
5950 abuse or adult mental health treatment position to another such position within the same community  
5951 services board or (ii) new employment in an adult substance abuse or adult mental health treatment  
5952 position in another office or program of the same community services board if the person employed

5953 prior to July 1, 1999, had no convictions in the five years prior to the application date for employment.  
5954 "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse  
5955 treatment position to any mental health or developmental services direct care position within the same  
5956 community services board or (b) new employment in any mental health or developmental services direct  
5957 care position in another office or program of the same community services board for which the person  
5958 has previously worked in an adult substance abuse treatment position.

5959 "Shared living" means an arrangement in which the Commonwealth's program of medical  
5960 assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing  
5961 with and providing companionship, support, and other limited, basic assistance to a person with  
5962 developmental disabilities receiving medical assistance services in accordance with a waiver for whom  
5963 he has no legal responsibility.

5964 B. Every community services board shall require (i) any applicant who accepts employment in  
5965 any direct care position with the community services board, (ii) any applicant for approval as a  
5966 sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a  
5967 sponsored residential service provider, (iv) any person employed by a sponsored residential service  
5968 provider to provide services in the home, and (v) any person who enters into a shared living arrangement  
5969 with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and  
5970 provide personal descriptive information to be forwarded through the Central Criminal Records  
5971 Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal  
5972 history record information regarding the applicant. Except as otherwise provided in subsection C, D, or  
5973 F, no community services board shall hire for compensated employment, approve as a sponsored  
5974 residential service provider, or permit to enter into a shared living arrangement with a person receiving  
5975 medical assistance services pursuant to a waiver persons who have been convicted of (a) any offense set  
5976 forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set  
5977 forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the  
5978 application date for employment, the application date to be a sponsored residential service provider, or

5979 entering into a shared living arrangement or (2) if such person continues on probation or parole or has  
5980 failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime  
5981 in § 19.2-392.02.

5982 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that  
5983 no record exists, shall submit a report to the requesting executive director or personnel director of the  
5984 community services board. If any applicant is denied employment because of information appearing on  
5985 his criminal history record and the applicant disputes the information upon which the denial was based,  
5986 the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the  
5987 procedures for obtaining a copy of the criminal history record from the FBI. The information provided to  
5988 the executive director or personnel director of any community services board shall not be disseminated  
5989 except as provided in this section.

5990 C. Notwithstanding the provisions of subsection B, the community services board may hire for  
5991 compensated employment at adult substance abuse or adult mental health treatment programs a person  
5992 who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-  
5993 56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94;  
5994 any misdemeanor violation of § 18.2-282 or 18.2-346; any offense set forth in clause (iii) of the  
5995 definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection B or C of § 3.2-  
5996 4170 or subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of  
5997 another jurisdiction, if the hiring community services board determines, based upon a screening  
5998 assessment, that the criminal behavior was substantially related to the applicant's substance abuse or  
5999 mental illness and that the person has been successfully rehabilitated and is not a risk to individuals  
6000 receiving services based on his criminal history background and his substance abuse or mental illness  
6001 history.

6002 D. Notwithstanding the provisions of subsection B, the community services board may hire for  
6003 compensated employment at adult substance abuse treatment programs a person who has been convicted  
6004 of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under

6005 the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a  
6006 felony committed in Virginia, or the equivalent if the person was convicted under the laws of another  
6007 jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community  
6008 services board determines, based upon a screening assessment, that the criminal behavior was  
6009 substantially related to the applicant's substance abuse and that the person has been successfully  
6010 rehabilitated and is not a risk to individuals receiving services based on his criminal history background  
6011 and his substance abuse history.

6012 E. The community services board and a screening contractor designated by the Department shall  
6013 screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants  
6014 have been rehabilitated successfully and are not a risk to individuals receiving services based on their  
6015 criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such  
6016 screening, the applicant shall have completed all prison or jail terms, shall not be under probation or  
6017 parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution,  
6018 and court costs for any prior convictions, and shall have been free of parole or probation for at least five  
6019 years for all convictions. In addition to any supplementary information the community services board or  
6020 screening contractor may require or the applicant may wish to present, the applicant shall provide to the  
6021 screening contractor a statement from his most recent probation or parole officer, if any, outlining his  
6022 period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the  
6023 felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to  
6024 pay the cost.

6025 F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for  
6026 compensated employment, (ii) approve as a sponsored residential service provider, or (iii) permit to  
6027 enter into a shared living arrangement persons who have been convicted of not more than one  
6028 misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of  
6029 another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the  
6030 offense while employed in a direct care position. A community services board may also approve a



6031 person as a sponsored residential service provider if (a) any adult living in the home of an applicant or  
6032 (b) any person employed by the applicant to provide services in the home in which sponsored residential  
6033 services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or  
6034 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have  
6035 elapsed following the conviction, unless the person committed the offense while employed in a direct  
6036 care position.

6037 G. Community services boards also shall require, as a condition of employment, approval as a  
6038 sponsored residential service provider, or permission to enter into a shared living arrangement with a  
6039 person receiving medical assistance services pursuant to a waiver, written consent and personal  
6040 information necessary to obtain a search of the registry of founded complaints of child abuse and neglect  
6041 that is maintained by the Department of Social Services pursuant to § 63.2-1515.

6042 H. The cost of obtaining the criminal history record and search of the child abuse and neglect  
6043 registry record shall be borne by the applicant, unless the community services board decides to pay the  
6044 cost.

6045 I. Notwithstanding any other provision of law, a community services board that provides services  
6046 to individuals receiving services under the state plan for medical assistance services or any waiver  
6047 thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history  
6048 background check has been completed for a person described in subsection B for whom a criminal  
6049 history background check is required and (ii) whether the person described in subsection B is eligible for  
6050 employment, to provide sponsored residential services, to provide services in the home of a sponsored  
6051 residential service provider, or to enter into a shared living arrangement with a person receiving medical  
6052 assistance services pursuant to a waiver.

6053 J. A person who complies in good faith with the provisions of this section shall not be liable for  
6054 any civil damages for any act or omission in the performance of duties under this section unless the act  
6055 or omission was the result of gross negligence or willful misconduct.

6056 **§ 48-17. Enjoining nuisances involving illegal drug transactions.**

6057           The attorney for the Commonwealth, or any citizen of the county, city, or town, where such a  
6058 nuisance as is described in § 3.2-4190 or 18.2-258 exists, may, in addition to any other remedies and  
6059 punishment, maintain a suit in equity in the name of the Commonwealth to enjoin the same. The attorney  
6060 for the Commonwealth shall not be required to prosecute any suit brought by a citizen under this section.  
6061 In every case where the bill charges, on the knowledge or belief of the complainant, and is sworn to by  
6062 two witnesses, that a nuisance exists as described in § 3.2-4190 or 18.2-258, a temporary injunction may  
6063 be granted as soon as the bill is presented to the court provided reasonable notice has been given. The  
6064 injunction shall enjoin and restrain any owners, tenants, their agents, employees, and any other person  
6065 from contributing to or maintaining the nuisance and may impose such other requirements as the court  
6066 deems appropriate. If, after a hearing, the court finds that the material allegations of the bill are true,  
6067 although the premises complained of may not then be unlawfully used, it shall continue the injunction  
6068 against such persons or premises for such period of time as it deems appropriate, with the right to  
6069 dissolve the injunction upon a proper showing by the owner of the premises.

6070           **§ 52-8.1:1. Powers and duties of a drug law enforcement and investigation division.**

6071           A. In addition to any other powers and duties which may be provided by statute or otherwise, it  
6072 shall be the duty of a division for drug law enforcement and investigation to enforce the laws of the  
6073 Commonwealth and conduct investigations related to violations of Article 7 (§ 3.2-4159 et seq.) of  
6074 Chapter 41.2 of Title 3.2 and Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7  
6075 of Title 18.2 or when requested pursuant to the provisions of § 52-8.1.

6076           B. The Superintendent may request and receive, from any federal, state or local agency,  
6077 cooperation and assistance to aid such division in the performance of its duties, including temporary  
6078 assignment of personnel which may be necessary to carry out the performance of its functions; provided  
6079 that the agency consents to the assignment. Consent may not be unreasonably withheld. Any assistance  
6080 or appropriation given to such division shall be used for the primary purpose of enforcing laws and  
6081 conducting investigations related to violations of Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title  
6082 3.2 and Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2. Such

6083 division shall be a party to any anti-crime partnership agreement established pursuant to § 2.2-117 and  
6084 may assist any locality declared an Intensified Drug Enforcement Jurisdiction pursuant to § 15.2-1715.

6085 C. Such division may enter into agreements with other states pertaining to the enforcement of  
6086 Article 7 (§ 3.2-4159 et seq.) of Chapter 41.2 of Title 3.2 and Articles 1 (§ 18.2-247 et seq.) and 1.1 (§  
6087 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 across state boundaries. Such division may share  
6088 information with law-enforcement agencies in other states as is necessary to carry out its work.

6089 **§ 52-35. Witness protection program established.**

6090 The Superintendent of State Police may establish and maintain within the Department of State  
6091 Police a witness protection program to temporarily relocate or otherwise protect witnesses and their  
6092 families who may be in danger because of their cooperation with the investigation and prosecution of  
6093 serious violent crimes, felony violations of § 18.2-248, and violations of §§ 3.2-4170, 18.2-57.2, 18.2-  
6094 67.5:1, 18.2-67.5:2, and 18.2-67.5:3. The Superintendent may make the services of the program  
6095 available to law-enforcement and criminal justice agencies of all counties, cities, and towns, and of the  
6096 Commonwealth, pursuant to regulations promulgated by the Superintendent under the Administrative  
6097 Process Act. (§ 2.2-4000 et seq.).

6098 **§ 53.1-220.1. Transfer of prisoners convicted of designated illegal acts.**

6099 With the consent of the appropriate state authorities, the Immigration and Naturalization Service  
6100 may, following notification under § 19.2-294.2, take physical custody of and responsibility for any alien  
6101 convicted of any (i) felony offense involving murder, rape, robbery, burglary, larceny, extortion, or  
6102 abduction, or (ii) illegal drug violation designated as a felony under Article 7 (§ 3.2-4159 et seq.) of  
6103 Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2. The director, sheriff  
6104 or other official in charge of the facility in which such alien is incarcerated may enter into an agreement,  
6105 which includes provisions relating to reimbursement, with the Immigration and Naturalization Service to  
6106 retain custody or supervision of such alien until he is deported or until other mutually satisfactory  
6107 arrangements are made to transfer custody of such alien to the Service.

6108 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain**

6109 persons.

6110 This section shall apply to any person who is not a qualified voter because of a felony conviction,  
6111 who seeks to have his right to register to vote restored and become eligible to register to vote, and who  
6112 meets the conditions and requirements set out in this section.

6113 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in  
6114 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to ~~§§~~ §  
6115 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4168, 3.2-4170, 3.2-4172, 3.2-4175, 3.2-4191, 18.2-248, 18.2-248.01,  
6116 ~~18.2-248.1, 18.2-255, 18.2-255.2 or § 18.2-258.02;~~ or (iii) convicted of a felony pursuant to § 24.2-  
6117 1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the  
6118 circuit court of the county or city in which he presently resides, for restoration of his civil right to be  
6119 eligible to register to vote through the process set out in this section. On such petition, the court may  
6120 approve the petition for restoration to the person of his right if the court is satisfied from the evidence  
6121 presented that the petitioner has completed, five or more years previously, service of any sentence and  
6122 any modification of sentence including probation, parole, and suspension of sentence; that the petitioner  
6123 has demonstrated civic responsibility through community or comparable service; and that the petitioner  
6124 has been free from criminal convictions, excluding traffic infractions, for the same period.

6125 If the court approves the petition, it shall so state in an order, provide a copy of the order to the  
6126 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the  
6127 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date  
6128 of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary  
6129 of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for  
6130 restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the  
6131 Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated  
6132 on the court's order, a certificate of restoration of that right or notice that the Governor has denied the  
6133 restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a  
6134 final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the

6135 State Board of Elections in each case of the restoration of the right or denial of restoration by the  
6136 Governor.

6137 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the  
6138 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to  
6139 vote.

6140 **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

6141 A. Any person shall be regarded as practicing the healing arts who actually engages in such  
6142 practice as defined in this chapter, or who opens an office for such purpose, or who advertises or  
6143 announces to the public in any manner a readiness to practice or who uses in connection with his name  
6144 the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other  
6145 title, word, letter or designation intending to designate or imply that he is a practitioner of the healing  
6146 arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

6147 Signing a birth or death certificate, or signing any statement certifying that the person so signing  
6148 has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or  
6149 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is  
6150 practicing the healing arts within the meaning of this chapter except where persons other than physicians  
6151 are required to sign birth certificates.

6152 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in  
6153 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an  
6154 abbreviation or designation, or other language that identifies the type of practice for which he is  
6155 licensed. No person regulated under this chapter shall include in any advertisement a reference to  
6156 marijuana, as defined in ~~§ 18.2-247~~ § 3.2-4122, unless such advertisement is for the treatment of addiction  
6157 or substance abuse. However, nothing in this subsection shall prevent a person from including in any  
6158 advertisement that such person is registered with the Board of Pharmacy to issue written certifications  
6159 for the use of cannabidiol oil or THC-A oil, as defined in § 54.1-3408.3.

6160 **§ 54.1-3408.3. Certification for use of cannabis oil for treatment.**

6161 A. As used in this section:

6162 "Cannabis oil" means any formulation of processed Cannabis plant extract, which may include  
6163 oil from industrial hemp extract acquired by a pharmaceutical processor pursuant to § 54.1-3442.6, or a  
6164 dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or  
6165 tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol  
6166 per dose. "Cannabis oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt,  
6167 or processed in compliance with state or federal law, unless it has been acquired and formulated with  
6168 cannabis plant extract by a pharmaceutical processor.

6169 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine,  
6170 a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the  
6171 Board of Medicine and the Board of Nursing.

6172 "Registered agent" means an individual designated by a patient who has been issued a written  
6173 certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated  
6174 by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

6175 B. A practitioner in the course of his professional practice may issue a written certification for  
6176 the use of cannabis oil for treatment or to alleviate the symptoms of any diagnosed condition or disease  
6177 determined by the practitioner to benefit from such use. The practitioner shall use his professional  
6178 judgment to determine the manner and frequency of patient care and evaluation and may employ the use  
6179 of telemedicine consistent with federal requirements for the prescribing of Schedule II through V  
6180 controlled substances.

6181 C. The written certification shall be on a form provided by the Office of the Executive Secretary  
6182 of the Supreme Court developed in consultation with the Board of Medicine. Such written certification  
6183 shall contain the name, address, and telephone number of the practitioner, the name and address of the  
6184 patient issued the written certification, the date on which the written certification was made, and the  
6185 signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no  
6186 later than one year after its issuance unless the practitioner provides in such written certification an

6187 earlier expiration.

6188 D. No practitioner shall be prosecuted under § ~~18.2-248 or 18.2-248.1~~ 3.2-4164, 3.2-4166, 3.2-  
6189 4167, or 3.2-4170 for dispensing or distributing cannabis oil for the treatment or to alleviate the  
6190 symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant  
6191 to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a  
6192 practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating  
6193 the applicable standard of care for evaluating or treating medical conditions.

6194 E. A practitioner who issues a written certification to a patient pursuant to this section shall  
6195 register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the  
6196 number of patients to whom a practitioner may issue a written certification.

6197 F. A patient who has been issued a written certification shall register with the Board or, if such  
6198 patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian  
6199 shall register and shall register such patient with the Board.

6200 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such  
6201 patient's parent or legal guardian, may designate an individual to act as his registered agent for the  
6202 purposes of receiving cannabis oil pursuant to a valid written certification. Such designated individual  
6203 shall register with the Board. The Board may set a limit on the number patients for whom any individual  
6204 is authorized to act as a registered agent.

6205 H. The Board shall promulgate regulations to implement the registration process. Such  
6206 regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written  
6207 certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a  
6208 minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a  
6209 process for ensuring that any changes in the information are reported in an appropriate timeframe; and  
6210 (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during  
6211 any given time period.

6212 I. Information obtained under the registration process shall be confidential and shall not be

6213 subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).  
6214 However, reasonable access to registry information shall be provided to (i) the Chairmen of the House  
6215 Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal  
6216 agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual  
6217 for a specific violation of law, (iii) licensed practitioners or pharmacists for the purpose of providing  
6218 patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv)  
6219 a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered  
6220 patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or an incapacitated  
6221 adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information  
6222 related to such registered patient.

6223 **§ 54.1-3442.6. Permit to operate pharmaceutical processor or cannabis dispensing facility.**

6224 A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without  
6225 first obtaining a permit from the Board. The application for such permit shall be made on a form  
6226 provided by the Board and signed by a pharmacist who will be in full and actual charge of the  
6227 pharmaceutical processor or cannabis dispensing facility. The Board shall establish an application fee  
6228 and other general requirements for such application.

6229 B. Each permit shall expire annually on a date determined by the Board in regulation. The  
6230 number of permits that the Board may issue or renew in any year is limited to one pharmaceutical  
6231 processor and up to five cannabis dispensing facilities for each health service area established by the  
6232 Board of Health. Permits shall be displayed in a conspicuous place on the premises of the  
6233 pharmaceutical processor and cannabis dispensing facility.

6234 C. The Board shall adopt regulations establishing health, safety, and security requirements for  
6235 pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include  
6236 requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv)  
6237 minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly  
6238 inspections; (viii) processes for safely and securely dispensing and delivering in person cannabis oil to a



6239 registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as defined  
6240 in § 18.2-369, such patient's parent or legal guardian; (ix) dosage limitations, which shall provide that  
6241 each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a  
6242 process for the wholesale distribution of and the transfer of cannabis oil products between  
6243 pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing facility;  
6244 (xi) an allowance for the sale of devices for administration of dispensed products; (xii) an allowance for  
6245 the use and distribution of inert product samples containing no cannabinoids for patient demonstration  
6246 exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further  
6247 distribution or sale, without the need for a written certification; and (xiii) a process for acquiring oil from  
6248 industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable  
6249 dosages of cannabis oil. The Board shall also adopt regulations for pharmaceutical processors that  
6250 include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for  
6251 producing cannabis oil; (b) a maximum number of marijuana plants a pharmaceutical processor may  
6252 possess at any one time; (c) the secure disposal of plant remains; and (d) a process for registering  
6253 cannabis oil products.

6254 D. The Board shall require that, after processing and before dispensing cannabis oil, a  
6255 pharmaceutical processor shall make a sample available from each homogenized batch of product for  
6256 testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample  
6257 size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical  
6258 method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units  
6259 for dispensing or distribution from each homogenized batch is required to achieve a representative  
6260 sample for analysis.

6261 E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled  
6262 substances registration certificate pursuant to § 54.1-3423 and shall comply with quality standards  
6263 established by the Board in regulation.

6264 F. Every pharmaceutical processor or cannabis dispensing facility shall be under the personal

6265 supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis  
6266 dispensing facility. A pharmacist in charge of a pharmaceutical processor may authorize certain  
6267 employee access to secured areas designated for cultivation and other areas approved by the Board. No  
6268 pharmacist shall be required to be on the premises during such authorized access. The pharmacist-in-  
6269 charge shall ensure security measures are adequate to protect the cannabis from diversion at all times.

6270 G. The Board shall require an applicant for a pharmaceutical processor or cannabis dispensing  
6271 facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded  
6272 along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of  
6273 Investigation for the purpose of obtaining criminal history record information regarding the applicant.  
6274 The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The  
6275 Central Criminal Records Exchange shall forward the results of the criminal history background check  
6276 to the Board or its designee, which shall be a governmental entity.

6277 H. In addition to other employees authorized by the Board, a pharmaceutical processor may  
6278 employ individuals who may have less than two years of experience (i) to perform cultivation-related  
6279 duties under the supervision of an individual who has received a degree in horticulture or a certification  
6280 recognized by the Board or who has at least two years of experience cultivating plants and (ii) to  
6281 perform extraction-related duties under the supervision of an individual who has a degree in chemistry or  
6282 pharmacology or at least two years of experience extracting chemicals from plants.

6283 I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up  
6284 to five cannabis dispensing facilities for the dispensing of cannabis oil that has been cultivated and  
6285 produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis  
6286 dispensing facility shall be located within the same health service area as the pharmaceutical processor.

6287 J. No person who has been convicted of (i) a felony under the laws of the Commonwealth or  
6288 another jurisdiction or (ii) within the last five years, any criminal offense in violation of Article 7 (§ 3.2-  
6289 4159 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et seq.) or ~~Article 1.1 (§ 18.2-265.1 et~~  
6290 seq.) of Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction

6291 shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

6292 K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-  
6293 employment drug screening and regular, ongoing, random drug screening of employees.

6294 L. A pharmacist at the pharmaceutical processor and the cannabis dispensing facility shall  
6295 determine the number of pharmacy interns, pharmacy technicians and pharmacy technician trainees who  
6296 can be safely and competently supervised at one time; however, no pharmacist shall supervise more than  
6297 six persons performing the duties of a pharmacy technician at one time.

6298 M. Any person who proposes to use an automated process or procedure during the production of  
6299 cannabis oil that is not otherwise authorized in law or regulation or at a time when a pharmacist will not  
6300 be on-site may apply to the Board for approval to use such process or procedure pursuant to subsections  
6301 B through E of § 54.1-3307.2.

6302 N. A pharmaceutical processor may acquire oil from industrial hemp extract processed in  
6303 Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or  
6304 processor. A pharmaceutical processor may process and formulate such oil extract with cannabis plant  
6305 extract into an allowable dosage of cannabis oil. Oil from industrial hemp acquired by a pharmaceutical  
6306 processor is subject to the same third-party testing requirements that may apply to cannabis plant extract.  
6307 Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The  
6308 industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical  
6309 processor before oil from industrial hemp may be acquired.

6310 **§ 54.1-3442.8. Criminal liability; exceptions.**

6311 No agent or employee of a pharmaceutical processor or cannabis dispensing facility shall be  
6312 prosecuted under ~~§ 18.2-248, 18.2-248.1, 3.2-4160, 3.2-4161, 3.2-4164, 3.2-4166, 3.2-4167, 3.2-4170,~~  
6313 or 18.2-250, or 18.2-250.1 for possession or manufacture of marijuana or for possession, manufacture, or  
6314 distribution of cannabis oil, subject to any civil penalty, denied any right or privilege, or subject to any  
6315 disciplinary action by a professional licensing board if such agent or employee (i) possessed or  
6316 manufactured such marijuana for the purposes of producing cannabis oil in accordance with the

6317 provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such  
6318 cannabis oil in accordance with the provisions of this article and Board regulations.

6319 **2. That §§ 18.2-248.1, 18.2-250.1, 18.2-251.1 through 18.2-251.1:3, and 19.2-389.3 of the Code of**  
6320 **Virginia are repealed.**

6321 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**  
6322 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
6323 **necessary appropriation cannot be determined for periods of imprisonment in state adult**  
6324 **correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the**  
6325 **Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant**  
6326 **to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot**  
6327 **be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

6328 #

