Selected Acts of the 2017 Virginia General Assembly

Compiled by
The Virginia Department of State Police

This volume of Selected Acts contains legislation passed by the 2017 Session of the Virginia General Assembly that is relevant to criminal law and highway safety. Additional copies of this reference guide may be found at the Virginia State Police website at: http://www.vsp.state.va.us/FormsPublications.shtm.

EXPLANATIONS WHICH MAY BE HELPFUL IN STUDYING THESE ACTS:

1. *Italicized* words indicate new language.

2. ~~Lined through~~ words indicate language that has been removed.

3. The table of contents is divided into four categories: Traffic, Criminal, Firearms and Miscellaneous. The bills in those categories are presented in either **full text** or **summary** form. Summarized bills are less relevant, yet still important legislation, and are found at the back of each section. Although summarized bills are not discussed in the recorded Selected Acts presentation, they should be reviewed.

4. Emergency Acts - are Acts with an emergency clause and become effective the moment they are signed by the Governor. Generally, the emergency clause appears as the last sentence of the Act.

5. Effective date - All Acts, other than those containing an emergency clause or those specifying a delayed effective date, become law on July 1, 2017. Note that different portions of a bill may carry different effective dates.

6. A brief overview outlining changes, provided by the Division of Legislative Services, appears at the beginning of each full text bill. <u>This overview is only a brief synopsis of the bill. Before taking any enforcement action, carefully read the entire bill.</u> Also, note that the Table of Contents contains a bill description which is not necessarily the same as the short title of the bill.

7. Questions regarding Selected Acts may be directed to the Office of Legal Affairs at (804) 674-6722.

8. Additional information on legislation may be found at: https://leg1.state.va.us/ and the Virginia State Police website at www.vsp.state.va.us.

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TRAFFIC – FULL TEXT

Department of Transportation; traffic incident response and management. Allows individuals or entities acting on behalf of the Department of Transportation to operate as needed in response to traffic incidents and to access and to remove from moving lanes on a highway vehicles and cargo that are impeding traffic flow due to a traffic incident. The bill requires a driver to move a vehicle from the roadway after an emergency, accident, or breakdown that did not result in injury or death if the vehicle is movable and the driver is capable of safely doing so. Current law allows drivers to move a vehicle from the roadway after an accident if the vehicle is movable and the driver is capable of safely doing so, but does not require it.

CHAPTER 350

*An Act to amend and reenact §§ **46.2-808.1**, **46.2-888**, **46.2-920.1**, **46.2-1210**, and **46.2-1212.1** of the Code of Virginia, relating to Department of Transportation; traffic incident response and management.*

[H 2022]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-808.1**, **46.2-888**, **46.2-920.1**, **46.2-1210**, and **46.2-1212.1** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-808.1**. Use of crossovers on controlled access highways; penalty.

It ~~shall be~~ *is* unlawful for the driver of any vehicle other than an authorized vehicle to use or attempt to use any crossover posted for authorized vehicles only on any controlled access highway.

For the purposes of this section, "authorized vehicle" means (i) Department of Transportation vehicles~~,~~*;* (ii) law-enforcement vehicles~~,~~*;*(iii) emergency vehicles as defined in § **46.2-920**~~,~~*;* (iv) towing and recovery vehicles operating under the direction of a law-enforcement agency~~,~~ *or the Department of Transportation;* (v) vehicles for which permits authorizing use of such crossovers have been issued by the Department of Transportation~~,~~*; (vi) vehicles operated pursuant to a Department of Transportation safety service patrol program as defined in subsection B of § **46.2-920.1** when engaged in providing services under such program; (vii) vehicles operated pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § **46.2-920.1** when providing such traffic incident management services;* and ~~(vi)~~ *(viii)* other vehicles operating in medical emergency situations.

Violation of any provision of this section shall constitute a traffic infraction punishable by a fine of no more than $250.

§ **46.2-888**. Stopping on highways; general rule.

No person shall stop a vehicle in such manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency, an accident, or a mechanical breakdown. In the event of such an emergency, accident, or breakdown, the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are in working order. If the driver is capable of safely doing so ~~and~~, the vehicle is movable, *and there are no injuries or deaths resulting from the emergency, accident, or breakdown,* the driver ~~may~~ *shall* move the vehicle from the roadway to prevent obstructing the regular flow of

traffic~~;~~, provided, however, that the movement of the vehicle to prevent the obstruction of traffic shall not relieve the law-enforcement officer of his duty pursuant to § **46.2-373**. A report of the vehicle's location shall be made to the nearest law-enforcement officer as soon as practicable, and the vehicle shall be moved from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay. If the vehicle is not promptly removed, such removal may be ordered by a law-enforcement officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

§ **46.2-920.1**. Operation of tow trucks or vehicles owned or controlled by the Department of Transportation under certain circumstances; incident management.

A. When operating at or en route to or from the scene of a traffic accident or similar emergency and when specifically directed by a law-enforcement officer present at the scene of a motor vehicle crash or similar incident, tow truck operators or vehicles owned or controlled by the ~~Virginia~~ Department of Transportation may:

1. Operate on a highway in a direction opposite that otherwise permitted for traffic;

2. Cross medians of divided highways;

3. Use cross-overs and turn-arounds otherwise reserved for use only by authorized vehicles;

4. Drive on a portion of the highway other than the roadway;

5. Stop or stand on any portion of the highway; and

6. Operate in any other manner as directed by a law-enforcement officer at the scene.

B. When operating at, en route to, or from the scene of a traffic accident or similar emergency, a vehicle operated pursuant to a ~~Virginia~~ Department of Transportation safety service patrol program *or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in this subsection*, with due regard to the safety of persons and property and without direction of law enforcement, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. For purposes of this ~~subsection~~ *chapter and Chapter 12 (§ **46.2-1200** et seq.)*, "safety service patrol program" means a program *or service* sponsored or operated by the ~~Virginia~~ Department of Transportation that assists stranded motorists and provides traffic control during traffic incidents, including traffic accidents and road work, *and "traffic incident management services" means services provided in response to any event or situation on or affecting the Department of Transportation right-of-way that impedes traffic or creates a temporary safety hazard*.

C. Nothing in this section, however, shall (i) immunize the driver of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property or (ii) release the driver of any such vehicle from any civil liability for failure to use reasonable care in operations permitted in this section. However, drivers of vehicles owned or operated by the ~~Virginia~~Department of Transportation and employees of the Commonwealth ~~of Virginia~~ are immune for acts of simple negligence for claims of civil liability arising from the operation of such vehicles pursuant to this section.

§ **46.2-1210**. Motor vehicles immobilized by weather conditions, accidents, or emergencies.

Whenever any motor vehicle, trailer, semitrailer, or combination or part of a motor vehicle, trailer, or semitrailer is immobilized on any roadway by weather conditions, *due to an accident that does not result in injury or death*, or *by* other emergency situations, the Department of Transportation, *individuals, or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § **46.2-920.1** or individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § **46.2-920.1*** may move or have the vehicle removed to some reasonably accessible portion of the ~~adjacent~~ right-of-way *off the roadway*. Disposition thereafter shall be effected as provided by § **46.2-1209**.

§ **46.2-1212.1**. Authority to provide for removal and disposition of vehicles and cargoes of vehicles involved in accidents.

A. As a result of a motor vehicle accident or incident, the Department of State Police and/or local law-enforcement agency in conjunction with other public safety agencies may, without the consent of the owner or carrier, remove:

1. A vehicle, cargo, or other personal property that has been (i) damaged or spilled within the right-of-way or any portion of a roadway in the primary state highway system and (ii) is blocking the roadway or may otherwise be endangering public safety; or

2. Cargo or personal property that the Department of Transportation, *the* Department of Emergency Management, or the fire officer in charge has reason to believe is a hazardous material, hazardous waste, or regulated substance as defined by the Virginia Waste Management Act (§ **10.1-1400** et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1808 et seq.), or the State Water Control Law (§ **62.1-44.2** et seq.), if the Department of Transportation or applicable person complies with the applicable procedures and instructions defined either by the Department of Emergency Management or the fire officer in charge.

B. The Department of Transportation, *individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § **46.2-920.1**, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § **46.2-920.1**, the* Department of State Police, *the* Department of Emergency Management, local law-enforcement ~~agency~~ *agencies* and other local public safety agencies and their officers, employees, and agents, *and towing and recovery operators operating under the lawful direction of a law-enforcement officer or the Department of Transportation* shall not be held responsible for any damages or claims that may result from the failure to exercise any authority granted under this section provided they are acting in good faith.

C. The owner and carrier, if any, of the vehicle, cargo, or personal property removed or disposed of under the authority of this section shall reimburse the Department of Transportation, *individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § **46.2-920.1**, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in **46.2-920.1**, the* Department of State Police, *the* Department of Emergency Management, local law-enforcement ~~agency~~ *agencies*, and local public safety agencies for all costs incurred in the removal and subsequent disposition of such property.

Registration exemption for certain farm use vehicles; highway distance limitations. Increases from 50 to 75 miles the maximum travel distance allowable for travel to obtain supplies or from one part of the owner's land to another by a vehicle used for agricultural or horticultural purposes in order to qualify for exemption from the requirements to obtain a registration certificate, license plates, or decals and pay a registration fee. The bill also increases from 50 to 75 miles the maximum travel distance allowable by vehicles used for seasonal transportation of farm produce and from 20 to 75 miles the maximum travel distance allowable for vehicles owned by farmers and used to transport wood products in order to qualify for such exemption. The bill also provides that any law-enforcement officer may require any person operating a vehicle, trailer, or semitrailer and claiming the farm use exemption to provide, upon request, the address of the farm or lands owned or leased by the vehicle's owner or, if such address is unavailable or unknown, the real property parcel identification number of such lands.

CHAPTER 538

*An Act to amend and reenact §§ **46.2-665**, **46.2-666**, and **46.2-670** of the Code of Virginia, relating to registration exemption for certain farm use vehicles; requirements.*

[H 2239]
Approved March 16, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-665**, **46.2-666**, and **46.2-670** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-665**. Vehicles used for agricultural or horticultural purposes.

A. No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.

B. This exemption shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers that are not operated on or over any public highway in the Commonwealth for any purpose other than:

1. Crossing a highway;

2. Operating along a highway for a distance of no more than ~~50~~ *75* miles from one part of the owner's land to another, irrespective of whether the tracts adjoin;

3. Taking the vehicle or attached fixtures to and from a repair shop for repairs;

4. Taking another vehicle exempt from registration under any provision of §§ **46.2-664** through **46.2-668** or **46.2-672**, or any part or subcomponent of such a vehicle, to or from a repair shop for repairs, including return trips;

5. Operating along a highway to and from a refuse disposal facility for the purpose of disposing of trash and garbage generated on a farm; or

6. Operating along a highway for a distance of no more than ~~50~~ *75* miles for the purpose of obtaining supplies for agricultural or horticultural purposes, seeds, fertilizers, chemicals, or animal feed and returning.

C. Any law-enforcement officer may require any person operating a vehicle, trailer, or semitrailer and claiming the exemption provided pursuant to this section to provide, upon request, the address of the lands owned or leased by the vehicle's owner for agricultural or horticultural purposes. If such address is unavailable or unknown, the law-enforcement officer may require such person to provide the real property parcel identification number of such lands.

§ **46.2-666**. Vehicles used for seasonal transportation of farm produce and livestock.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee prescribed for any motor vehicle, trailer, or semitrailer owned by the owner or lessee of a farm and used by him on a seasonal basis in transporting farm produce and livestock along public highways for a distance of no more than ~~50~~ *75* miles including the distance to the nearest storage house, packing plant, or market. The provisions of this section shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers. *Any law-enforcement officer may require any person operating a vehicle, trailer, or semitrailer and claiming the exemption provided pursuant to this section to provide, upon request, the address of the farm owned or leased by the vehicle's owner. If such address is unavailable or unknown, the law-enforcement officer may require such person to provide the real property parcel identification number of such lands.*

§ **46.2-670**. Vehicles owned by farmers and used to transport certain wood products.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer owned by a farm owner when the vehicle is operated or moved along a highway for no more than ~~twenty~~ *75* miles between a sawmill or sawmill site and his farm to transport sawdust, wood shavings, slab wood, and other wood wastes. The provisions of this section shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers. *Any law-enforcement officer may require any person operating a vehicle, trailer, or semitrailer and claiming the exemption provided pursuant to this section to provide, upon request, the address of the farm owned by the vehicle's owner. If such address is unavailable or unknown, the law-enforcement officer may require such person to provide the real property parcel identification number of such lands.*

Farm use vehicles; penalties. Imposes a $250 fine for willfully and intentionally violating the limitations for the use of farm use vehicles on a highway for a second or subsequent violation. Current law allows for a fine of up to $250 regardless of the number of previous violations.

CHAPTER 204

*An Act to amend and reenact § **46.2-613** of the Code of Virginia, relating to farm use vehicles; exemption from registration requirements.*

[H 1440]
Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-613** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-613**. Offenses relating to registration, licensing, and certificates of title; penalties.

No person shall:

1. Operate or permit the operation of a motor vehicle, trailer, or semitrailer owned, leased, or otherwise controlled by him to be operated on a highway unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals, if any, assigned to it by the Department for the current registration period, subject to the exemptions mentioned in Article 5 (§ **46.2-655** et seq.) and Article 6 (§ **46.2-662** et seq.)~~ of this chapter~~. The provisions of this subdivision shall apply to the registration, licensing, and titling of mopeds on or after July 1, 2014.

2. Display, cause or permit to be displayed, any registration card, certificate of title, or license plate or decal which he knows is fictitious or which he knows has been cancelled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.

3. Possess or lend or knowingly permit the use of any registration card, license plate, or decal by anyone not entitled to it.

4. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.

5. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer or for a certificate of title or for any renewal or duplicate certificate, or knowingly to make a false statement of a material fact or to conceal a material fact or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.

*6. Willfully and intentionally violate the limitations imposed under §§ **46.2-665**, **46.2-666**, and **46.2-670** while operating an unregistered vehicle pursuant to the agricultural and horticultural exemptions allowed under those sections. A first violation of this subdivision shall constitute a traffic infraction punishable by a fine of not more*

than $250, and a second or subsequent violation of this subdivision shall constitute a traffic infraction punishable by a fine of $250.

Dismissal of certain traffic violations for proof of compliance with law. Provides that a court may, in its discretion, dismiss a violation for failure to notify the Department of Motor Vehicles of change of address, for failure to register, title, or properly display license plates, for failure to pay local licensing fees or taxes, for failure to have certain safety equipment or having unsafe or defective equipment, or for improper tinting, if such a person can prove to the court compliance with the law on or before the court date and payment of court fees.

CHAPTER 670

An Act to amend and reenact §§ ***16.1-69.48:1****,* ***46.2-324****,* ***46.2-613****,* ***46.2-711****,* ***46.2-715****,* ***46.2-716****,* ***46.2-752****,* ***46.2-1000****,* ***46.2-1003****,****46.2-1052****, and* ***46.2-1053*** *of the Code of Virginia, relating to dismissal of certain traffic violations for proof of compliance with law.*

[S 1276]
Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **16.1-69.48:1**, **46.2-324**, **46.2-613**, **46.2-711**, **46.2-715**, **46.2-716**, **46.2-752**, **46.2-1000**, **46.2-1003**, **46.2-1052**, and **46.2-1053** of the Code of Virginia are amended and reenacted as follows:

§ **16.1-69.48:1**. Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to §§ **4.1-305**, **16.1-278.8**, **16.1-278.9**, **18.2-57.3**, **18.2-251** or **19.2-303.2**; or (vi) proof of compliance with law under §§ **46.2-104**, ***46.2-324***, ***46.2-613***, ***46.2-711***, ***46.2-715***, ***46.2-716***, ***46.2-752***, ***46.2-1000***, ***46.2-1003***, ***46.2-1052***, ***46.2-1053***, and **46.2-1158.02**.

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

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

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

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

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

2. Virginia Crime Victim-Witness Fund (.049180);

3. Regional Criminal Justice Training Academies Fund (.016393);

4. Courthouse Construction/Maintenance Fund (.032787);

5. Criminal Injuries Compensation Fund (.098361);

6. Intensified Drug Enforcement Jurisdiction Fund (.065574);

7. Sentencing/supervision fee (General Fund) (.131148); and

8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

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

1. Processing fee (General Fund) (.257353);

2. Virginia Crime Victim-Witness Fund (.022059);

3. Regional Criminal Justice Training Academies Fund (.007353);

4. Courthouse Construction/Maintenance Fund (.014706);

5. Criminal Injuries Compensation Fund (.044118);

6. Intensified Drug Enforcement Jurisdiction Fund (.029412);

7. Drug Offender Assessment and Treatment Fund (.551471);

8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and

9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

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

1. Processing fee (General Fund) (.764706);

2. Virginia Crime Victim-Witness Fund (.058824);

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

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

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

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

§ **46.2-324**. Applicants and license holders to notify Department of change of address; fee.

A. Whenever any person, after applying for or obtaining a driver's license or special identification card shall move from the address shown in the application or on the license or special identification card, he shall, within 30 days, notify the Department of his change of address. If the Department receives notification from the person or any court or law-enforcement agency that a person's residential address has changed to a non-Virginia address, unless the person (i) is on active duty with the armed forces of the United States, (ii) provides proof that he is a U.S. citizen and resides outside the United States because of his employment or the employment of a spouse or parent, or (iii) provides proof satisfactory to the Commissioner that he is a bona fide resident of Virginia, the Department shall (i) mail, by first-class mail, no later than three days after the notice of address change is received by the Department, notice to the person that his license and/or special identification card will be cancelled by the Department and (ii) cancel the driver's license and/or special identification card 30 days after notice of cancellation has been mailed.

B. The Department may contract with the United States Postal Service or an authorized agent to use the National Change of Address System for the purpose of obtaining current address information for a person whose name appears in customer records maintained by the Department. If the Department receives information from the National Change of Address System indicating that a person whose name appears in a Department record has submitted a permanent change of address to the Postal Service, the Department may then update its records with the mailing address obtained from the National Change of Address System.

C. There may be imposed upon anyone failing to notify the Department of his change of address as required by this section a fee of $5, which fee shall be used to defray the expenses incurred by the Department. Notwithstanding the foregoing provision of this subsection, no fee shall be imposed on any person whose address is obtained from the National Change of Address System.

D. The Department shall electronically transmit change of address information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of the change of address. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § **18.2-472.1** in the jurisdiction in which the person last registered or reregistered or in the jurisdiction where the person made application for change of address.

E. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-613**. Offenses relating to registration, licensing, and certificates of title; penalty.

A. No person shall:

1. Operate or permit the operation of a motor vehicle, trailer, or semitrailer owned, leased, or otherwise controlled by him to be operated on a highway unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals, if any, assigned to it by the Department for the current registration period, subject to the exemptions mentioned in Article 5 (§ **46.2-655** et seq.) and Article 6 (§ **46.2-662** et seq.) of this chapter. The provisions of this subdivision shall apply to the registration, licensing, and titling of mopeds on or after July 1, 2014.

2. Display, cause or permit to be displayed, any registration card, certificate of title, or license plate or decal which he knows is fictitious or which he knows has been cancelled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.

3. Possess or lend or knowingly permit the use of any registration card, license plate, or decal by anyone not entitled to it.

4. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.

5. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer or for a certificate of title or for any renewal or duplicate certificate, or knowingly to make a false statement of a material fact or to conceal a material fact or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.

B. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-711**. Furnishing number and design of plates; displaying on vehicles required.

A. The Department shall furnish one license plate for every registered moped, motorcycle, autocycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips, other than TNC partner vehicles as defined in § **46.2-2000** and emergency medical services vehicles pursuant to clause (iii) of § **46.2-649.1:1**;

2. Taxicabs;

3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;

4. Property-carrying motor vehicles to applicants who operate as private carriers only;

5. Applicants, other than TNC partners as defined in § **46.2-2000** and emergency medical services vehicles pursuant to clause (iii) of §**46.2-649.1:1**, who operate motor vehicles as carriers for rent or hire;

6. Vehicles operated by nonemergency medical transportation carriers as defined in § **46.2-2000**; and

7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § **58.1-1735**.

D. The Department shall issue appropriately designated license plates for low-speed vehicles.

E. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the Unites States mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

F. Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ **46.2-2100** et seq.).

G. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-715**. Display of license plates.

License plates assigned to a motor vehicle, other than a moped, motorcycle, autocycle, tractor truck, trailer, or semitrailer, or to persons licensed as motor vehicle dealers or transporters of unladen vehicles, shall be attached to the front and the rear of the vehicle. The license plate assigned to a moped, motorcycle, autocycle, trailer, or semitrailer shall be attached to the rear of the vehicle. The license plate assigned to a tractor truck shall be attached to the front of the vehicle. The license plates issued to licensed motor vehicle dealers and to persons licensed as transporters of unladen vehicles shall consist of one plate for each set issued and shall be attached to the rear of the vehicle to which it is assigned.

For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-716**. How license plates fastened to vehicle; altering appearance of license plates.

A. Every license plate shall be securely fastened to the motor vehicle, trailer, or semitrailer to which it is assigned:

1. So as to prevent the plate from swinging,

2. In a position to be clearly visible, and

3. In a condition to be clearly legible.

B. No colored glass, colored plastic, bracket, holder, mounting, frame, or any other type of covering shall be placed, mounted, or installed on, around, or over any license plate if such glass, plastic, bracket, holder, mounting, frame, or other type of covering in any way alters or obscures (i) the alpha-numeric information, (ii) the color of the license plate, (iii) the name or abbreviated name of the state wherein the vehicle is registered, or (iv) any character or characters, decal, stamp, or other device indicating the month or year in which the vehicle's registration expires. No insignia, emblems, or trailer hitches or couplings shall be mounted in such a way as to hide or obscure any portion of the license plate or render any portion of the license plate illegible.

C. The Superintendent may make such regulations as he may deem advisable to enforce the proper mounting and securing of the license plate on the vehicle.

D. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-752**. Taxes and license fees imposed by counties, cities, and towns; limitations on amounts; disposition of revenues; requiring evidence of payment of personal property taxes and certain fines; prohibiting display of licenses after expiration; failure to display valid local license required by other localities; penalty.

A. Except as provided in § **46.2-755**, counties, cities, and towns may levy and assess taxes and charge license fees on motor vehicles, trailers, and semitrailers. However, none of these taxes and license fees shall be assessed or charged by any county on vehicles owned by residents of any town located in the county when such town constitutes a separate school district if the vehicles are already subject to town license fees and taxes, nor shall a town charge a license fee to any new resident of the town, previously a resident of a county within which all or part of the town is situated, who has previously paid a license fee for the same tax year to such county. The amount of the license fee or tax imposed by any county, city, or town on any motor vehicle, trailer, or semitrailer shall not be greater than the annual or one-year fee imposed by the Commonwealth on the motor vehicle, trailer, or semitrailer. The license fees and taxes shall be imposed in such manner, on such basis, for such periods, and subject to proration for fractional periods of years, as the proper local authorities may determine.

Owners or lessees of motor vehicles, trailers, and semitrailers who have served outside of the United States in the armed services of the United States shall have a 90-day grace period, beginning on the date they are no longer serving outside the United States, in which to comply with the requirements of this section. For purposes of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

Local licenses may be issued free of charge for any or all of the following:

1. Vehicles powered by clean special fuels as defined in § **46.2-749.3**, including dual-fuel and bi-fuel vehicles,

2. Vehicles owned by volunteer emergency medical services agencies,

3. Vehicles owned by volunteer fire departments,

4. Vehicles owned or leased by active members or active auxiliary members of volunteer emergency medical services agencies,

5. Vehicles owned or leased by active members or active auxiliary members of volunteer fire departments,

6. Vehicles owned or leased by auxiliary police officers,

7. Vehicles owned or leased by volunteer police chaplains,

8. Vehicles owned by surviving spouses of persons qualified to receive special license plates under § **46.2-739**,

9. Vehicles owned or leased by auxiliary deputy sheriffs or volunteer deputy sheriffs,

10. Vehicles owned by persons qualified to receive special license plates under § **46.2-739**,

11. Vehicles owned by any of the following who served at least 10 years in the locality: former members of volunteer emergency medical services agencies, former members of volunteer fire departments, former auxiliary police officers, members and former members of authorized police volunteer citizen support units, members and former members of authorized sheriff's volunteer citizen support units, former volunteer police chaplains, and former volunteer special police officers appointed under former § **15.2-1737**. In the case of active members of volunteer emergency medical services agencies and active members of volunteer fire departments, applications for such licenses shall be accompanied by written evidence, in a form acceptable to the locality, of their active affiliation or membership, and no member of an emergency medical services agency or member of a volunteer fire department shall be issued more than one such license free of charge,

12. All vehicles having a situs for the imposition of licensing fees under this section in the locality,

13. Vehicles owned or leased by deputy sheriffs; however, no deputy sheriff shall be issued more than one such license free of charge,

14. Vehicles owned or leased by police officers; however, no police officer shall be issued more than one such license free of charge,

15. Vehicles owned or leased by officers of the State Police; however, no officer of the State Police shall be issued more than one such license free of charge,

16. Vehicles owned or leased by salaried firefighters; however, no salaried firefighter shall be issued more than one such license free of charge,

17. Vehicles owned or leased by salaried emergency medical services personnel; however, no salaried emergency medical services personnel shall be issued more than one such license free of charge,

18. Vehicles with a gross weight exceeding 10,000 pounds owned by museums officially designated by the Commonwealth,

19. Vehicles owned by persons, or their surviving spouses, qualified to receive special license plates under subsection A of § **46.2-743**, and

20. Vehicles owned or leased by members of the Virginia Defense Force; however, no member of the Virginia Defense Force shall be issued more than one such license free of charge.

The governing body of any county, city, or town issuing licenses under this section may by ordinance provide for a 50 percent reduction in the fee charged for the issuance of any such license issued for any vehicle owned or leased by any person who is 65 years old or older. No such discount, however, shall be available for more than one vehicle owned or leased by the same person.

The governing body of any county, city, or town issuing licenses free of charge under this subsection may by ordinance provide for (i) the limitation, restriction, or denial of such free issuance to an otherwise qualified applicant, including without limitation the denial of free issuance to a taxpayer who has failed to timely pay personal property taxes due with respect to the vehicle and (ii) the grounds for such limitation, restriction, or denial.

The situs for the imposition of licensing fees under this section shall in all cases, except as hereinafter provided, be the county, city, or town in which the motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

B. The revenue derived from all county, city, or town taxes and license fees imposed on motor vehicles, trailers, or semitrailers shall be applied to general county, city, or town purposes.

C. A county, city, or town may require that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, trailer, or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the county, city, or town. A county, city, or town may also provide that no motor vehicle license shall be issued unless the tangible personal property taxes properly assessed or assessable by that locality on any tangible personal property used or usable as a dwelling titled by the Department of Motor Vehicles and owned by the taxpayer have been paid. Any county and any town within any such county may by agreement require that all personal property taxes assessed by either the county or the town on any vehicle be paid before licensure of such vehicle by either the county or the town.

C1. The Counties of Dinwiddie, Lee, and Wise may, by ordinance or resolution adopted after public notice and hearing and, with the consent of the treasurer, require that no license may be issued under this section unless the applicant has produced satisfactory evidence that all fees, including delinquent fees, payable to such county or local solid waste authority, for the disposal of solid waste pursuant to the Virginia Water and Waste Authorities Act (§ **15.2-5100** et seq.), or pursuant to § **15.2-2159**, have been paid in full. For purposes of this subsection, all

fees, including delinquent fees, payable to a county for waste disposal services described herein, shall be paid to the treasurer of such county; however, in Wise County, the fee shall be paid to the county or its agent.

D. The Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within them and any city may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction unless all fines owed to the jurisdiction by the owner of the vehicle, trailer, or semitrailer for violation of the jurisdiction's ordinances governing parking of vehicles have been paid. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

E. If in any county imposing license fees and taxes under this section, a town therein imposes like fees and taxes on vehicles of owners resident in the town, the owner of any vehicle subject to the fees or taxes shall be entitled, on the owner's displaying evidence that he has paid the fees or taxes, to receive a credit on the fees or taxes imposed by the county to the extent of the fees or taxes he has paid to the town. Nothing in this section shall deprive any town now imposing these licenses and taxes from increasing them or deprive any town not now imposing them from hereafter doing so, but subject to the limitations provided in subsection D. The governing body of any county and the governing body of any town in that county wherein each imposes the license tax herein provided may provide mutual agreements so that not more than one license plate or decal in addition to the state plate shall be required.

F. Notwithstanding the provisions of subsection E, in a consolidated county wherein a tier-city exists, the tier-city may, in accordance with the provisions of the agreement or plan of consolidation, impose license fees and taxes under this section in addition to those fees and taxes imposed by the county, provided that the combined county and tier-city rates do not exceed the maximum provided in subsection A. No credit shall be allowed on the fees or taxes imposed by the county for fees or taxes paid to the tier-city, except as may be provided by the consolidation agreement or plan. The governing body of any county and the governing body of any tier-city in such county wherein each imposes the license tax herein may provide by mutual agreement that no more than one license plate or decal in addition to the state license plate shall be required.

G. Any county, city, or town may by ordinance provide that it shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer (i) to fail to obtain and, if any required by such ordinance, to display the local license required by any ordinance of the county, city or town in which the vehicle is registered, or (ii) to display upon a motor vehicle, trailer, or semitrailer any such local license, required by ordinance to be displayed, after its expiration date. The ordinance may provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor and may, in the case of a motor vehicle registered to a resident of the locality where such vehicle is registered, authorize the issuance by local law-enforcement officers of citations, summonses, parking tickets, or uniform traffic summonses for violations. Any such ordinance may also provide that a violation of the ordinance by the registered owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained. Nothing in this section shall be construed to require a county, city, or town to issue a decal or any other tangible evidence of a local license to be displayed on the licensed vehicle if the county's, city's, or town's ordinance does not require display of a decal or other evidence of payment. No ordinance adopted pursuant to this section shall require the display of any local license, decal, or sticker on any vehicle owned by a public service company, as defined in § **56-76**, having a fleet of at least 2,500 vehicles garaged in the Commonwealth.

H. Except as provided by subsections E and F, no vehicle shall be subject to taxation under the provisions of this section in more than one jurisdiction. Furthermore, no person who has purchased a local vehicle license, decal, or sticker for a vehicle in one county, city, or town and then moves to and garages his vehicle in another county,

city, or town shall be required to purchase another local license, decal, or sticker from the county, city, or town to which he has moved and wherein his vehicle is now garaged until the expiration date of the local license, decal, or sticker issued by the county, city, or town from which he moved.

I. Purchasers of new or used motor vehicles shall be allowed at least a 10-day grace period, beginning with the date of purchase, during which to pay license fees charged by local governments under authority of this section.

J. The treasurer or director of finance of any county, city, or town may enter into an agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes to such county, city or town any local vehicle license fees or delinquent tangible personal property tax or parking citations. Before being issued any vehicle registration or renewal of such license or registration by the Commissioner, the applicant shall first satisfy all such local vehicle license fees and delinquent taxes or parking citations and present evidence satisfactory to the Commissioner that all such local vehicle license fees and delinquent taxes or parking citations have been paid in full. The Commissioner shall charge a reasonable fee to cover the costs of such enforcement action, and the treasurer or director of finance may add the cost of this fee to the delinquent tax bill or the amount of the parking citation. The treasurer or director of finance of any county, city, or town seeking to collect delinquent taxes or parking citations through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the debtor whose registration or renewal is to be denied. Any agreement entered into pursuant to the provisions of this subsection shall provide the debtor notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department of Motor Vehicles shall be deemed sufficient. In the case of parking violations, the Commissioner shall only refuse to issue or renew the vehicle registration of any applicant therefor pursuant to this subsection for the vehicle that incurred the parking violations. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

K. The governing bodies of any two or more counties, cities, or towns may enter into compacts for the regional enforcement of local motor vehicle license requirements. The governing body of each participating jurisdiction may by ordinance require the owner or operator of any motor vehicle, trailer, or semitrailer to display on his vehicle a valid local license issued by another county, city, or town that is a party to the regional compact, provided that the owner or operator is required by the jurisdiction of situs, as provided in § **58.1-3511**, to obtain and display such license. The ordinance may also provide that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that (i) all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid to all participating jurisdictions and (ii) any delinquent motor vehicle, trailer, or semitrailer personal property taxes that have been properly assessed or are assessable by any participating jurisdiction against the applicant have been paid. Any city and any county having the urban county executive form of government, the counties adjacent to such county and towns within them may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction or any other jurisdiction in the compact unless all fines owed to any participating jurisdiction by the owner of the vehicle for violation of any participating jurisdiction's ordinances governing parking of vehicles have been paid. The ordinance may further provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor. Any such ordinance may also provide that a violation of the ordinance by the owner of the vehicle may not be discharged by payment of a fine and applicable court costs except upon presentation of satisfactory evidence that the required license has been obtained. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

L. In addition to the taxes and license fees permitted in subsection A, counties, cities, and towns may charge a license fee of no more than $1 per motor vehicle, trailer, and semitrailer. Except for the provisions of subsection B, such fee shall be subject to all other provisions of this section. All funds collected pursuant to this subsection shall be paid pursuant to § **51.1-1204** to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund to the accounts of all members of the Fund who are volunteers for fire departments or emergency medical services agencies within the jurisdiction of the particular county, city, or town.

M. In any county, the county treasurer or comparable officer and the treasurer of any town located wholly or partially within such county may enter into a reciprocal agreement, with the approval of the respective local governing bodies, that provides for the town treasurer to collect current, non-delinquent license fees or taxes on any motor vehicle, trailer, or semitrailer owed to the county or for the county treasurer to collect current, non-delinquent license fees or taxes owed to the town. A treasurer or comparable officer collecting any such license fee or tax pursuant to an agreement entered into under this subsection shall account for and pay over such amounts to the locality owed such license fee or tax in the same manner as provided by law. As used in this subsection, with regard to towns, "treasurer" means the town officer or employee vested with authority by the charter, statute, or governing body to collect local taxes.

N. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-1000**. Department to suspend registration of vehicles lacking certain equipment; officer to take possession of registration card, license plates and decals when observing defect in motor vehicle; when to be returned.

The Department shall suspend the registration of any motor vehicle, trailer, or semitrailer which the Department or the Department of State Police determines is not equipped with proper (i) brakes, (ii) lights, (iii) horn or warning device, (iv) turn signals, (v) safety glass when required by law, (vi) mirror, (vii) muffler, (viii) windshield wiper, (ix) steering gear adequate to ensure the safe movement of the vehicle as required by this title or when such vehicle is equipped with a smoke screen device or cutout or when such motor vehicle, trailer, or semitrailer is otherwise unsafe to be operated.

Any law-enforcement officer shall, when he observes any defect in a motor vehicle as described above, take possession of the registration card, license plates, and decals of any such vehicle and retain the same in his possession for a period of ~~fifteen~~ *15* days unless the owner of the vehicle corrects the defects or obtains a new safety inspection sticker from an authorized safety inspection station. When the defect or defects are corrected as indicated above the registration card, license plates, and decals shall be returned to the owner.

For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-1003**. Illegal use of defective or unsafe equipment.

It shall be unlawful for any person to use or have as equipment on a motor vehicle operated on a highway any device or equipment mentioned in § **46.2-1002** which is defective or in unsafe condition.

For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-1052**. Tinting films, signs, decals, and stickers on windshields, etc.; penalties.

A. Except as otherwise provided in this article or permitted by federal law, it shall be unlawful for any person to operate any motor vehicle on a highway with any sign, poster, colored or tinted film, sun-shading material, or other colored material on the windshield, front or rear side windows, or rear windows of such motor vehicle. This provision, however, shall not apply to any certificate or other paper required by law or permitted by the Superintendent to be placed on a motor vehicle's windshield or window.

The size of stickers or decals used by counties, cities, and towns in lieu of license plates shall be in compliance with regulations promulgated by the Superintendent. Such stickers shall be affixed on the windshield at a location designated by the Superintendent.

B. Notwithstanding the foregoing provisions of this section, whenever a motor vehicle is equipped with a mirror on each side of such vehicle, so located as to reflect to the driver of such vehicle a view of the highway for at least 200 feet to the rear of such vehicle, any or all of the following shall be lawful:

1. To drive a motor vehicle equipped with one optically grooved clear plastic right-angle rear view lens attached to one rear window of such motor vehicle, not exceeding 18 inches in diameter in the case of a circular lens or not exceeding 11 inches by 14 inches in the case of a rectangular lens, which enables the driver of the motor vehicle to view below the line of sight as viewed through the rear window;

2. To have affixed to the rear side windows, rear window or windows of a motor vehicle any sticker or stickers, regardless of size; or

3. To drive a motor vehicle when the driver's clear view of the highway through the rear window or windows is otherwise obstructed.

C. Except as provided in § **46.2-1053**, but notwithstanding the foregoing provisions of this section, no sun-shading or tinting film may be applied or affixed to any window of a motor vehicle unless such motor vehicle is equipped with a mirror on each side of such motor vehicle, so located as to reflect to the driver of the vehicle a view of the highway for at least 200 feet to the rear of such vehicle, and the sun-shading or tinting film is applied or affixed in accordance with the following:

1. No sun-shading or tinting films may be applied or affixed to the rear side windows or rear window or windows of any motor vehicle operated on the highways of the Commonwealth that reduce the total light transmittance of such window to less than 35 percent;

2. No sun-shading or tinting films may be applied or affixed to the front side windows of any motor vehicle operated on the highways of the Commonwealth that reduce total light transmittance of such window to less than 50 percent;

3. No sun-shading or tinting films shall be applied or affixed to any window of a motor vehicle that (i) have a reflectance of light exceeding 20 percent or (ii) produce a holographic or prism effect.

Any person who operates a motor vehicle on the highways of the Commonwealth with sun-shading or tinting films that (i) have a total light transmittance less than that required by subdivisions 1 and 2, (ii) have a

reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects is guilty of a traffic infraction but shall not be awarded any demerit points by the Commissioner for the violation.

Any person or firm who applies or affixes to the windows of any motor vehicle in Virginia sun-shading or tinting films that (i) reduce the light transmittance to levels less than that allowed in subdivisions 1 and 2, (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects is guilty of a Class 3 misdemeanor for the first offense and of a Class 2 misdemeanor for any subsequent offense.

D. The Division of Purchases and Supply, pursuant to § **2.2-1112**, shall determine the proper standards for equipment or devices used to measure light transmittance through windows of motor vehicles. Law-enforcement officers shall use only such equipment or devices to measure light transmittance through windows that meet the standards established by the Division. Such measurements made by law-enforcement officers shall be given a tolerance of minus seven percentage points.

E. No film or darkening material may be applied on the windshield except to replace the sunshield in the uppermost area as installed by the manufacturer of the vehicle.

F. Nothing in this section shall prohibit the affixing to the rear window of a motor vehicle of a single sticker no larger than 20 square inches if such sticker is totally contained within the lower five inches of the glass of the rear window, nor shall subsection B apply to a motor vehicle to which but one such sticker is so affixed.

G. Nothing in this section shall prohibit applying to the rear side windows or rear window of any multipurpose passenger vehicle or pickup truck sun-shading or tinting films that reduce the total light transmittance of such window or windows below 35 percent.

H. As used in this article:

"Front side windows" means those windows located adjacent to and forward of the driver's seat;

"Holographic effect" means a picture or image that may remain constant or change as the viewing angle is changed;

"Multipurpose passenger vehicle" means any motor vehicle that is (i) designed to carry no more than 10 persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use;

"Prism effect" means a visual, iridescent, or rainbow-like effect that separates light into various colored components that may change depending on viewing angle;

"Rear side windows" means those windows located to the rear of the driver's seat;

"Rear window" or "rear windows" means those windows which are located to the rear of the passenger compartment of a motor vehicle and which are approximately parallel to the windshield.

I. Notwithstanding the foregoing provisions of this section, sun-shading material which was applied or installed prior to July 1, 1987, in a manner and on which windows not then in violation of Virginia law, shall continue to be lawful, provided that it can be shown by appropriate receipts that such material was installed prior to July 1, 1987.

J. Where a person is convicted within one year of a second or subsequent violation of this section involving the operation of the same vehicle having a tinted or smoked windshield, the court, in addition to any other penalty, may order the person so convicted to remove such tinted or smoked windshield from the vehicle.

K. The provisions of this section shall not apply to law-enforcement vehicles.

L. The provisions of this section shall not apply to the rear windows or rear side windows of any emergency medical services vehicle used to transport patients.

M. The provisions of subdivision C 1 shall not apply to sight-seeing carriers as defined in § **46.2-2000** and contract passenger carriers as defined in § **46.2-2000**.

N. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

§ **46.2-1053**. Equipping certain motor vehicles with sun-shading or tinting films or applications.

Notwithstanding the provisions of § **46.2-1052**, a motor vehicle operated by or regularly used to transport any person with a medical condition which renders him susceptible to harm or injury from exposure to sunlight or bright artificial light may be equipped, on its windshield and any or all of its windows, with sun-shading or tinting films or applications which reduce the transmission of light into the vehicle to levels not less than ~~thirty-five~~ *35* percent. Such sun-shading or tinting film when applied to the windshield of a motor vehicle shall not cause the total light transmittance to be reduced to any level less than ~~seventy~~ *70* percent except for the upper five inches of such windshield or the AS-1 line, whichever is closer to the top of the windshield. Vehicles equipped with such sun-shading or tinting films shall not be operated on any highway unless, while being so operated, the driver or an occupant of the vehicle has in his possession a written authorization issued by the Commissioner of the Department of Motor Vehicles authorizing such operation. The Commissioner shall issue such written authorization only upon receipt of a signed statement from a licensed physician or licensed optometrist (i) identifying with reasonable specificity the person seeking the written authorization and (ii) stating that, in the physician's or optometrist's professional opinion, the equipping of a vehicle with sun-shading or tinting films or applications is necessary to safeguard the health of the person seeking the written authorization. Written authorizations issued by the Commissioner under this section shall be valid so long as the condition requiring the use of sun-shading or tinting films or applications persists or until the vehicle is sold, whichever first occurs. Such written authorizations shall permit the approval of any such vehicle upon its safety inspection as required by this chapter if such vehicle otherwise qualifies for inspection approval. In the discretion of the Commissioner, one or more written authorizations may be issued to an individual or a family. The Division of Purchases and Supply, pursuant to § **2.2-1112**, shall determine the proper standards for equipment or devices used to measure light transmittance through windows of motor vehicles. Law-enforcement officers shall use only such equipment or devices to measure light transmittance through windows that meet the standards established by the Division. Such measurements made by law-enforcement officers shall be given a tolerance of minus seven percentage points.

For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

Use of wireless telecommunications devices by persons driving school buses. Allows school bus drivers to use, in addition to two-way radio devices, wireless telecommunications devices that are used hands free to communicate with school or public safety officials.

CHAPTER 295

*An Act to amend and reenact § **46.2-919.1** of the Code of Virginia, relating to use of wireless telecommunications devices by persons driving school buses.*

[H 1888]
Approved March 3, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-919.1** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-919.1**. Use of wireless telecommunications devices by persons driving school buses.

No person shall use any wireless telecommunications device, whether handheld or otherwise, while driving a school bus, except in case of an emergency, or when the vehicle is lawfully parked and for the purposes of dispatching. Nothing in this section shall be construed to prohibit the use of *(i)* two-way radio devices *or (ii) wireless telecommunications devices that are used hands free to allow live communication between the driver and school or public safety officials* ~~authorized by the owner of the school bus~~.

Warning lights on privately owned volunteer emergency vehicles. Clarifies that the current limit of no more than two flashing or steady-burning red or red and white combination warning lights applies to light units rather than individual lights on a vehicle owned by a member of a fire department, volunteer fire company, or volunteer EMS agency or a police chaplain.

CHAPTER 244

*An Act to amend and reenact § **46.2-1024** of the Code of Virginia, relating to warning lights on privately owned volunteer emergency vehicles; requirements.*

[H 1785]
Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1024** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1024**. Flashing or steady-burning red or red and white warning light units.

Any member of a fire department, volunteer fire company, or volunteer emergency medical services agency and any police chaplain may equip one vehicle owned by him with no more than two flashing or steady-burning red or red and white combination warning ~~lights~~ *light units* of types approved by the Superintendent. Warning ~~lights~~ *light units* permitted by this section shall be lit only when answering emergency calls. A vehicle equipped with ~~lighting devices~~ *warning light units* as authorized in this section shall be operated by a police chaplain only if he has successfully completed a course of training in the safe operation of a motor vehicle under emergency conditions and a certificate attesting to such successful completion, signed by the course instructor, is carried at all times in the vehicle when operated by the police chaplain to whom the certificate applies.

Driver education programs; instruction concerning traffic stops. Requires each driver education program in the public school system to include instruction concerning traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops. The bill requires the Board of Education to collaborate with the Department of State Police in implementing the changes to its driver education program.

CHAPTER 300

*An Act to amend and reenact § **22.1-205** of the Code of Virginia, relating to driver education programs; instruction concerning traffic stops.*

[H 2290]
Approved March 3, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **22.1-205** of the Code of Virginia is amended and reenacted as follows:

§ **22.1-205**. Driver education programs.

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles. The program shall include *(i)* instruction concerning ~~(i)~~ *(a)* alcohol and drug abuse~~, (ii)~~*; (b)* aggressive driving~~, (iii)~~*; (c)* distracted driving~~, (iv)~~*; (d)* motorcycle awareness~~, (v)~~*; (e)* organ and tissue donor awareness~~, (vi)~~*; (f)* fuel-efficient driving practices~~,~~*; and (g) traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops,* and ~~(vii)~~ *(ii)* in Planning District 8, for any student completing a driver education program beginning in academic year **2010-2011**, an additional minimum 90-minute parent/student driver education component ~~included~~ as part of the in-classroom portion of the driver education curriculum, requiring the participation of the student's parent or guardian and emphasizing parental responsibilities regarding juvenile driver behavior, juvenile driving restrictions pursuant to the Code of Virginia, and the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Such program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may

waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § **46.2-335**shall be entitled to participate in the distribution of state funds appropriated for driver education.

School boards in Planning District 8 shall make the 90-minute parent/student driver education component available to all students and their parents or guardians who are in compliance with § **22.1-254**.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of Highways shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § **22.1-254.1** or subdivision B 1 of § **22.1-254**, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

2. That the Board of Education shall collaborate with the Department of State Police to implement the provisions of this act.

Report of law-enforcement officer involved in accident. Provides that any law-enforcement officer who is listed as a driver in a motor vehicle accident report submitted to the Department of Motor Vehicles will not have the accident listed on his driving record if he was driving a motor vehicle provided by a law-enforcement agency in the course of his employment and was operating the motor vehicle in the performance of his official duties at the time of such accident. This bill is identical to **SB 1486.**

CHAPTER 800

*An Act to amend the Code of Virginia by adding a section numbered **46.2-373.1**, relating to report of law-enforcement officer involved in an accident.*

[H 2336]
Approved April 5, 2017

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **46.2-373.1** as follows:

*§ **46.2-373.1**. Report of law-enforcement officer involved in accident.*

*Notwithstanding the provisions of § **46.2-208**, any law-enforcement officer, as defined in § **9.1-101**, who is named as a driver in a motor vehicle accident on a report submitted to the Department pursuant to § **46.2-373** shall not have the accident displayed on his driving record if he was driving a motor vehicle provided by a law-enforcement agency in the course of his employment and was operating the motor vehicle in the performance of his official duties at the time of such accident. The driving record of such law-enforcement officer involved in an accident in the course of his employment shall not contain any information of an accident submitted pursuant to § **46.2-373**.*

Flashing amber lights; amateur radio operators. Permits vehicles used or operated by federally licensed amateur radio operators participating in emergency communications drills on behalf of federal, state, or local authorities or providing communications services to localities for public service events authorized by the Department of Transportation where the event is being conducted to be equipped with flashing, blinking, or alternating amber lights, provided that the lights are not lit while the vehicle is in motion.

CHAPTER 326

*An Act to amend and reenact § **46.2-1025** of the Code of Virginia, relating to flashing amber lights; amateur radio operators.*

[H 2453]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1025** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1025**. Flashing amber, purple, or green warning lights.

A. The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the Superintendent:

1. Vehicles used for the principal purpose of towing or servicing disabled vehicles;

2. Vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways, or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways;

3. Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;

4. Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;

5. Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection operations;

6. Vehicles used by individuals for emergency snow-removal purposes;

7. Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;

8. Fire apparatus and emergency medical services vehicles, provided the amber lights are used in addition to lights permitted under §**46.2-1023** and are so mounted or installed as to be visible from behind the vehicle;

9. Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is being operated on a public highway;

10. Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;

11. Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's back-up lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in § **46.2-1175.1**, is in operation;

12. Vehicles used by law-enforcement agency personnel in the enforcement of laws governing motor vehicle parking;

13. Government-owned law-enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is in motion;

14. Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;

15. Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;

16. Vehicles owned and used by construction companies operating under Virginia contractors licenses;

17. Vehicles used to lead or provide escorts for bicycle races authorized by the Department of Transportation or the locality in which the race is being conducted;

18. Vehicles used by radio or television stations for remote broadcasts, provided that the amber lights are not lit while the vehicle is in motion;

19. Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subdivision, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;

20. Vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;

21. Vehicles used in patrol work by members of neighborhood watch groups approved by the chief law-enforcement officer of the locality in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion;

22. Vehicles that are not tow trucks as defined in § **46.2-100**, but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing and recovery site; ~~and~~

23. *Vehicles used or operated by federally licensed amateur radio operators, provided that the amber lights are not lit while the vehicle is in motion, (i) while participating in emergency communications or drills on behalf of*

federal, state, or local authorities or (ii) while providing communications services to localities for public service events authorized by the Department of Transportation where the event is being conducted; and

24. Publicly owned or operated transit buses.

B. Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.

C. Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle. The Superintendent of State Police shall develop standards and specifications for purple lights authorized in this subsection.

D. Vehicles used by police, firefighting, or emergency medical services personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the Superintendent. Such lights shall not be activated while the vehicle is operating upon the highway.

Flashing amber lights on vehicles. Allows vehicles used to collect and deliver packages weighing less than 150 pounds by a national package delivery company that delivers such packages in all 50 states to be equipped with flashing amber lights, provided that the amber lights are lit only when the vehicle is stopped and its operator is engaged in such collection and delivery.

CHAPTER 333

*An Act to amend and reenact § **46.2-1025** of the Code of Virginia, relating to flashing amber lights on vehicles.*

[S 1279]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1025** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1025**. Flashing amber, purple, or green warning lights.

A. The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the Superintendent:

1. Vehicles used for the principal purpose of towing or servicing disabled vehicles;

2. Vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways, or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways;

3. Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;

4. Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;

5. Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection operations;

6. Vehicles used by individuals for emergency snow-removal purposes;

7. Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;

8. Fire apparatus and emergency medical services vehicles, provided the amber lights are used in addition to lights permitted under §**46.2-1023** and are so mounted or installed as to be visible from behind the vehicle;

9. Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is being operated on a public highway;

10. Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;

11. Vehicles used to collect and deliver packages weighing less than 150 pounds by a national package delivery company that delivers such packages in all 50 states, provided that the amber lights are lit only when the vehicle is stopped and its operator is engaged in such collection and delivery;

~~11.~~ *12.* Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's back-up lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in § **46.2-1175.1**, is in operation;

~~12.~~ *13.* Vehicles used by law-enforcement agency personnel in the enforcement of laws governing motor vehicle parking;

~~13.~~ *14.* Government-owned law-enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is in motion;

~~14.~~ *15.* Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;

~~15.~~ *16.* Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;

~~16.~~ *17.* Vehicles owned and used by construction companies operating under Virginia contractors licenses;

~~17.~~ *18.* Vehicles used to lead or provide escorts for bicycle races authorized by the Department of Transportation or the locality in which the race is being conducted;

~~18.~~ *19.* Vehicles used by radio or television stations for remote broadcasts, provided that the amber lights are not lit while the vehicle is in motion;

~~19.~~ *20.* Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subdivision, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;

~~20.~~ *21.* Vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;

~~21.~~ *22.* Vehicles used in patrol work by members of neighborhood watch groups approved by the chief law-enforcement officer of the locality in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion;

~~22.~~ *23.* Vehicles that are not tow trucks as defined in § **46.2-100**, but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing and recovery site; and

~~23.~~ *24.* Publicly owned or operated transit buses.

B. Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.

C. Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle. The Superintendent of State Police shall develop standards and specifications for purple lights authorized in this subsection.

D. Vehicles used by police, firefighting, or emergency medical services personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the Superintendent. Such lights shall not be activated while the vehicle is operating upon the highway.

Electric personal delivery devices. Allows for the operation of electric personal delivery devices on the sidewalks and shared-use paths and across roadways on crosswalks in the Commonwealth unless otherwise prohibited by a locality. The bill directs that such devices shall not be considered vehicles and are exempt from the motor carrier provisions of Title 46.2 (Motor Vehicles). This bill is identical to **SB 1207.**

CHAPTER 788

*An Act to amend and reenact §§ **46.2-100**, **46.2-904**, **46.2-908**, **46.2-908.1**, **46.2-1015**, and **46.2-2101** of the Code of Virginia and to amend the Code of Virginia by adding in Article 12 of Chapter 8 of Title 46.2 a section numbered **46.2-908.1:1**, relating to electric personal delivery devices.*

[H 2016]
Approved April 5, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-100**, **46.2-904**, **46.2-908**, **46.2-908.1**, **46.2-1015**, and **46.2-2101** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 12 of Chapter 8 of Title 46.2 a section numbered **46.2-908.1:1** as follows:

§ **46.2-100**. Definitions.

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

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ **46.2-800** et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall

be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ **46.2-341.1** et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ **46.2-800** et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric personal delivery device" means an electrically powered device that (i) is operated on sidewalks, shared-use paths, and crosswalks and intended primarily to transport property; (ii) weighs less than 50 pounds, excluding cargo; (iii) has a maximum speed of 10 miles per hour; and (iv) is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

"Electric personal delivery device operator" means an entity or its agent who exercises direct physical control or monitoring over the navigation system and operation of an electric personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating an electric personal delivery device. "Electric personal delivery device operator" does not include (i) an entity or person who requests the services of an electric personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of an electric personal delivery device.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ **46.2-800** et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § **46.2-472**.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ **46.2-752**, **46.2-753**, and **46.2-754** and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ **46.2-800** et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or foot-scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or foot-scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-

issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. "Motorized skateboard or foot-scooter" includes vehicles with or without handlebars but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ **46.2-300** et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ **46.2-341.1** et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in

this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § **46.2-1600**, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ **15.2-2200** et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § **46.2-1090**. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users *and electric personal delivery devices*.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any

"automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § **46.2-113**, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § **46.2-2000**; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except*electric personal delivery devices and* devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ **46.2-800** et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § **46.2-677**, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ **46.2-904**. Use of roller skates and skateboards on sidewalks and shared-use paths; operation of bicycles and certain motorized and electric items and devices on sidewalks, crosswalks, and shared-use paths; local ordinances.

The governing body of any county, city, or town may by ordinance prohibit the use of roller skates~~ and~~, skateboards, *and electric personal delivery devices* and/or the riding of bicycles, electric personal assistive mobility devices, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles on designated sidewalks or crosswalks, including those of any church, school, recreational facility, or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where use of roller skates~~ and~~, skateboards, *and electric personal delivery devices,* and/or bicycle, electric personal assistive mobility devices, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycle riding is prohibited. *Unless otherwise prohibited, electric personal delivery devices may be operated on the sidewalks and shared-use paths and across the roadway on a crosswalk of any locality of the Commonwealth.*

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or~~ an~~ electric power-assisted bicycle on a sidewalk~~,~~ *or* shared-use path~~,~~ or across a roadway on a crosswalk~~,~~ shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian. *An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall yield the right-of-way to any pedestrian.*

No person shall ride a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or~~an~~ electric power-assisted bicycle *or operate an electric personal delivery device* on a sidewalk, or across a roadway on a crosswalk, where such use of bicycles, electric personal assistive mobility devices, *electric personal delivery devices,* motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles is prohibited by official traffic control devices.

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or~~ an~~ electric power-assisted bicycle on a sidewalk~~,~~ *or* shared-use path~~,~~ or across a roadway on a crosswalk~~,~~ shall have all the rights and duties of a pedestrian under the same circumstances. *An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall have all the rights and duties of a pedestrian under the same circumstances.*

A violation of any ordinance adopted pursuant to this section shall be punishable by a civil penalty of not more than $50.

§ **46.2-908**. Registration of bicycle, electric personal assistive mobility device, electric personal delivery device, and electric power-assisted bicycle serial numbers.

Any person who owns a bicycle, electric personal assistive mobility device, *electric personal delivery device,* or electric power-assisted bicycle may register its serial number with the local law-enforcement agency of the political subdivision in which such person resides.

§ **46.2-908.1**. Electric personal assistive mobility devices, electric personal delivery devices, electrically powered toy vehicles, and electric power-assisted bicycles.

All electric personal assistive mobility devices, *electric personal delivery devices,* electrically powered toy vehicles, and electric power-assisted bicycles shall be equipped with spill-proof, sealed, or gelled electrolyte batteries. No person shall at any time or at any location *(i)* drive an electric personal assistive mobility device~~,~~ or an electric power-assisted bicycle faster than ~~twenty-five~~ *25* miles per hour *or (ii) operate an electric personal delivery device at a speed faster than 10 miles per hour*. No person less than ~~fourteen~~ *14*years old shall drive any electric personal assistive mobility device, motorized skateboard or foot-scooter, or electric power-assisted bicycle unless under the immediate supervision of a person who is at least ~~eighteen~~ *18* years old.

An electric personal assistive mobility device or motorized skateboard or foot-scooter may be operated on any highway with a maximum speed limit of ~~twenty-five~~ *25* miles per hour or less. An electric personal assistive mobility device shall only operate on any highway authorized by this section if a sidewalk is not provided along such highway or if operation of the electric personal assistive mobility device on such sidewalk is prohibited pursuant to § **46.2-904**. Nothing in this section shall prohibit the operation of an electric personal assistive mobility device, *electric personal delivery device,* or motorized skateboard or foot-scooter in the crosswalk of any highway where the use of such crosswalk is authorized for pedestrians, bicycles, or electric power-assisted bicycles.

Operation of electric personal assistive mobility devices, electrically powered toy vehicles, bicycles, and electric power-assisted bicycles is prohibited on any Interstate Highway System component except as provided by the section.

The Commonwealth Transportation Board may authorize the use of bicycles on an Interstate Highway System Component provided the operation is limited to bicycle or pedestrian facilities that are barrier separated from the roadway and automobile traffic and such component meets all applicable safety requirements established by federal and state law.

*§ **46.2-908.1:1**. Electric personal delivery devices.*

A. All electric personal delivery devices shall obey all traffic and pedestrian control devices and signs and include a plate or marker that is in a position and size to be clearly visible and identifies the name and contact information of the owner of the electric personal delivery device and a unique identifying device number.

B. All electric personal delivery devices shall be equipped with a braking system that, when active or engaged, will enable such electric personal delivery device to come to a controlled stop.

*C. No electric personal delivery device shall transport hazardous materials, substances, or waste as defined in § **10.1-1400**. For the purposes of this subsection, hazardous materials includes ammunition.*

D. No electric personal delivery device shall be operated on a public highway in the Commonwealth, except to the extent necessary to cross an intersection or crosswalk.

E. No electric personal delivery device shall operate on a sidewalk or shared-use path or across a roadway on a crosswalk unless an electric personal delivery device operator is actively controlling or monitoring the navigation and operation of the electric personal delivery device.

F. Any entity or person who uses an electric personal delivery device to engage in criminal activity is criminally liable for such activity.

§ **46.2-1015**. Lights on bicycles, electric personal assistive mobility devices, electric personal delivery devices, electric power-assisted bicycles, and mopeds.

A. Every bicycle, electric personal assistive mobility device, *electric personal delivery device*, electric power-assisted bicycle, and moped when in use between sunset and sunrise shall be equipped with a headlight on the front emitting a white light visible in clear weather from a distance of at least 500 feet to the front and a red reflector visible from a distance of at least 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. Such lights and reflector shall be of types approved by the Superintendent.

In addition to the foregoing provisions of this section, a bicycle or its rider may be equipped with lights or reflectors. These lights may be steady burning or blinking.

B. Every bicycle, or its rider, shall be equipped with a taillight on the rear emitting a red light plainly visible in clear weather from a distance of at least 500 feet to the rear when in use between sunset and sunrise and operating on any highway with a speed limit of 35 mph or greater. Any such taillight shall be of a type approved by the Superintendent.

§ **46.2-2101**. Exemptions from chapter.

The following are exempt from this chapter:

1. Motor vehicles owned and operated by the United States, District of Columbia, any state, municipality, or any other political subdivision of the Commonwealth.

2. Transportation of property between any point in this Commonwealth and any point outside this Commonwealth or between any points wholly within the limits of any city or town in the Commonwealth. This exemption shall not apply to the insurance requirement imposed on motor carriers pursuant to § **46.2-2143.1**.

3. Motor vehicles controlled and operated by a bona fide cooperative association as defined in the Federal Marketing Act, approved June 15, 1929, as amended, or organized or existing under Article 2 (§ **13.1-312** et seq.) of Chapter 3 of Title 13.1, while used exclusively in the conduct of the business of such association.

4. Motor vehicles while used exclusively in (i) carrying newspapers, water, livestock, poultry, poultry products, buttermilk, fresh milk and cream, meats, butter and cheese produced on a farm, fish (including shellfish), slate, horticultural or agricultural commodities (not including manufactured products thereof), and forest products, including lumber and staves (but not including manufactured products thereof), (ii) transporting farm supplies to a farm or farms, (iii) hauling for the Department of Transportation, (iv) carrying fertilizer to any warehouse or

warehouses for subsequent distribution to a local area farm or farms, or (v) collecting and disposing of trash, garbage and other refuse.

5. Motor vehicles used for transporting property by an air carrier or carrier affiliated with a direct air carrier whether or not such property has had or will have a prior or subsequent air movement.

6. Motor carriers exclusively operating vehicles with a registered gross weight of 7,500 pounds or less for the sole purpose of providing courier service.

*7. Electric personal delivery devices as defined in § **46.2-100**.*

Failure to drive on right side of highways or observe traffic lanes; penalties. Sets the fine for failing to drive on the right side of highways or failing to observe traffic lanes at $100. Under current law, any such failure is punishable by a fine of no more than $250.

CHAPTER 795

*An Act to amend and reenact §§ **46.2-802** and **46.2-804** of the Code of Virginia, relating to driving on the right side of highways and special regulations applicable on highways laned for traffic; penalties.*

[H 2201]
Approved April 5, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-802** and **46.2-804** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-802**. Drive on right side of highways; penalty.

Except as otherwise provided by law, on all highways of sufficient width, the driver of a vehicle shall drive on the right half of the highway, unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle, subject to the provisions applicable to overtaking and passing set forth in Article 4 (§ **46.2-837** et seq.) of this chapter. *A violation of this section is punishable by a fine of $100*.

§ **46.2-804**. Special regulations applicable on highways laned for traffic; penalty.

For the purposes of this section, "traffic lines" includes any temporary traffic control devices used to emulate the lines and markings in subdivisions 6 and 7.

Whenever any roadway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following:

1. Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions existing, shall be driven in the lane nearest the right edge or right curb of the highway when such lane is available for travel except when overtaking and passing another vehicle or in preparation for a left turn or where right lanes are reserved for slow-moving traffic as permitted in this section;

2. A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from that lane until the driver has ascertained that such movement can be made safely;

3. Except as otherwise provided in subdivision 5, on a highway which is divided into three lanes, no vehicle shall be driven in the center lane except when overtaking and passing another vehicle or in preparation for a left turn or unless such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signed or marked to give notice of such allocation. Traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device;

4. The Commissioner of Highways, or local authorities in their respective jurisdictions, may designate right lanes for slow-moving vehicles and the Virginia Department of Transportation shall post signs requiring trucks and

combination vehicles to keep to the right on Interstate Highway System components with no more than two travel lanes in each direction where terrain is likely to slow the speed of such vehicles climbing hills and inclines to a speed that is less than the posted speed limit;

5. Wherever a highway is marked with double traffic lines consisting of a solid line immediately adjacent to a broken line, no vehicle shall be driven to the left of such line if the solid line is on the right of the broken line, except (i) when turning left for the purpose of entering or leaving a public, private, or commercial road or entrance or (ii) in order to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely. Where the middle lane of a highway is marked on both sides with a solid line immediately adjacent to a broken line, such middle lane shall be considered a left-turn or holding lane and it shall be lawful to drive to the left of such line if the solid line is on the right of the broken line for the purpose of turning left into any road or entrance, provided that the vehicle may not travel in such lane further than 150 feet;

6. Wherever a highway is marked with double traffic lines consisting of two immediately adjacent solid yellow lines, no vehicle shall be driven to the left of such lines, except (i) when turning left or (ii) in order to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely; and

7. Whenever a highway is marked with double traffic lines consisting of two immediately adjacent solid white lines, no vehicle shall cross such lines.

A violation of this section is punishable by a fine of $100.

Failure to obey highway sign; driver stopped on highway shoulder to sleep or rest; prepayable offense. Provides that a violation of a highway sign where a driver has parked or stopped his vehicle on the shoulder of the highway in order to sleep or rest is a prepayable offense unless such vehicle is parked or stopped in such manner as to impede or render dangerous the shoulder or other portion of the highway.

CHAPTER 504

*An Act to amend and reenact §§ **16.1-69.40:1** and **46.2-830.1** of the Code of Virginia, relating to failure to obey highway sign where driver sleeping or resting; prepayable offense.*

[S 1021]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **16.1-69.40:1** and **46.2-830.1** of the Code of Virginia are amended and reenacted as follows:

§ **16.1-69.40:1**. Traffic infractions within authority of traffic violations clerk; schedule of fines; prepayment of local ordinances.

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated infractions shall include violations of §§ ***46.2-830.1***, **46.2-878.2** and **46.2-1242** or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or not he was involved in an accident. The prepayable fine amount for a violation of § **46.2-878.2** shall be $200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § **46.2-878.3**.

Such infractions shall not include:

1. Indictable offenses;

2. [Repealed.]

3. Operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his custody or control;

4. Reckless driving;

5. Leaving the scene of an accident;

6. Driving while under suspension or revocation of driver's license;

7. Driving without being licensed to drive.

8. [Repealed.]

B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Commissioner of the Department of Motor Vehicles or the appropriate offices of the State where he received his license to drive.

C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed, designating each infraction specifically. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

§ **46.2-830.1**. Failure to obey highway sign where driver sleeping or resting.

~~Upon the trial of a person charged with failure to obey a highway sign in violation of § **46.2-830** where the court finds that the violation resulted from the~~ *No driver of a* vehicle ~~having been parked or stopped by the driver~~ *shall park or stop his vehicle* on the shoulder or other portion of the highway not ordinarily used for vehicular traffic *in violation of a highway sign* in order for the driver to sleep or rest~~, the court may, in lieu of convicting under § **46.2-830**, find the driver guilty of violating this section, which shall be a lesser-included offense of § **46.2-830**~~. No demerit points shall be assigned pursuant to the Uniform Demerit Point System for ~~convictions~~ *a violation*pursuant to this section. *However, the provisions of this section shall not apply if such vehicle is parked or stopped in such manner as to impede or render dangerous the shoulder or other portion of the highway.*

Ignition interlock; duration; installation. Provides that the period of time during which a person is (i) prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (ii) required to have an ignition interlock system installed on each motor vehicle owned by or registered to him is calculated from the date the court issues him a restricted license. The bill further provides that this period of time is tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.

CHAPTER 499

*An Act to amend and reenact §§ **18.2-270.1** and **18.2-271.1** of the Code of Virginia, relating to ignition interlock; duration; installation.*

[H 2231]

Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-270.1** and **18.2-271.1** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-270.1**. Ignition interlock systems; penalty.

A. For purposes of this section and § **18.2-270.2**:

"Commission" means the Commission on VASAP.

"Department" means the Department of Motor Vehicles.

"Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an analyzer that measures a driver's blood alcohol content; (ii) prevents a motor vehicle ignition from starting if a driver's blood alcohol content exceeds 0.02 percent; and (iii) is equipped with the ability to perform a rolling retest and to electronically log the blood alcohol content during ignition, attempted ignition and rolling retest.

"Rolling retest" means a test of the vehicle operator's blood alcohol content required at random intervals during operation of the vehicle, which triggers the sounding of the horn and flashing of lights if (i) the test indicates that the operator has a blood alcohol content which exceeds 0.02 percent or (ii) the operator fails to take the test.

B. In addition to any penalty provided by law for a conviction under § **18.2-51.4** or **18.2-266** or a substantially similar ordinance of any county, city or town, any court of proper jurisdiction shall, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements. The court shall, for a conviction under § **18.2-51.4**, a second or subsequent offense of § **18.2-266** or a substantially similar ordinance of any county, city or town, or as a condition of license restoration pursuant to subsection C of § **18.2-271.1** or § **46.2-391**, require that such a system be installed on each motor vehicle, as defined in § **46.2-100**, owned by or registered to the offender, in whole or in part, for such period of time. Such condition shall be in addition to any purposes for which a restricted license may be issued pursuant to § **18.2-271.1**. The court may order the installation of an ignition interlock system to commence immediately upon conviction. A fee of $20 to cover court and administrative costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The court shall require the offender to install an electronic log device with the ignition

interlock system on a vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § **18.2-271.1** and to conditions established by regulation under § **18.2-270.2** by the Commission during the period for which the court has ordered installation of the ignition interlock system. The offender shall be further required to provide to such program, at least quarterly during the period of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to circumvent or tamper with the equipment. *The period of time during which the offender (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the offender, in whole or in part, shall be calculated from the date the offender is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department.*

C. In any case in which the court requires the installation of an ignition interlock system, the court shall order the offender not to operate any motor vehicle that is not equipped with such a system for the period of time that the interlock restriction is in effect. The clerk of the court shall file with the Department of Motor Vehicles a copy of the order, which shall become a part of the offender's operator's license record maintained by the Department. The Department shall issue to the offender for the period during which the interlock restriction is imposed a restricted license which shall appropriately set forth the restrictions required by the court under this subsection and any other restrictions imposed upon the offender's driving privilege, and shall also set forth any exception granted by the court under subsection F.

D. The offender shall be ordered to provide the appropriate ASAP program, within 30 days of the effective date of the order of court, proof of the installation of the ignition interlock system. The Program shall require the offender to have the system monitored and calibrated for proper operation at least every 30 days by an entity approved by the Commission under the provisions of § **18.2-270.2**and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and monitoring and maintaining the ignition interlock system. Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i) timely install such system or (ii) have the system properly monitored and calibrated.

E. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock system. No person shall tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system that has been installed in the motor vehicle of a person under this section. Except as authorized in subsection F, no person shall knowingly furnish a motor vehicle not equipped with a functioning ignition interlock system to any person prohibited under subsection B from operating any motor vehicle which is not equipped with such system. A violation of this subsection is punishable as a Class 1 misdemeanor.

F. Any person prohibited from operating a motor vehicle under subsection B may, solely in the course of his employment, operate a motor vehicle~~ which~~ *that* is owned or provided by his employer without installation of an ignition interlock system, if the court expressly permits such operation as a condition of a restricted license at the request of the employer~~, but~~*; such person shall not be permitted to operate any other vehicle without a functioning ignition interlock system and, in no event, shall* such person~~ may not~~ *be permitted to*operate a school bus, school vehicle, or a commercial motor vehicle as defined in § **46.2-341.4**. This subsection shall not apply if

such employer is an entity wholly or partially owned or controlled by the person otherwise prohibited from operating a vehicle without an ignition interlock system.

G. The Commission shall promulgate such regulations and forms as are necessary to implement the procedures outlined in this section.

§ **18.2-271.1**. Probation, education, and rehabilitation of person charged or convicted; person convicted under law of another state or federal law.

A. Any person convicted of a first or second offense of § **18.2-266**, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § **46.2-341.24**, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § **18.2-271.2**. However, any person charged with a violation of a first or second offense of § **18.2-266**, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § **46.2-341.24**, may, at any time prior to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than $250 but no more than $300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § **18.2-266** or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § **46.2-341.24**, the court shall impose the sentence authorized by § **18.2-270** or **46.2-341.28** and the license revocation as authorized by § **18.2-271**. In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § **46.2-100**, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E ~~of this section~~. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E ~~of this section~~, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a

person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § **46.2-389** and subsection A of § **46.2-391** shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. *The period of time during which the person (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the person, in whole or in part, shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.* Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted under the law of another state or the United States of an offense substantially similar to the provisions of § **18.2-266** or subsection A of § **46.2-341.24**, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § **46.2-389** and subsection A of § **46.2-391**, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A~~ of this section~~and that, upon entry into such program, he be issued an order in accordance with subsection E~~ of this section~~. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § **18.2-266** or subsection A of § **46.2-341.24**, the court may grant the petition and may issue an order in accordance with subsection E~~ of this section~~ as to the period of license suspension or revocation imposed pursuant to § **46.2-389** or subsection A of § **46.2-391**. The court shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of interlock requirements. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § **46.2-389** or subsection A of § **46.2-391**. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles. *The period of time during which the person is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.*

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense under the law of another state or the United States, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, whenever a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine or train in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a

restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation and education program entered pursuant to § **18.2-251** or subsection H of § **18.2-258.1**; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § **53.1-131.1** the time to be served is on weekends or nonconsecutive days; or (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ **46.2-341.1** et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § **46.2-398** and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § **18.2-272**. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A ~~of this section~~. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § **18.2-271** or subsection A of § **46.2-391** for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § **18.2-271** or subsection A of § **46.2-391** for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § **18.2-271** or subsection B of § **46.2-391**. Notwithstanding the provisions of § **46.2-411**, the fee charged pursuant to § **46.2-411** for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § **18.2-266**, subsection A of § **46.2-341.24** or of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar to the provisions of § **18.2-266** or subsection A of § **46.2-341.24** shall be $105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § **46.2-411**, $40 shall be transferred to the Commission on VASAP, and $25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund.

F. The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court which has convicted a person of a violation of § **18.2-266**, subsection A of § **46.2-341.24**or any ordinance of a county, city or town similar to the provisions of § **18.2-266** shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § **18.2-271** or subsection B of § **46.2-391** or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § **18.2-271** or subsection A of § **46.2-391**. The provisions of this subsection shall apply to a person convicted of a violation of § **18.2-266**, subsection A of § **46.2-341.24** or any ordinance of a county, city or town similar to the provisions of § **18.2-266** on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board chosen in accordance with procedures approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § **18.2-271**, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ **46.2-341.1** et seq.).

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and is $0 for periods of commitment to the custody of the Department of Juvenile Justice.

TRAFFIC – SUMMARY ONLY

HB1878 - § 46.2-400 - Suspension of license of person legally adjudged incapacitated and not competent to drive; notice to DMV Commissioner. Clarifies the roles of the courts and the Commissioner of the Department of Motor Vehicles with regard to persons previously legally adjudged incapacitated and not competent to drive or whose license has been suspended following discharge from a facility operated or licensed by the Department of Behavioral Health and Developmental Services. The bill provides that under all such circumstances, the Department reserves the right to examine any licensed driver, any person applying for a driver's license or renewal thereof, or any person whose license has been suspended or revoked to determine his fitness to drive a motor vehicle with safety to persons and property. The bill contains an emergency clause.

HB2269 and SB1250 - § 46.2-1163 - State Police motor vehicle safety inspection data. Authorizes the Superintendent of State Police to provide, upon request, verification of the inspection status of a vehicle and to charge a reasonable fee for providing such information. Fees shall not be charged to government or other public entities. This bill is identical to SB 1250.

HB2423 - § 46.2-916.2 - Golf carts on public highways; exceptions. Permits the use of golf carts on public highways in the Town of Jarratt if the governing body of the town reviews and approves such highway usage. Current law prohibits such usage because the Town of Jarratt has not established its own police department.

SB1497 - § 46.2-100 - Manufactured home; definition. Excludes a park model recreational vehicle from the definition of "manufactured home" and defines a park model recreational vehicle as a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

HB2362 - § 46.2-116 - Tow truck drivers; temporary registration with Department of Criminal Justice Services. Allows for the issuance of temporary registration or driver authorization documentation by the Department of Criminal Justice Services for tow truck drivers, effective upon the submission of an application and until the issuance or denial of permanent registration.

SB1507 - § 46.2-1166 - Safety inspections; appointments. Allows any motor vehicle inspection station to accept appointments for safety inspections in addition to accepting vehicles on a first-come, first-served basis, so long as at least one lane is reserved for the sole purpose of first-come, first-served safety inspections.

SB1085 - §§ 46.2-208, 46.2-212.1, 46.2-221.2, and 46.2-332 - Department of Motor Vehicles; expiration and renewal of driver credentials. Allows the Department of Motor Vehicles (DMV) to digitally verify the authenticity and validity of driver's licenses, learner's permits, and special identification cards for nongovernmental entities. The bill allows DMV to issue transaction receipts for expired vehicle registration renewals that will serve as evidence that the holder has complied with DMV payment requirements in order to allow those with expired registrations to renew such registration online. The bill allows DMV to extend the validity period for driver's licenses for persons absent from the Commonwealth during the expiration period of such licenses for good cause shown and payment of a fee.

SB1316 - § 46.2-1143 - Overweight permits for trucks hauling asphalt. Adds trucks hauling asphalt to those vehicles whose owner or operator may obtain an overweight permit from the Commissioner of the Department of Motor Vehicles to operate in counties that impose a severance tax on gases or a severance license tax on coal producers.

SB1384 - §§ 46.2-100, 46.2-1114, 46.2-1129.2, 46.2-1137, 46.2-1139, 46.2-1141, and 46.2-2000 - Motor carrier size and weight limitations; compliance with federal law. Amends several size and weight provisions to comply with the federal Fixing America's Surface Transportation Act of 2015 (the FAST Act). The bill (i) allows automobile and watercraft carriers to backhaul general cargo; (ii) permits the commercial delivery of towaway trailers within limits prescribed by the FAST Act; (iii) increases the weight limits of certain emergency vehicles, natural gas vehicles, and emergency towing vehicles as required by the FAST Act; (iv) increases the weight at which a vehicle must be inspected at a permanent weighing station; (v) makes overweight permits available for tank vehicles hauling fluid milk; and (vi) permits contractors of a Medicaid Managed Care Organization to obtain a certificate of fitness as a nonemergency medical transportation carrier.

HB1519 - § 46.2-1148 - Overweight permits for hauling Virginia-grown farm produce; validity throughout the Commonwealth. Authorizes the Commissioner of the Department of Motor Vehicles to issue overweight permits that are valid statewide for vehicles hauling Virginia-grown farm produce from the point of origin to the first place of delivery. Under current law, such permits are valid only in Accomack and Northampton Counties.

HB2019 and SB1366 - §§ 46.2-2000, 46.2-2001.3, 46.2-2011.20, 46.2-2011.29, and 46.2-2099.50 - Transportation network company partner vehicle registration repeal. Removes the requirement that a transportation network company (TNC) partner register his personal vehicle for use as a TNC partner vehicle with the Department of Motor Vehicles. The bill allows the Department of State Police to recognize another state's annual motor vehicle safety inspection in lieu of a Virginia inspection and clarifies that a TNC partner can keep proof of inspection in or on the vehicle. The bill contains an emergency clause. This bill is identical to **SB 1366.**

HB1960 - §§ 46.2-1231, 46.2-1232, and 46.2-1233.2 - Tow truck drivers and towing and recovery operators; requirements; penalties. Creates a civil penalty of $150 to be paid into the Literary Fund for any tow truck driver or towing and recovery operator convicted of improperly towing in Planning District 8 (Northern Virginia). The bill exempts tow truck drivers and towing and recovery operators in Planning District 8 from any requirement by a towing advisory board for written authorization in addition to a written contract in the event that a vehicle is being removed from private property. The bill requires that a tow truck driver in Planning District 8 immediately notify the animal control office in the locality from which the vehicle is being towed if the vehicle is occupied by a companion animal. The bill limits the membership of a local towing advisory board to only representatives of local law-enforcement agencies, representatives of licensed towing and recovery operators, and one member of the general public and requires the chairmanship of any towing advisory board within Planning District 8 to rotate annually between board members who represent a licensed towing and recovery operator, a local law-enforcement agency, and the general public.

CRIMINAL – FULL TEXT

Use of electronic device to trespass; peeping into dwelling or occupied building; penalty. Punishes as a Class 1 misdemeanor the use of an electronic device to enter the property of another to secretly or furtively peep or spy or attempt to peep or spy into a dwelling or occupied building located on such property, unless such use occurs pursuant to a lawful criminal investigation.

CHAPTER 502

*An Act to amend the Code of Virginia by adding a section numbered **18.2-130.1**, relating to use of electronic device to trespass; peeping into dwelling or occupied building; penalty.*

[H 2350]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **18.2-130.1** as follows:

*§ **18.2-130.1**. Peeping or spying into dwelling or occupied building by electronic device; penalty.*

It is unlawful for any person to knowingly and intentionally cause an electronic device to enter the property of another to secretly or furtively peep or spy or attempt to peep or spy into or through a window, door, or other aperture of any building, structure, or other enclosure occupied or intended for occupancy as a dwelling, whether or not such building, structure, or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, or to do the same, without just cause, upon property owned by him and leased or rented to another under circumstances that would violate the occupant's reasonable expectation of privacy. A violation of this section is a Class 1 misdemeanor. The provisions of this section shall not apply to a lawful criminal investigation.

Sex offenses prohibiting proximity to children; penalty. Includes in the list of certain sex offenses that prohibit a person convicted of such offenses from being or residing in proximity to schools and certain other property where children congregate or from working on school property any offense similar to such offenses under the laws of any foreign country or political subdivision thereof or the United States or any political subdivision thereof. The prohibition regarding residing in proximity to a school that is predicated upon an offense similar to any offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, only applies to residences established on and after July 1, 2017.

CHAPTER 507

*An Act to amend and reenact §§ **18.2-370.2**, **18.2-370.3**, and **18.2-370.4** of the Code of Virginia, relating to sex offenses prohibiting proximity to children; penalty.*

[H 1485]
Approved March 16, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-370.2**, **18.2-370.3**, and **18.2-370.4** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-370.2**. Sex offenses prohibiting proximity to children; penalty.

A. "Offense prohibiting proximity to children" means a violation or an attempt to commit a violation of (i) subsection A of § **18.2-47**, clause (ii) or (iii) of § **18.2-48**, subsection B of § **18.2-361**, or subsection B of § **18.2-366**, where the victim of one of the foregoing offenses was a minor, or (ii) subsection A (iii) of § **18.2-61**, §§ **18.2-63**, **18.2-64.1**, subdivision A 1 of § **18.2-67.1**, subdivision A 1 of § **18.2-67.2**, or subdivision A 1 or A 4 (a) of § **18.2-67.3**, or §§ **18.2-370**, **18.2-370.1**, clause (ii) of § **18.2-371**, §§ **18.2-374.1**, **18.2-374.1:1** or § **18.2-379**. As of July 1, 2006, "offense prohibiting proximity to children" ~~shall include~~ *includes* a violation of § **18.2-472.1**, when the offense requiring registration was one of the foregoing offenses.

B. Every adult who is convicted of an offense prohibiting proximity to children when the offense occurred on or after July 1, 2000, shall as part of his sentence be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a primary, secondary or high school. In addition, every adult who is convicted of an offense prohibiting proximity to children when the offense occurred on or after July 1, 2006, shall as part of his sentence be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a child day program as defined in § **63.2-100**.

C. Every adult who is convicted of an offense prohibiting proximity to children, when the offense occurred on or after July 1, 2008, shall as part of his sentence be forever prohibited from going, for the purpose of having any contact whatsoever with children ~~that~~ *who* are not in his custody, within 100 feet of the premises of any place owned or operated by a locality that he knows or should know is a playground, athletic field or facility, or gymnasium.

*D. Any person convicted of an offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, similar to any offense set forth in subsection A shall be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a primary, secondary, or high school or any place he knows or has reason to know is a child day program as defined in § **63.2-100**. In addition, he shall be forever prohibited from going, for the purpose of having any contact whatsoever with children who are not in his custody, within 100 feet of the premises of any place owned*

or operated by a locality that he knows or has reason to know is a playground, athletic field or facility, or gymnasium.

A violation of this section is punishable as a Class 6 felony.

§ **18.2-370.3**. Sex offenses prohibiting residing in proximity to children; penalty.

A. Every adult who is convicted of an offense occurring on or after July 1, 2006, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § **18.2-61**, (ii) subdivision A 1 of § **18.2-67.1**, ~~or~~(iii) subdivision A 1 of § **18.2-67.2**, *or (iv) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof,* shall be forever prohibited from residing within 500 feet of the premises of any place he knows or has reason to know is a child day center as defined in § **63.2-100**, or a primary, secondary, or high school. A violation of this section is a Class 6 felony. The provisions of this section shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of ~~(i)~~ *(a)* subsection A of § **18.2-47** or § **18.2-48**, ~~(ii)~~ *(b)* § **18.2-89**, **18.2-90**, or **18.2-91**, ~~or (iii)~~ *(c)* § **18.2-51.2**, *or (d) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof*.

B. An adult who is convicted of an offense as specified in subsection A ~~of this section~~ and has established a lawful residence shall not be in violation of this section if a child day center or a primary, secondary, or high school is established within 500 feet of his residence subsequent to his conviction.

C. Every adult who is convicted of an offense occurring on or after July 1, 2008, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § **18.2-61**, (ii) subdivision A 1 of § **18.2-67.1**, ~~or~~(iii) subdivision A 1 of § **18.2-67.2**, *or (iv) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof,* shall be forever prohibited from residing within 500 feet of the boundary line of any place he knows is a public park when such park ~~(i)~~ *(a)* is owned and operated by a county, city, or town, ~~(ii)~~ *(b)* shares a boundary line with a primary, secondary, or high school, and ~~(iii)~~ *(c)* is regularly used for school activities. A violation of this section is a Class 6 felony. The provisions of this section shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of ~~(i)~~ *(1)* subsection A of § **18.2-47** or § **18.2-48**~~, (ii)~~*; (2)* §**18.2-89**, **18.2-90**, or **18.2-91**~~, or (iii)~~*; (3)* § **18.2-51.2***; or (4) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof*.

D. An adult who is convicted of an offense as specified in subsection C and has established a lawful residence shall not be in violation of this section if a public park that (i) is owned and operated by a county, city, or town, (ii) shares a boundary line with a primary, secondary, or high school, and (iii) is regularly used for school activities, is established within 500 feet of his residence subsequent to his conviction.

E. The prohibitions in this section predicated upon an offense similar to any offense set forth in this section under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, shall apply only to residences established on and after July 1, 2017.

§ **18.2-370.4**. Sex offenses prohibiting working on school property; penalty.

A. Every adult who has been convicted of an offense occurring on or after July 1, 2006, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § **18.2-61**, (ii) subdivision A 1 of § **18.2-67.1**, ~~or~~ (iii) subdivision A 1 of § **18.2-67.2**, *or (iv) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof,* shall be forever prohibited from working or engaging in any volunteer activity on property he knows or has reason to know is *a* public or private elementary or secondary school or child day center property. A violation of this section is punishable as a Class 6 felony. The provisions of this section shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct of, or as part of a common scheme or plan as a violation of ~~(i)~~ *(a)* subsection A of § **18.2-47** or **18.2-48**~~, (ii)~~*; (b)* § **18.2-89**, **18.2-90**, or **18.2-91**~~, or (iii)~~*; (c)* § **18.2-51.2***; or (d) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof*.

B. An employer of a person who violates this section, or any person who procures volunteer activity by a person who violates this section, and the school or child day center where the violation of this section occurred, are immune from civil liability unless they had actual knowledge that such person had been convicted of an offense listed in subsection A.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation is $0 for periods of commitment to the custody of the Department of Juvenile Justice.

Rights of victims of sexual assault; physical evidence recovery kits. Requires that victims of sexual assault be advised by the investigating law-enforcement agency of their rights regarding physical evidence recovery kits. The bill requires the Division of Consolidated Laboratory Services of the Virginia Department of General Services and law-enforcement agencies to store a physical evidence recovery kit for an additional 10 years following a written objection to its destruction from the victim. The bill requires the law-enforcement agency to notify the victim at least 60 days prior to the intended date of destruction of the kit and provides that no victim of sexual assault shall be charged for the cost of collecting or storing a kit.

CHAPTER 535

*An Act to amend and reenact §§ **19.2-11.01**, **19.2-11.6**, **19.2-11.8**, and **19.2-11.11** of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1.2 of Title 19.2 a section numbered **19.2-11.12**, relating to rights of victims of sexual assault; physical evidence recovery kits.*

[H 2127]
Approved March 16, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **19.2-11.01**, **19.2-11.6**, **19.2-11.8**, and **19.2-11.11** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1.2 of Title 19.2 a section numbered **19.2-11.12** as follows:

§ **19.2-11.01**. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § **19.2-11.1**, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § **40.1-28.7:2**.

1. Victim and witness protection and law-enforcement contacts.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § **52-35** or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ **19.2-368.1** et seq.) of this title and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ **19.2-270.1** and **19.2-270.2**.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ **19.2-305**, **19.2-305.1**, Chapter 21.1 (§ **19.2-368.1** et seq.) of this title, Article 21 (§ **58.1-520** et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § **18.2-465.1** it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § **19.2-265.01** if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § **2.2-511**, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ **53.1-133.02** and **53.1-160** or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § **19.2-11.2**.

*f. Victims of sexual assault, as defined in § **19.2-11.5**, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ **19.2-11.5** et seq.).*

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § **19.2-299.1**, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ **16.1-273** and **53.1-155** or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § **19.2-265.01**.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to §§ **19.2-264.4** and **19.2-295.3**, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.

Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses and telephone numbers may not be disclosed, pursuant to the provisions of §§ **19.2-11.2** and **19.2-269.2**, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ **19.2-164** and**19.2-164.1**.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § **18.2-67.8** and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § **18.2-67.9**.

6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § **18.2-57** or **18.2-57.2**, stalking in violation of § **18.2-60.3**, a violation of a protective order in violation of § **16.1-253.2** or **18.2-60.4**, sexual battery in violation of § **18.2-67.4**, attempted sexual battery in violation of § **18.2-67.5**, or maiming or driving while intoxicated in violation of § **18.2-51.4** or **18.2-266**, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

§ **19.2-11.6**. Anonymous physical evidence recovery kits.

A. When a victim of sexual assault who undergoes a forensic medical examination elects not to report the offense to law enforcement, the health care provider shall inform the victim that the physical evidence recovery kit shall be forwarded to the Division for storage as an anonymous physical evidence recovery kit. The health care provider shall further inform the victim of the length of time the anonymous physical evidence recovery kit will be stored by the Division, *the victim's right to object to the destruction of the anonymous physical evidence recovery kit*, and how the victim can have the anonymous physical evidence recovery kit released to a law-enforcement agency at a later date. The health care provider shall forward the anonymous physical evidence recovery kit to the Division in accordance with the policies and procedures established by the Division.

B. The Division shall store any anonymous physical evidence recovery kit received for a minimum of two years. *The Division shall store the anonymous physical evidence recovery kit for an additional period of 10 years following the receipt of a written objection to the destruction of the anonymous physical evidence recovery kit from the victim.* After *the initial* two years *or any additional 10-year storage period*, the Division, *in the absence of the receipt of a written objection from the victim in the most recent 10-year period*, may destroy the anonymous physical evidence recovery kit or, in its discretion or upon request of the victim or the law-enforcement agency, may elect to retain the anonymous physical evidence recovery kit for a longer period of time. Upon notification from either the law-enforcement agency or the attorney for the Commonwealth that the victim has elected to report the offense to the law-enforcement agency, the Division shall release the anonymous physical evidence recovery kit to the law-enforcement agency.

§ **19.2-11.8**. Submission of physical evidence recovery kits to the Department.

A. A law-enforcement agency that receives a physical evidence recovery kit shall submit the physical evidence recovery kit to the Department for analysis within 60 days of receipt, except under the following circumstances: (i) it is an anonymous physical evidence recovery kit that shall be forwarded to the Division for storage; (ii) the physical evidence recovery kit was collected by the Office of the Chief Medical Examiner as part of a routine death investigation, and the medical examiner and the law-enforcement agency agree that analysis is not warranted; (iii) the physical evidence recovery kit is connected to an offense that occurred outside of the Commonwealth; or (iv) the physical evidence recovery kit was determined by the law-enforcement agency not to be connected to a criminal offense.

B. Upon completion of analysis, the Department shall return the physical evidence recovery kit to the submitting law-enforcement agency. Upon receipt of the physical evidence recovery kit from the Department, the law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years or until ~~two~~ *10* years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. *The law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years following the receipt of a written objection to the destruction of the kit from the victim.* After the mandatory retention period *or any additional 10-year storage period* has lapsed, the law-enforcement agency *shall, unless the victim has made a written request not to be contacted for this purpose, make a reasonable effort to notify the victim of the intended destruction of the physical evidence recovery kit no less than 60 days prior to the intended date of such destruction. In the absence of a response from the victim, or with the consent of the victim, the law-enforcement agency* may destroy the physical evidence recovery kit or, in its discretion, may elect to retain the physical evidence recovery kit for a longer period of time.

C. The DNA profiles developed from physical evidence recovery kits submitted to the Department for analysis pursuant to this section shall be uploaded into any local, state, or national DNA data bank only if eligible as determined by Department procedures and in accordance with state and federal law.

§ **19.2-11.11**. Victim's right to notification of scientific analysis information.

A. In addition to the rights provided under Chapter 1.1 (§ **19.2-11.01** et seq.), a victim of sexual assault, a parent or guardian of a victim of a sexual assault who was a minor at the time of the offense, or a close relative of a deceased victim of sexual assault shall have the right to request and receive information from the law-enforcement agency regarding (i) the submission of any physical evidence recovery kit for forensic analysis that was collected from the victim during the investigation of the offense; (ii) the status of any analysis being performed on any evidence that was collected during the investigation of the offense; ~~and~~ (iii) the results of any

analysis~~,~~*; and (iv) the time frame for how long the kit will be held in storage and the victim's rights regarding such storage*, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or relative shall be informed of the estimated date on which the information may be disclosed, if known.

B. The victim, parent, guardian, or relative who requests to be notified under subsection A must provide a current address and telephone number to the attorney for the Commonwealth and to the law-enforcement agency that is investigating the offense and keep such information updated.

*§ **19.2-11.12**. Costs of physical evidence recovery kits.*

No victim of sexual assault shall be charged for the cost of collecting or storing a physical evidence recovery kit or an anonymous physical evidence recovery kit.

Victim's right to notification of scientific analysis information. Provides that for any physical evidence recovery kit that was received by a law-enforcement agency prior to July 1, 2016, and submitted for analysis, the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim shall be notified of the completion of the analysis and shall, upon request, receive information regarding the results of any analysis from the law-enforcement agency. The bill provides that law enforcement shall not be required to disclose the results of any analysis to an alleged perpetrator. The bill contains technical amendments.

CHAPTER 672

*An Act to amend and reenact § **19.2-11.11** of the Code of Virginia, relating to victim's right to notification of scientific analysis information.*

[S 1501]
Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-11.11** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-11.11**. Victim's right to notification of scientific analysis information.

A. In addition to the rights provided under Chapter 1.1 (§ **19.2-11.01** et seq.), a victim of sexual assault, a parent or guardian of a victim of a sexual assault who was a minor at the time of the offense, or ~~a close relative~~ *the next of kin* of a deceased victim of sexual assault shall have the right to request and receive information from the law-enforcement agency regarding (i) the submission of any physical evidence recovery kit for forensic analysis that was collected from the victim during the investigation of the offense; (ii) the status of any analysis being performed on any evidence that was collected during the investigation of the offense; and (iii) the results of any analysis, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or ~~relative~~ *next of kin* shall be informed of the estimated date on which the information may be disclosed, if known.

B. *In the case of a physical evidence recovery kit that was received by a law-enforcement agency prior to July 1, 2016, and that has subsequently been submitted for analysis, the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim shall be notified by the law-enforcement agency of the completion of the analysis and shall, upon request, receive information from the law-enforcement agency regarding the results of any analysis, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or next of kin shall be informed of the estimated date on which the information may be disclosed, if known. A good faith attempt to locate the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim shall be made if a current address for the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim is unavailable.*

C. The victim, parent, guardian, or ~~relative~~ *next of kin* who requests to be notified under subsection A ~~must~~ *shall* provide a current address and telephone number to the attorney for the Commonwealth and to the law-enforcement agency that is investigating the offense and keep such information updated.

The victim, parent, guardian, or next of kin who requests to be notified under subsection B may provide a current address and telephone number to the attorney for the Commonwealth and to the law-enforcement agency that is investigating the offense and keep such information updated.

D. Nothing contained in this section shall require a law-enforcement agency to disclose any information regarding the results of any analysis to a parent or guardian of a minor victim or to the next of kin of a deceased victim if such parent, guardian, or next of kin is the alleged perpetrator of the offense.

DUI; implied consent; refusal of blood or breath tests. Eliminates the criminal penalties for refusing to submit to a blood test to determine the alcohol or drug content of a defendant's blood upon arrest for a DUI-related offense under the law on implied consent. The bill also increases to a Class 1 misdemeanor the criminal penalty for refusing to submit to a breath test under the law on implied consent for an offense committed within 10 years of a prior offense of refusal or of another DUI-related offense. The bill also extends to blood tests performed by the Department of Forensic Science pursuant to a search warrant the rebuttable presumption that a person is intoxicated based on the person's blood alcohol level demonstrated by such tests. The bill also provides that an application for a search warrant to perform a blood test on a person suspected of committing a DUI-related offense shall be given priority over other matters pending before the judge or magistrate. Finally, the bill establishes a rebuttable presumption applicable in a civil case for punitive damages for injuries caused by an intoxicated driver that a person who has consumed alcohol knew or should have known that his ability to drive was or would be impaired by such consumption. This bill is in response to the U.S. Supreme Court decision in *Birchfield v. North Dakota*, 136 S. Ct. 2160 (2016). The bill contains an emergency clause.

CHAPTER 623

An Act to amend and reenact §§ ***8.01-44.5****,* ***15.2-1627****,* ***16.1-228****,* ***16.1-241****,* ***16.1-278.8****,* ***16.1-278.9****,* ***16.1-309****,* ***18.2-268.3****,* ***18.2-268.4****,* ***18.2-268.7****,* ***18.2-268.9****,* ***18.2-269****,* ***18.2-272****,* ***19.2-52****,* ***19.2-73****,* ***29.1-738.3****,* ***46.2-341.26:2****,* ***46.2-341.26:3****,* ***46.2-341.26:4****,* ***46.2-341.26:7****,* ***46.2-341.26:9****,* ***46.2-341.27****,* ***46.2-391.2****,* ***46.2-391.4****, and* ***46.2-2099.49*** *of the Code of Virginia, relating to DUI; implied consent; refusal of blood or breath tests.*

[H 2327]
Approved March 16, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **8.01-44.5**, **15.2-1627**, **16.1-228**, **16.1-241**, **16.1-278.8**, **16.1-278.9**, **16.1-309**, **18.2-268.3**, **18.2-268.4**, **18.2-268.7**, **18.2-268.9**, **18.2-269**, **18.2-272**, **19.2-52**, **19.2-73**, **29.1-738.3**, **46.2-341.26:2**, **46.2-341.26:3**, **46.2-341.26:4**, **46.2-341.26:7**, **46.2-341.26:9**, **46.2-341.27**, **46.2-391.2**, **46.2-391.4**, and **46.2-2099.49** of the Code of Virginia are amended and reenacted as follows:

§ **8.01-44.5**. Punitive damages for persons injured by intoxicated drivers.

In any action for personal injury or death arising from the operation of a motor vehicle, engine or train, the finder of fact may, in its discretion, award punitive damages to the plaintiff if the evidence proves that the defendant acted with malice toward the plaintiff or the defendant's conduct was so willful or wanton as to show a conscious disregard for the rights of others.

A defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (i) when the incident causing the injury or death occurred, the defendant had a blood alcohol concentration of 0.15 percent or more by weight by volume or 0.15 grams or more per 210 liters of breath; (ii) at the time the defendant began drinking alcohol, or during the time he was drinking alcohol, he knew or should have known that his ability to operate a motor vehicle, engine or train would be impaired, or when he was operating a motor vehicle he knew or should have known that his ability to operate a motor vehicle was impaired; and (iii) the defendant's intoxication was a proximate cause of the injury to or death of the plaintiff. For the purposes of clause (i), it shall be rebuttably presumed that the blood alcohol concentration at the time of the incident causing injury or death was at least as high as the test result as shown in a certificate issued pursuant to § **18.2-268.9** ~~or~~, in a certificate of analysis for a blood test administered pursuant to § **18.2-268.7**, provided that the test was administered in accordance with the provisions of §§ **18.2-268.1** through **18.2-268.12**, *or in a certificate of analysis for a test performed by the Department of Forensic Science on whole blood drawn pursuant to a search warrant, provided that the test was administered in*

accordance with the provisions of §§ ***18.2-268.5****,* ***18.2-268.6****, and* ***18.2-268.7****.* In addition to any other forms of proof, a party may submit a copy of a certificate issued pursuant to § **18.2-268.9** ~~or~~*,* a certificate of analysis for a blood test administered pursuant to § **18.2-268.7***, or a certificate of analysis for a test performed by the Department of Forensic Science on whole blood drawn pursuant to a search warrant,* which shall be prima facie evidence of the facts contained therein and compliance with the *applicable* provisions of §§ **18.2-268.1** through **18.2-268.12**. *For the purposes of clause (ii), it shall be rebuttably presumed that the defendant who has consumed alcohol knew or should have known that his ability to operate a motor vehicle, engine, or train was or would be impaired by such consumption of alcohol.*

However, when a defendant has unreasonably refused to submit to a test of his blood alcohol content as required by § **18.2-268.2**, a defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (a) when the incident causing the injury or death occurred the defendant was intoxicated, which may be established by evidence concerning the conduct or condition of the defendant; (b) at the time the defendant began drinking alcohol,~~ or~~during the time he was drinking alcohol*, or when he was operating a motor vehicle,* he knew or should have known that his ability to operate a motor vehicle was impaired; and (c) the defendant's intoxication was a proximate cause of the injury to the plaintiff or death of the plaintiff's decedent. In addition to any other forms of proof, a party may submit a certified copy of a court's determination of unreasonable refusal pursuant to § **18.2-268.3**, which shall be prima facie evidence that the defendant unreasonably refused to submit to the test. *For the purposes of clause (b), it shall be rebuttably presumed that the defendant who has consumed alcohol knew or should have known that his ability to operate a motor vehicle, engine, or train was or would be impaired by such consumption of alcohol.*

Evidence of similar conduct by the same defendant subsequent to the date of the personal injury or death arising from the operation of a motor vehicle, engine, or train shall be admissible at trial for consideration by the jury or other finder of fact for the limited purpose of determining what amount of punitive damages may be appropriate to deter the defendant and others from similar future action.

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

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

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

§ **16.1-228**. Definitions.

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

"Abused or neglected child" means any child:

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

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

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

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

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

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § **55-79.2**, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § **9.1-902**; or

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

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

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

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

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

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

"Child," "juvenile," or "minor" means a person less than 18 years of age.

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

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

"Child in need of supervision" means:

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

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

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

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

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § **18.2-308.7**, or (iii) a violation of a court order as provided for in § **16.1-292**, but shall not include an act other than a violation of § **18.2-308.7**, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ **16.1-241** and **16.1-278.9**, the term shall include a refusal to take a ~~blood or~~ breath test in violation of § **18.2-268.2** or a similar ordinance of any county, city, or town.

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

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

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

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

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § **63.2-100** or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § **16.1-293**.

"Independent living arrangement" means placement of a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency and has been placed by the local board or licensed child-placing agency in a living arrangement in which he does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or

private child-placing agency. "Independent living services" may also mean services and activities provided to a person who was in foster care on his 18th birthday and has not yet reached the age of 21 years. Such services shall include counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ **16.1-241**. Jurisdiction; consent for abortion.

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § **16.1-244**;

4. Who is the subject of an entrustment agreement entered into pursuant to § **63.2-903** or **63.2-1817** or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § **16.1-244**;~~ and~~

6. Who is charged with a traffic infraction as defined in § **46.2-100***; or*

*7. Who is alleged to have refused to take a blood test in violation of § **18.2-268.2**.*

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § **16.1-269.1**, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § **16.1-269.1**, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § **16.1-269.1**, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time

of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § **16.1-269.1** to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § **16.1-269.1**, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § **16.1-269.6**.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § **16.1-269.1**.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § **63.2-1241**, or (iii) who has been convicted of a violation of subsection A of § **18.2-61**, § **18.2-63**, subsection B of § **18.2-366**, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ **16.1-335**et seq.) and the involuntary admission of a person with mental illness or judicial certification of eligibility for admission to a training center for persons with intellectual disability in accordance with the provisions of Chapter 8 (§ **37.2-800** et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown, (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § **63.2-903** or **63.2-1817** or is otherwise before the court pursuant to subdivision A 4; or

3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services that are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § **16.1-244**.

H. Judicial consent to apply for a work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law that causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § **18.2-49.1**.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § **16.1-253.1**, **16.1-253.4**, or **16.1-279.1**, and all petitions filed for the purpose of obtaining an order of protection pursuant to § **19.2-152.8**, **19.2-152.9**, or **19.2-152.10** if either the alleged victim or the respondent is a juvenile.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ **16.1-331** et seq.).

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ **63.2-1900** et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ **20-49.1** et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § **20-49.2**.

R. [Repealed.]

S. Petitions filed by school boards against parents pursuant to §§ **16.1-241.2** and **22.1-279.3**.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § **63.2-1526**.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § **63.2-1233**. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.

W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to subsection B of § **1-210**. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to perform the abortion without consent of or notice to an authorized person.

Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has been obtained or the minor delivers to the physician a court order entered pursuant to this section and the physician or his agent provides such notice as such order may require. However, neither consent nor judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and the attending physician has reason to suspect that the minor may be an abused or neglected child as defined in § **63.2-100** and reports the suspected abuse or neglect in accordance with § **63.2-1509**; or if there is a medical emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's medical record.

For purposes of this subsection:

"Authorization" means the minor has delivered to the physician a notarized, written statement signed by an authorized person that the authorized person knows of the minor's intent to have an abortion and consents to such abortion being performed on the minor.

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the minor regularly and customarily resides and who has care and control of the minor. Any person who knows he is not an authorized person and who knowingly and willfully signs an authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

"Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage as provided in § **18.2-72**, **18.2-73**, or **18.2-74**.

"Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ **16.1-331** et seq.).

X. Petitions filed pursuant to Article 17 (§ **16.1-349** et seq.) relating to standby guardians for minor children.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of § **17.1-272**, or subsection B, D, M, or R.

Notwithstanding the provisions of § **18.2-71**, any physician who performs an abortion in violation of subsection W shall be guilty of a Class 3 misdemeanor.

§ **16.1-278.8**. Delinquent juveniles.

A. If a juvenile is found to be delinquent, except where such finding involves a refusal to take a ~~blood or~~ breath test in violation of § **18.2-268.2** or a similar ordinance, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § **16.1-278**;

2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;

3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;

4. Defer disposition for a specific period of time established by the court with due regard for the gravity of the offense and the juvenile's history, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a boot camp established pursuant to § **66-13** provided bed space is available for confinement and the juvenile (i) has been found delinquent for an offense that would be a Class 1 misdemeanor or felony if committed by an adult, (ii) has not previously been and is not currently being adjudicated delinquent or found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp, (iv) has not previously been committed to and received by the Department, and (v) has had an assessment completed by the Department or its contractor concerning the appropriateness of the candidate for a boot camp. Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;

5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a specific period of time established by the court with due regard for the gravity of the offense and the juvenile's history, and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;

6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;

7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;

7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and assessment pursuant to § **16.1-273** and that such assessment reasonably indicates that the commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition authorized by this section. The court shall review such placements at 30-day intervals;

8. Impose a fine not to exceed $500 upon such juvenile;

9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § **18.2-271.1** or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order that identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical custody of the court during any period of curfew restriction. The court shall send an abstract of any order issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a record thereof. Notwithstanding the provisions of Article 12 (§ **16.1-299** et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section ~~shall be~~ *is* guilty of a violation of § **46.2-301**.

The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order imposing the curfew;

10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

11. Require the juvenile to participate in a public service project under such conditions as the court prescribes;

12. In case of traffic violations, impose only those penalties that are authorized to be imposed on adults for such violations. However, for those violations punishable by confinement if committed by an adult, confinement shall be imposed only as authorized by this title;

13. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the juvenile;

b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the Director; or

c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the juvenile has residence if other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and custody, provided that

it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of social services in the Commonwealth when such local board consents to the commitment. The board to which the juvenile is committed shall have the final authority to determine the appropriate placement for the juvenile. Any order authorizing removal from the home and transferring legal custody of a juvenile to a local board of social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so state;

14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § **16.1-273**, commit the juvenile to the Department of Juvenile Justice, but only if he is 11 years of age or older and the current offense is (i) an offense that would be a felony if committed by an adult, (ii) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent based on an offense that would be a felony if committed by an adult, or (iii) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or scheme;

15. Impose the penalty authorized by § **16.1-284**;

16. Impose the penalty authorized by § **16.1-284.1**;

17. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § **16.1-273**, impose the penalty authorized by § **16.1-285.1**;

18. Impose the penalty authorized by § **16.1-278.9**; or

19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § **16.1-309.7**, if available, when a juvenile has been found delinquent of any of the following violations: § **18.2-51**, **18.2-51.1**, **18.2-52**, **18.2-53**, **18.2-55**, **18.2-56**, **18.2-57**, **18.2-57.2**, **18.2-121**, **18.2-127**, **18.2-128**, **18.2-137**, **18.2-138**, **18.2-146**, or **18.2-147**, or any violation of a local ordinance adopted pursuant to § **15.2-1812.2**.

B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense: § **18.2-51**, **18.2-51.1**, **18.2-52**, **18.2-53**, **18.2-55**, **18.2-56**, **18.2-57**, **18.2-57.2**, **18.2-121**, **18.2-127**, **18.2-128**, **18.2-137**, **18.2-138**, **18.2-146**, or **18.2-147**; or for any violation of a local ordinance adopted pursuant to § **15.2-1812.2**. The court shall further require the juvenile to participate in a community service project under such conditions as the court prescribes.

§ **16.1-278.9**. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § **18.2-266** or of a similar ordinance of any county, city or town, (ii) a refusal to take a ~~blood or~~ breath test in violation of § **18.2-268.2**, (iii) a felony violation of § **18.2-248**, **18.2-248.1** or **18.2-250**, (iv) a misdemeanor violation of § **18.2-248**, **18.2-248.1**, or **18.2-250** or a violation of § **18.2-250.1**, (v) the unlawful purchase, possession or consumption of alcohol in violation of § **4.1-305** or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § **4.1-309**, (vi) public intoxication in violation of § **18.2-388** or a similar ordinance of a county, city or town, (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below, or (viii) a violation of § **18.2-83**, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § **18.2-270**. If the offense involves a violation designated under clause (i), (ii), (iii) or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v) or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F of this section. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § **18.2-251**. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § **22.1-258**, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

*A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § **18.2-268.2**, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.*

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 *or A2*shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1~~ of this section~~ *or A2*. Notwithstanding the provisions of Article 12 (§ **16.1-299** et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A *or a violation designated under subsection A2*, the child may be referred to a certified alcohol safety action program in accordance with § **18.2-271.1** upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 *or A2* for any of the purposes set forth in subsection E of § **18.2-271.1** or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A~~ or~~, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1*, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2*. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section~~shall be~~ *is* guilty of a violation of § **46.2-301**.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 *or A2*. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and

dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § **18.2-251**. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § **16.1-278.8**.

§ **16.1-309**. Penalty.

A. Except as provided in §§ **16.1-299**, **16.1-300**, **16.1-301**, **16.1-305** and **16.1-307**, any person who (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii) participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed concerning such allegations and whose information is derived solely from such interview or (v) is present during any court proceeding, who discloses or makes use of or knowingly permits the use of identifying information not otherwise available to the public concerning a juvenile who is suspected of being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to subdivisions *A* 1 through 5 *or subdivision A 7* of ~~subsection A of~~ § **16.1-241** or who is in the custody of the State Department of Juvenile Justice, which information is directly or indirectly derived from the records or files of a law-enforcement agency, court or the Department of Juvenile Justice or acquired in the course of official duties, ~~shall be~~ *is* guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to any law-enforcement officer or school employee who discloses to school personnel identifying information concerning a juvenile who is suspected of committing or has committed a delinquent act that has met applicable criteria of § **16.1-260** and is committed or alleged to have been committed on school property during a school-sponsored activity or on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile. Further, the provisions of this section shall not apply to school personnel who disclose information obtained pursuant to §§ **16.1-305.1** and **22.1-288.2**, if the disclosure is made in compliance with those sections.

§ **18.2-268.3**. Refusal of tests; penalties; procedures.

A. It ~~shall be~~ *is* unlawful for a person who is arrested for a violation of § **18.2-266**~~,~~ *or* **18.2-266.1**~~,~~ or subsection B of § **18.2-272** or of a similar ordinance to unreasonably refuse to have samples of his ~~blood or~~ breath ~~or both blood and breath~~ taken for chemical tests to determine the alcohol ~~or drug~~ content of his blood as required by § **18.2-268.2**, and any person who so unreasonably refuses is guilty of a violation of this ~~section.~~ *subsection, which is punishable as follows:*

*1. A first violation is a civil offense. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § **46.2-391.2**.*

*2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § **18.2-266**, or a violation of any offense listed in subsection E of § **18.2-270**arising out of separate occurrences or incidents, he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself operate to deprive the person of the*

*privilege to drive for a period of three years from the date of the judgment of conviction. This revocation period is in addition to the suspension period provided under § **46.2-391.2**.*

B. *It is unlawful for a person who is arrested for a violation of § **18.2-266** or **18.2-266.1** or subsection B of § **18.2-272** or of a similar ordinance to unreasonably refuse to have samples of his blood taken for chemical tests to determine the alcohol or drug content of his blood as required by § **18.2-268.2** and any person who so unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as follows:*

*1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § **46.2-391.2**.*

*2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § **18.2-266**, or a violation of any offense listed in subsection E of § **18.2-270**arising out of separate occurrences or incidents, such violation shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment. This revocation period is in addition to the suspension period provided under § **46.2-391.2**.*

C. When a person is arrested for a violation of § **18.2-51.4**, **18.2-266**, *or* **18.2-266.1** or~~,~~ subsection B of § **18.2-272** or of a similar ordinance and such person refuses to permit blood or breath or both blood and breath samples to be taken for testing as required by §**18.2-268.2**, the arresting officer shall advise the person, from a form provided by the Office of the Executive Secretary of the Supreme Court~~, that~~ (i) *that* a person who operates a motor vehicle upon a highway in the Commonwealth is deemed thereby, as a condition of such operation, to have consented to have samples of his blood and breath taken for chemical tests to determine the alcohol or drug content of his blood, (ii) *that* a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, (iii) *that* the unreasonable refusal to do so constitutes grounds for the revocation of the privilege of operating a motor vehicle upon the highways of the Commonwealth, (iv)~~ the criminal penalty for unreasonable refusal within 10 years of a prior conviction for driving while intoxicated or unreasonable refusal is a Class 2 misdemeanor~~ *of the civil penalties for unreasonable refusal to have blood or breath or both blood and breath samples taken*, and (v) *of* the criminal penalty for unreasonable refusal *to have breath samples taken* within 10 years of~~ any two~~ *a* prior~~ convictions~~ *conviction* for driving while intoxicated or unreasonable refusal, *which* is a Class 1 misdemeanor. The form from which the arresting officer shall advise the person arrested shall contain a brief statement of the law requiring the taking of blood or breath samples, a statement that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, and the penalties for refusal. The Office of the Executive Secretary of the Supreme Court shall make the form available on the Internet and the form shall be considered an official publication of the Commonwealth for the purposes of § **8.01-388**.

~~C.~~ *D.* The arresting officer shall, under oath before the magistrate, execute the form and certify~~,~~ (i) that the defendant has refused to permit blood or breath or both blood and breath samples to be taken for testing; (ii) that the officer has read the portion of the form described in subsection~~ B~~ *C* to the arrested person; (iii) that the arrested person, after having had the portion of the form described in subsection~~ B~~ *C* read to him, has refused to permit such sample or samples to be taken; and (iv) how many, if any, violations of this section, § **18.2-266**, or any offense described in subsection E of § **18.2-270** the arrested person has been convicted of within the last 10 years. Such sworn certification shall constitute probable cause for the magistrate to issue a warrant or summons charging the person with unreasonable refusal. The magistrate shall attach the executed and sworn advisement form to the warrant or summons. The warrant or summons for a first offense under~~ this section~~ *subsection A or any offense under subsection B* shall be executed in the same manner as a criminal warrant or summons. If the

person arrested has been taken to a medical facility for treatment or evaluation of his medical condition, the arresting officer may read the advisement form to the person at the medical facility, and issue, on the premises of the medical facility, a summons for a violation of this section in lieu of securing a warrant or summons from the magistrate. The magistrate or arresting officer, as the case may be, shall forward the executed advisement form and warrant or summons to the appropriate court.

~~D. A first violation of this section is a civil offense and subsequent violations are criminal offenses. For a first offense the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § **46.2-391.2**.~~

~~If a person is found to have violated this section and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § **18.2-266**, or a violation of any offense listed in subsection E of § **18.2-270**, arising out of separate occurrences or incidents, he is guilty of a Class 2 misdemeanor and the court shall suspend the defendant's privilege to drive for a period of three years. This suspension period is in addition to the suspension period provided under § **46.2-391.2**.~~

~~If a person is found guilty of a violation of this section and within 10 years prior to the date of the refusal he was found guilty of any two of the following: a violation of this section, a violation of § **18.2-266**, or a violation of any offense listed in subsection E of § **18.2-270**arising out of separate occurrences or incidents, he is guilty of a Class 1 misdemeanor and the court shall suspend the defendant's privilege to drive for a period of three years. This suspension period is in addition to the suspension period provided under § **46.2-391.2**.~~

§ **18.2-268.4**. Trial and appeal for refusal.

A. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which the offense of driving under the influence of intoxicants or other offense listed in subsection A *or B* of § **18.2-268.3** is to be tried.

B. The procedure for appeal and trial of ~~a first~~ *any civil* offense of § **18.2-268.3** shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ **19.2-260** et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

C. If the defendant pleads guilty to a violation of § **18.2-266**~~,~~ *or* **18.2-266.1**~~,~~ or subsection B of § **18.2-272** or of a similar ordinance, the court may dismiss the warrant or summons.

The court shall dispose of the defendant's license in accordance with the provisions of § **46.2-398**; however, the defendant's license shall not be returned during any period of suspension imposed under § **46.2-391.2**.

§ **18.2-268.7**. Transmission of blood test samples; use as evidence.

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § **18.2-268.6**, the Department shall have it examined for its alcohol or drug or both alcohol and drug content and the Director shall execute a certificate of analysis indicating the name of the accused; the date, time and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol

or drug or both alcohol and drug content. The Director shall remove the withdrawal certificate from the vial and either (i) attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached or (ii) electronically scan it into the Department's Laboratory Information Management System and place the original withdrawal certificate in its case-specific file. The certificate of analysis and the withdrawal certificate shall be returned or electronically transmitted to the clerk of the court in which the charge will be heard.

B. After completion of the analysis, the Department shall preserve the remainder of the blood until at least 90 days have lapsed~~ from the date the blood was drawn. During this 90-day period, the~~ *The* accused may, *at any time prior to the expiration of such 90-day period,* by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis.~~ The~~ *On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence, provided that the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT). If no notice of a motion to transmit the remainder of the blood sample is received prior to the expiration of the 90-day period, the* Department shall destroy the remainder of the blood sample~~ if no notice of a motion to transmit the remaining blood sample is received during the 90-day period~~ *unless the Commonwealth has filed a written request with the Department to return the remainder of the blood sample to the investigating law-enforcement agency. In such case, the Department shall return the remainder of the blood sample, if not sent to an independent laboratory, to the investigating law-enforcement agency.*

C. When a blood sample taken in accordance with the provisions of §§ **18.2-268.2** through **18.2-268.6** is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § **19.2-187.1** have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § **19.2-187.1**, or (ii) in any civil proceeding.~~ On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence provided the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).~~

Upon request of the person whose blood was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

§ **18.2-268.9**. Assurance of breath-test validity; use of breath-test results as evidence.

A. To be capable of being considered valid as evidence in a prosecution under § **18.2-266**~~,~~ *or* **18.2-266.1**~~,~~ or subsection B of § **18.2-272**~~,~~ or a similar ordinance, chemical analysis of a person's breath shall be performed by

an individual possessing a valid license to conduct such tests, with a type of equipment and in accordance with methods approved by the Department.

B. The Department shall establish a training program for all individuals who are to administer the breath tests. Upon a person's successful completion of the training program, the Department may license him to conduct breath-test analyses. Such license shall identify the specific types of breath test equipment upon which the individual has successfully completed training. Any individual conducting a breath test under the provisions of § **18.2-268.2** shall issue a certificate which will indicate that the test was conducted in accordance with the Department's specifications, the name of the accused, that prior to administration of the test the accused was advised of his right to observe the process and see the blood alcohol reading on the equipment used to perform the breath test, the date and time the sample was taken from the accused, the sample's alcohol content, and the name of the person who examined the sample. This certificate, when attested by the individual conducting the breath test on equipment maintained by the Department, shall be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § **19.2-187.1** have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § **19.2-187.1**, or (ii) in any civil proceeding. Any such certificate of analysis purporting to be signed by a person authorized by the Department shall be admissible in evidence without proof of seal or signature of the person whose name is signed to it. A copy of the certificate shall be promptly delivered to the accused. Copies of Department records relating to any breath test conducted pursuant to this section shall be admissible provided such copies are authenticated as true copies either by the custodian thereof or by the person to whom the custodian reports.

~~The officer making the arrest, or anyone with him at the time of the arrest, or anyone participating in the arrest of the accused, if otherwise~~ *Any person* qualified to conduct ~~such~~ *a breath* test as provided by this section~~,~~ may administer the breath test ~~and~~ *or* analyze the results.

§ **18.2-269**. Presumptions from alcohol or drug content of blood.

A. In any prosecution for a violation of § **18.2-36.1** or clause (ii), (iii), or (iv) of § **18.2-266**~~,~~ or any similar ordinance, the amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcohol or drug content of his blood *(i)* in accordance with the provisions of §§ **18.2-268.1** through **18.2-268.12** *or (ii) performed by the Department of Forensic Science in accordance with the provisions of §§* ***18.2-268.5***, ***18.2-268.6***, *and* ***18.2-268.7*** *on the suspect's whole blood drawn pursuant to a search warrant* shall give rise to the following rebuttable presumptions:

~~(1)~~ *1.* If there was at that time 0.05 percent or less by weight by volume of alcohol in the accused's blood or 0.05 grams or less per 210 liters of the accused's breath, it shall be presumed that the accused was not under the influence of alcohol intoxicants at the time of the alleged offense;

~~(2)~~ *2.* If there was at that time in excess of 0.05 percent but less than 0.08 percent by weight by volume of alcohol in the accused's blood or 0.05 grams but less than 0.08 grams per 210 liters of the accused's breath, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcohol intoxicants at the time of the alleged offense, but such facts may be considered with other competent evidence in determining the guilt or innocence of the accused;

~~(3)~~ *3.* If there was at that time 0.08 percent or more by weight by volume of alcohol in the accused's blood or 0.08 grams or more per 210 liters of the accused's breath, it shall be presumed that the accused was under the influence of alcohol intoxicants at the time of the alleged offense; or

~~(4)~~ *4.* If there was at that time an amount of the following substances at a level that is equal to or greater than: ~~(a)~~ *(i)* 0.02 milligrams of cocaine per liter of blood, ~~(b)~~ *(ii)* 0.1 milligrams of methamphetamine per liter of blood, ~~(c)~~ *(iii)* 0.01 milligrams of phencyclidine per liter of blood, or ~~(d)~~ *(iv)* 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood, it shall be presumed that the accused was under the influence of drugs at the time of the alleged offense to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely.

B. The provisions of this section shall not apply to and shall not affect any prosecution for a violation of § **46.2-341.24**.

§ **18.2-272**. Driving after forfeiture of license.

A. Any person who drives or operates any motor vehicle, engine or train in the Commonwealth during the time for which he was deprived of the right to do so (i) upon conviction of a violation of § **18.2-268.3** *or* ***46.2-341.26:3*** or of an offense set forth in subsection E of § **18.2-270**, (ii) by § **18.2-271** or **46.2-391.2**, (iii) after his license has been revoked pursuant to § **46.2-389** or **46.2-391**, or (iv) in violation of the terms of a restricted license issued pursuant to subsection E of § **18.2-271.1**, is guilty of a Class 1 misdemeanor except as otherwise provided in § **46.2-391**, and is subject to administrative revocation of his driver's license pursuant to §§ **46.2-389** and **46.2-391**. Any person convicted of three violations of this section committed within a 10-year period is guilty of a Class 6 felony.

Nothing in this section or § **18.2-266**, **18.2-270**, or **18.2-271**~~,~~ shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance.

B. Regardless of compliance with any other restrictions on his privilege to drive or operate a motor vehicle, it shall be a violation of this section for any person whose privilege to drive or operate a motor vehicle has been restricted, suspended or revoked because of a violation of § **18.2-36.1**, **18.2-51.4**, **18.2-266**, **18.2-268.3**, **46.2-341.24**, *or* ***46.2-341.26:3*** or a similar ordinance or law of another state or the United States to drive or operate a motor vehicle while he has a blood alcohol content of 0.02 percent or more.

Any person suspected of a violation of this subsection shall be entitled to a preliminary breath test in accordance with the provisions of § **18.2-267**, shall be deemed to have given his implied consent to have samples of his blood, breath or both taken for analysis pursuant to the provisions of § **18.2-268.2**, and, when charged with a violation of this subsection, shall be subject to the provisions of §§ **18.2-268.1** through **18.2-268.12**.

C. Any person who drives or operates a motor vehicle without a certified ignition interlock system as required by § **46.2-391.01** is guilty of a Class 1 misdemeanor and is subject to administrative revocation of his driver's license pursuant to §§ **46.2-389** and **46.2-391**.

§ **19.2-52**. When search warrant may issue.

Except as provided in § **19.2-56.1**, search warrants, based upon complaint on oath supported by an affidavit as required in § **19.2-54**, may be issued by any judge, magistrate or other person having authority to issue criminal warrants, if he be satisfied from such complaint and affidavit that there is reasonable and probable cause for the issuance of such search warrant.

*An application for a search warrant to withdraw blood from a person suspected of violating § **18.2-266**, **18.2-266.1**, **18.2-272**, **29.1-738**, **29.1-738.02**, or **46.2-341.24** shall be given priority over any pending matters not involving an imminent risk to another's health or safety before such judge, magistrate, or other person having authority to issue criminal warrants.*

§ **19.2-73**. Issuance of summons instead of warrant in certain cases.

A. In any misdemeanor case or in any class of misdemeanor cases, or in any case involving complaints made by any state or local governmental official or employee having responsibility for the enforcement of any statute, ordinance or administrative regulation, the magistrate or other issuing authority having jurisdiction may issue a summons instead of a warrant when there is reason to believe that the person charged will appear in the courts having jurisdiction over the trial of the offense charged.

B. If any person under suspicion for driving while intoxicated has been taken to a medical facility for treatment or evaluation of his medical condition, the officer at the medical facility may issue, on the premises of the medical facility, a summons for a violation of § **18.2-266**, **18.2-266.1**, **18.2-272**, or **46.2-341.24** and for refusal of tests in violation of subsection A *or B* of § **18.2-268.3** or subsection A of § **46.2-341.26:3**, in lieu of securing a warrant and without having to detain that person, provided that the officer has probable cause to place him under arrest. The issuance of such summons shall be deemed an arrest for purposes of Article 2 (§ **18.2-266** et seq.) of Chapter 7 of Title 18.2.

C. Any person on whom such summons is served shall appear on the date set forth in same, and if such person fails to appear in such court at such time and on such date then he shall be treated in accordance with the provisions of § **19.2-128**, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

§ **29.1-738.3**. Presumptions from alcohol or drug content.

In any prosecution for operating a watercraft or motorboat ~~which~~ *that* is underway in violation of clause (ii), (iii), or (iv) of subsection B of § **29.1-738**, or of a similar ordinance of any county, city or town, the amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcohol or drug content of his blood *(i)* in accordance with the provisions of § **29.1-738.2** *or (ii) performed by the Department of Forensic Science in accordance with the provisions of §§ **18.2-268.5**, **18.2-268.6**, and **18.2-268.7** on the suspect's whole blood drawn pursuant to a search warrant* shall give rise to the rebuttable presumptions of subdivisions ~~(1)~~ *A 1* through ~~(4)~~ *4* of ~~subsection A of~~ § **18.2-269**.

§ **46.2-341.26:2**. Implied consent to post-arrest chemical test to determine alcohol or drug content of blood of commercial driver.

A. Any person, whether licensed by Virginia or not, who operates a commercial motor vehicle upon a highway as defined in § **46.2-100** in the Commonwealth shall be deemed thereby, as a condition of such operation, to

have consented to have samples of his blood, breath, or both blood and breath taken for a chemical test to determine the alcohol, drug or both alcohol and drug content of his blood, if he is arrested for violation of § **46.2-341.24** or **46.2-341.31** within ~~two~~ *three* hours of the alleged offense.

B. Such person shall be required to have a breath sample taken and shall be entitled, upon request, to observe the process of analysis and to see the blood-alcohol reading on the equipment used to perform the breath test. If the equipment automatically produces a written printout of the breath test result, the printout or a copy shall be given to the suspect. If a breath test is not available, then a blood test shall be required.

C. The person may be required to submit to blood tests to determine the drug content of his blood if he has been arrested pursuant to provision (iii), (iv), or (v) of subsection A of § **46.2-341.24**, or if he has taken the breath test required pursuant to subsection B and the law-enforcement officer has reasonable cause to believe the person was driving under the influence of any drug or combination of drugs, or the combined influence of alcohol and drugs.

D. If the certificate of analysis referred to in § **46.2-341.26:9** indicates the presence of alcohol in the suspect's blood, the suspect shall be taken before a magistrate to determine whether the magistrate should issue an out-of-service order prohibiting the suspect from driving any commercial motor vehicle for a 24-hour period. If the magistrate finds that there is probable cause to believe that the suspect was driving a commercial motor vehicle with any measurable amount of alcohol in his blood, the magistrate shall issue an out-of-service order prohibiting the suspect from driving any commercial motor vehicle for a period of 24 hours. The magistrate shall forward a copy of the out-of-service order to the Department within seven days after issuing the order. The order shall be in addition to any other action or sanction permitted or required by law to be taken against or imposed upon the suspect.

§ **46.2-341.26:3**. Refusal of tests; issuance of out-of-service orders; disqualification.

A. ~~If~~ *It is unlawful for a person who is arrested for a violation of § **46.2-341.24** or **46.2-341.31** to unreasonably refuse to have samples of his breath taken for chemical tests to determine the alcohol content of his blood as required by § **46.2-341.26:2**, and any person who so unreasonably refuses is guilty of a violation of this subsection, which is punishable as follows:*

*1. A first violation is a civil offense. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § **46.2-391.2**.*

*2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of any offense listed in subsection E of § **18.2-270**, or a violation of § **46.2-341.24** or**46.2-341.31** arising out of separate occurrences or incidents, he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment of conviction. This revocation period is in addition to the suspension period provided under § **46.2-391.2**.*

*B. It is unlawful for a person who is arrested for a violation of § **46.2-341.24** or **46.2-341.31** to unreasonably refuse to have samples of his blood taken for chemical tests to determine the alcohol or drug content of his blood as required by § **46.2-341.26:2**, and any person who so unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as follows:*

*1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § **46.2-391.2**.*

*2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of any offense listed in subsection E of § **18.2-270**, or a violation of § **46.2-341.24** or**46.2-341.31** arising out of separate occurrences or incidents, such violation shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment. This revocation period is in addition to the suspension period provided under § **46.2-391.2**.*

C. When a person *is* arrested for a violation of § **46.2-341.24** or~~ § **46.2-341.31**, after having been advised by a~~ *and such person refuses to permit blood or breath or both blood and breath samples to be taken for testing as required by § **46.2-341.26:2**, the arresting* law-enforcement officer *shall advise the person, from a form provided by the Office of the Executive Secretary of the Supreme Court,* (i) that a person who operates a commercial motor vehicle on a public highway in the Commonwealth is deemed thereby, as a condition of such operation, to have consented to have samples of his blood or breath taken for chemical tests to determine the alcohol or drug content of his blood, (ii) that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial,~~ and~~ (iii) that the unreasonable refusal to do so constitutes grounds for the *immediate* issuance of an out-of-service order*prohibiting him from driving a commercial vehicle for a period of 24 hours* and for the disqualification of such person from operating a commercial motor vehicle,~~ then refuses to permit blood or breath samples to be taken for such tests, the law-enforcement officer shall take the person before a magistrate. If he again refuses after having been further advised by the magistrate (i) of the law requiring blood or breath samples to be taken, (ii) that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, and (iii) the sanctions for refusal, and declares again his refusal in writing on a form provided by the Supreme Court, or refuses or fails to so declare in writing and such fact is certified as prescribed below, then no blood or breath samples shall be taken even though he may later request them.~~

~~B.~~ *(iv) of the civil penalties for unreasonable refusal to have blood or breath or both blood and breath samples taken, and (v) of the criminal penalty for unreasonable refusal to have breath samples taken within 10 years of a prior conviction for driving while intoxicated or unreasonable refusal, which is a Class 1 misdemeanor.* The form *from which the law-enforcement officer shall advise the person arrested* shall contain a brief statement of the law requiring the taking of blood or breath samples, that a finding of unreasonable refusal to consent *to testing* may be admitted as evidence at a criminal trial, and the~~ sanctions~~ *penalties* for refusal~~; a declaration of refusal; and lines for the signature of the person from whom the blood or breath sample is sought, the date, and the signature of a witness to the signing. If the person refuses or fails to execute the declaration, the magistrate shall certify such fact and that the magistrate advised the person that a refusal to permit a blood or breath sample to be taken, if found to be unreasonable, constitutes grounds for immediate issuance of an out-of-service order prohibiting him from driving a commercial vehicle for a period of twenty-four hours, and for the disqualification of such person from operating a commercial motor vehicle~~. *The Office of the Executive Secretary of the Supreme Court shall make the form available on the Internet, and the form shall be considered an official publication of the Commonwealth for the purposes of § **8.01-388**.*

D. The law-enforcement officer shall, under oath before the magistrate, execute the form and certify (i) that the defendant has refused to permit blood or breath or both blood and breath samples to be taken for testing; (ii) that the officer has read the portion of the form described in subsection C to the arrested person; (iii) that the arrested person, after having had the portion of the form described in subsection C read to him, had refused to permit such sample or samples to be taken; and (iv) how many, if any, violations of this section, any offense

*listed in subsection E of § **18.2-270**, or § **46.2-341.24** or **46.2-341.31** the arrested person has been convicted of within the last 10 years. Such sworn certification shall constitute probable cause for the magistrate to issue a warrant or summons charging the person with unreasonable refusal. The magistrate shall attach the executed and sworn advisement form to the warrant or summons. The warrant or summons for a first offense under subsection A or any offense under subsection B shall be executed in the same manner as a criminal warrant or summons. If the person arrested has been taken to a medical facility for treatment or evaluation of his medical condition, the law-enforcement officer may read the advisement form to the person at the medical facility and issue, on the premises of the medical facility, a summons for a violation of this section in lieu of securing a warrant or summons from the magistrate. The magistrate or law-enforcement officer, as the case may be, shall forward the executed advisement form and warrant or summons to the appropriate court.*

~~C.~~ *E.* If the magistrate finds that there was probable cause to believe the refusal was unreasonable, he shall immediately issue an out-of-service order prohibiting the person from operating a commercial motor vehicle for a period of ~~twenty-four~~ *24* hours ~~and shall issue a warrant or summons charging such person with a violation of § **46.2-341.26:2**. The warrant or summons shall be executed in the same manner as criminal warrants. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which the criminal offense is to be tried~~.

~~D. The executed declaration of refusal or the certificate of the magistrate, as the case may be, shall be attached to the warrant and shall be forwarded by the magistrate to the court.~~

~~E. When the court receives the declaration or certificate together with the warrant or summons charging refusal, the court shall fix a date for the trial of the warrant or summons, at such time as the court designates.~~

~~F. The declaration of refusal or certificate under § **46.2-341.26:3** shall be prima facie evidence that the defendant refused to allow a blood or breath sample to be taken to determine the alcohol or drug content of his blood. However, this shall not prohibit the defendant from introducing on his behalf evidence of the basis for his refusal. The court shall determine the reasonableness of such refusal.~~

§ **46.2-341.26:4**. Appeal and trial; sanctions for refusal; procedures.

*A. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which the offense of driving under the influence of intoxicants or other offense listed in subsection A or B of § **46.2-341.26:3** is to be tried.*

B. The procedure for appeal and trial *of any civil offense of § **46.2-341.26:3*** shall be the same as provided by law for misdemeanors. If requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ **19.2-260** et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

C. If ~~the court or jury finds the defendant guilty as charged in the warrant or summons referred to in § **46.2-341.26:3**, the defendant shall be disqualified as provided in § **46.2-341.18**. However, if~~ the defendant pleads guilty to a violation of § **46.2-341.24**, the court may dismiss the warrant or summons.

The court shall ~~notify the Commissioner of any such finding of guilt and shall forward~~ *dispose of* the defendant's license ~~to the Commissioner as in other cases of similar nature for suspension of license unless the defendant appeals his conviction. In such case the court shall return the license to the defendant upon his appeal being~~

~~perfected~~ *in accordance with the provisions of § **46.2-398**; however, the defendant's license shall not be returned during any period of suspension imposed under § **46.2-391.2**.*

§ **46.2-341.26:7**. Transmission of samples.

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § **46.2-341.26:6**, the Department shall have it examined for its alcohol or drug content, and the Director shall execute a certificate of analysis indicating the name of the suspect; the date, time, and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug content. The Director or his representative shall remove the withdrawal certificate from the vial and either (i) attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached or (ii) electronically scan it into the Department's Laboratory Information Management System and place the original withdrawal certificate in its case-specific file. The certificate of analysis and the withdrawal certificate shall be returned or electronically transmitted to the clerk of the court in which the charge will be heard.

B. After completion of the analysis, the Department shall preserve the remainder of the blood until at least 90 days have lapsed~~ from the date the blood was drawn. During this 90-day period, the~~ *The* accused may, *at any time prior to the expiration of such 90-day period,* by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis.~~ The~~ *On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence, provided that the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT). If no notice of a motion to transmit the remainder of the blood sample is received prior to the expiration of the 90-day period, the* Department shall destroy the remainder of the blood sample~~ if no notice of a motion to transmit the remaining blood sample is received during the 90-day period~~ *unless the Commonwealth has filed a written request with the Department to return the remainder of the blood sample to the investigating law-enforcement agency. In such case, the Department shall return the remainder of the blood sample, if not sent to an independent laboratory, to the investigating law-enforcement agency.*

~~B.~~ *C.* When a blood sample taken in accordance with the provisions of §§ **46.2-341.26:2** through **46.2-341.26:6** is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § **19.2-187.1** have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § **19.2-187.1**, or (ii) in any civil proceeding.~~ On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence provided the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American~~

~~Pathologists (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).~~

Upon request of the person whose blood or breath was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

§ **46.2-341.26:9**. Assurance of breath test validity; use of breath tests as evidence.

To be capable of being considered valid in a prosecution under § **46.2-341.24** or **46.2-341.31**, chemical analysis of a person's breath shall be performed by an individual possessing a valid license to conduct such tests, with the type of equipment and in accordance with methods approved by the Department.

Any individual conducting a breath test under the provisions of § **46.2-341.26:2** shall issue a certificate which includes the name of the suspect, the date and time the sample was taken from the suspect, the alcohol content of the sample, and the identity of the person who examined the sample. The certificate will also indicate that the test was conducted in accordance with the Department's specifications.

The certificate of analysis, when attested by the authorized individual conducting the breath test on equipment maintained by the Department, shall be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § **19.2-187.1** have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § **19.2-187.1**, or (ii) in any civil proceeding. Any such certificate of analysis purporting to be signed by a person authorized by the Department shall be admissible in evidence without proof of seal or signature of the person whose name is signed to it.

A copy of such certificate shall be promptly delivered to the suspect.~~ The law enforcement officer requiring the test or anyone with such officer at the time if otherwise~~ *Any person* qualified to conduct~~ such~~ *a breath* test as provided by this section~~,~~ may administer the breath test or analyze the results thereof.

§ **46.2-341.27**. Presumptions from alcohol and drug content of blood.

In any prosecution for a violation of clause (ii), (iii), or (iv) of subsection A of § **46.2-341.24**, the amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the suspect's blood or breath to determine the alcohol or drug content of his blood *(i)* in accordance with the provisions of §§ **46.2-341.26:1** through **46.2-341.26:11** *or (ii) performed by the Department of Forensic Science in accordance with the provisions of §§* ***46.2-341.26:5***, ***46.2-341.26:6***, *and* ***46.2-341.26:7*** *on the suspect's whole blood drawn pursuant to a search warrant* shall give rise to the following rebuttable presumptions:

A. If there was at that time 0.08 percent or more by weight by volume of alcohol in the accused's blood or 0.08 grams or more per 210 liters of the accused's breath, it shall be presumed that the accused was under the influence of alcoholic intoxicants.

B. If there was at that time less than 0.08 percent by weight by volume of alcohol in the accused's blood or 0.08 grams or more per 210 liters of the accused's breath, such fact shall not give rise to any presumption that the

accused was or was not under the influence of alcoholic intoxicants, but such fact may be considered with other competent evidence in determining the guilt or innocence of the accused.

C. If there was at that time an amount of the following substances at a level that is equal to or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood, it shall be presumed that the accused was under the influence of drugs to a degree which impairs his ability to drive or operate any commercial motor vehicle safely.

§ **46.2-391.2**. Administrative suspension of license or privilege to operate a motor vehicle.

A. If a breath test is taken pursuant to § **18.2-268.2** or any similar ordinance *or § **46.2-341.26:2*** and (i) the results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath, or (ii) the results, for persons under 21 years of age, show a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath or (iii) the person refuses to submit to the breath or blood test in violation of § **18.2-268.3** or any similar ordinance *or § **46.2-341.26:3***, and upon issuance of a petition or summons, or upon issuance of a warrant by the magistrate, for a violation of § **18.2-51.4**, **18.2-266**, or **18.2-266.1**, or any similar ordinance, *or § **46.2-341.24*** or upon the issuance of a warrant or summons by the magistrate or by the arresting officer at a medical facility for a violation of § **18.2-268.3**, or any similar ordinance, *or § **46.2-341.26:3***,the person's license shall be suspended immediately or in the case of ~~(i)~~ *(a)* an unlicensed person, ~~(ii)~~ *(b)* a person whose license is otherwise suspended or revoked, or ~~(iii)~~ *(c)* a person whose driver's license is from a jurisdiction other than the Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended immediately. The period of suspension of the person's license or privilege to drive shall be seven days, unless the petition, summons or warrant issued charges the person with a second or subsequent offense. If the person is charged with a second offense the suspension shall be for 60 days. If not already expired, the period of suspension shall expire on the day and time of trial of the offense charged on the petition, summons or warrant, except that it shall not so expire during the first seven days of the suspension. If the person is charged with a third or subsequent offense, the suspension shall be until the day and time of trial of the offense charged on the petition, summons or warrant.

A law-enforcement officer, acting on behalf of the Commonwealth, shall serve a notice of suspension personally on the arrested person. When notice is served, the arresting officer shall promptly take possession of any driver's license held by the person and issued by the Commonwealth and shall promptly deliver it to the magistrate. Any driver's license taken into possession under this section shall be forwarded promptly by the magistrate to the clerk of the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made together with any petition, summons or warrant, the results of the breath test, if any, and the report required by subsection B. A copy of the notice of suspension shall be forwarded forthwith to both ~~(a)~~ *(1)* the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made and ~~(b)~~ *(2)* the Commissioner. Transmission of this information may be made by electronic means.

The clerk shall promptly return the suspended license to the person at the expiration of the suspension. Whenever a suspended license is to be returned under this section or § **46.2-391.4**, the person may elect to have the license returned in person at the clerk's office or by mail to the address on the person's license or to such other address as he may request.

B. Promptly after arrest and service of the notice of suspension, the arresting officer shall forward to the magistrate a sworn report of the arrest that shall include (i) information which adequately identifies the person arrested and (ii) a statement setting forth the arresting officer's grounds for belief that the person violated § **18.2-51.4**, **18.2-266**, or **18.2-266.1**, or a similar ordinance, *or § **46.2-341.24*** or refused to submit to a breath or blood test in violation of § **18.2-268.3** or a similar ordinance *or § **46.2-341.26:3***. The report required by this subsection shall be submitted on forms supplied by the Supreme Court.

C. Any person whose license or privilege to operate a motor vehicle has been suspended under subsection A may, during the period of the suspension, request the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made to review that suspension. The court shall review the suspension within the same time period as the court hears an appeal from an order denying bail or fixing terms of bail or terms of recognizance, giving this matter precedence over all other matters on its docket. If the person proves to the court by a preponderance of the evidence that the arresting officer did not have probable cause for the arrest, that the magistrate did not have probable cause to issue the warrant, or that there was not probable cause for issuance of the petition, the court shall rescind the suspension, or that portion of it that exceeds seven days if there was not probable cause to charge a second offense or 60 days if there was not probable cause to charge a third or subsequent offense, and the clerk of the court shall forthwith, or at the expiration of the reduced suspension time, (i) return the suspended license, if any, to the person unless the license has been otherwise suspended or revoked, (ii) deliver to the person a notice that the suspension under § **46.2-391.2** has been rescinded or reduced, and (iii) forward to the Commissioner a copy of the notice that the suspension under § **46.2-391.2** has been rescinded or reduced. Otherwise, the court shall affirm the suspension. If the person requesting the review fails to appear without just cause, his right to review shall be waived.

The court's findings are without prejudice to the person contesting the suspension or to any other potential party as to any proceedings, civil or criminal, and shall not be evidence in any proceedings, civil or criminal.

D. If a person whose license or privilege to operate a motor vehicle is suspended under subsection A is convicted under § **18.2-36.1**,**18.2-51.4**, **18.2-266**, or **18.2-266.1**, or any similar ordinance, *or § **46.2-341.24*** during the suspension imposed by subsection A, and if the court decides to issue the person a restricted permit under subsection E of § **18.2-271.1**, such restricted permit shall not be issued to the person before the expiration of the first seven days of the suspension imposed under subsection A.

§ **46.2-391.4**. When suspension to be rescinded.

Notwithstanding any other provision of § **46.2-391.2**, a subsequent dismissal or acquittal of all the charges under ~~§§~~ *§* **18.2-36.1**, **18.2-51.4**, **18.2-266**, ~~and~~ *or* **18.2-268.3**, or any similar ordinances, *or § **46.2-341.24** or **46.2-341.26:3*** for the same offense for which a person's driver's license or privilege to operate a motor vehicle was suspended under § **46.2-391.2** shall result in the immediate rescission of the suspension. In any such case, the clerk of the court shall forthwith (i) return the suspended license, if any, to the person unless the license has been otherwise suspended or revoked~~,~~*;* (ii) deliver to the person a notice that the suspension under § **46.2-391.2** has been rescinded*;* and (iii) forward to the Commissioner a copy of the notice that the suspension under § **46.2-391.2** has been rescinded.

§ **46.2-2099.49**. Requirements for TNC partners; mandatory background screening; drug and alcohol policy; mandatory disclosures to TNC partners; duty of TNC partners to provide updated information to transportation network companies.

A. Before authorizing an individual to act as a TNC partner, a transportation network company shall confirm that the person is at least 21 years old and possesses a valid driver's license.

B. 1. Before authorizing an individual to act as a TNC partner, and at least once every two years after authorizing an individual to act as a TNC partner, a transportation network company shall obtain a national criminal history records check of that person. The background check shall include (i) a Multi-State/Multi-Jurisdiction Criminal Records Database Search or a search of a similar nationwide database with validation (primary source search) and (ii) a search of the Sex Offender and Crimes Against Minors Registry and the U.S. Department of Justice's National Sex Offender Public Website. The person conducting the background check shall be accredited by the National Association of Professional Background Screeners or a comparable entity approved by the Department.

2. Before authorizing an individual to act as a TNC partner, and at least once annually after authorizing an individual to act as a TNC partner, a transportation network company shall obtain and review a driving history research report on that person from the individual's state of licensure.

3. Before authorizing an individual to act as a TNC partner, and at least once every two years after authorizing a person to act as a TNC partner, a transportation network company shall verify that the person is not listed on the Sex Offender and Crimes Against Minors Registry or on the U.S. Department of Justice's National Sex Offender Public Website.

C. A transportation network company shall not authorize an individual to act as a TNC partner if the criminal history records check required under subsection B reveals that the individual:

1. Is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1 or is listed on the U.S. Department of Justice's National Sex Offender Public Website;

2. Has ever been convicted of or has ever pled guilty or nolo contendere to a violent felony offense as listed in subsection C of § **17.1-805**, or a substantially similar law of another state or of the United States;

3. Within the preceding seven years has been convicted of or has pled guilty or nolo contendere to any of the following offenses, either under Virginia law or a substantially similar law of another state or of the United States: (i) any felony offense other than those included in subdivision 2; (ii) an offense under § **18.2-266**, **18.2-266.1**, **18.2-272**, or **46.2-341.24**; or (iii) any offense resulting in revocation of a driver's license pursuant to § **46.2-389** or **46.2-391**; or

4. Within the preceding three years has been convicted of or has pled guilty or nolo contendere to any of the following offenses, either under Virginia law or a substantially similar law of another state or of the United States: (i) three or more moving violations; (ii) eluding a law-enforcement officer, as described in § **46.2-817**; (iii) reckless driving, as described in Article 7 (§ **46.2-852** et seq.) of Chapter 8; (iv) operating a motor vehicle in violation of § **46.2-301**; or (v) refusing to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath, as described in § **18.2-268.3** *or* ***46.2-341.26:3***.

D. A transportation network company shall employ a zero-tolerance policy with respect to the use of drugs and alcohol by TNC partners and shall include a notice concerning the policy on its website and associated digital platform.

E. A transportation network company shall make the following disclosures in writing to a TNC partner or prospective TNC partner:

1. The transportation network company shall disclose the liability insurance coverage and limits of liability that the transportation network company provides while the TNC partner uses a vehicle in connection with the transportation network company's digital platform.

2. The transportation network company shall disclose any physical damage coverage provided by the transportation network company for damage to the vehicle used by the TNC partner in connection with the transportation network company's digital platform.

3. The transportation network company shall disclose the uninsured motorist and underinsured motorist coverage and policy limits provided by the transportation network company while the TNC partner uses a vehicle in connection with the transportation network company's digital platform and advise the TNC partner that the TNC partner's personal automobile insurance policy may not provide uninsured motorist and underinsured motorist coverage when the TNC partner uses a vehicle in connection with a transportation network company's digital platform.

4. The transportation network company shall include the following disclosure prominently in writing to a TNC partner or prospective TNC partner: "If the vehicle that you plan to use to transport passengers for our transportation network company has a lien against it, you must notify the lienholder that you will be using the vehicle for transportation services that may violate the terms of your contract with the lienholder."

F. A TNC partner shall inform each transportation network company that has authorized him to act as a TNC partner of any event that may disqualify him from continuing to act as a TNC partner, including any of the following: a change in the registration status of the TNC partner vehicle; the revocation, suspension, cancellation, or restriction of the TNC partner's driver's license; a change in the insurance coverage of the TNC partner vehicle; a motor vehicle moving violation; and a criminal arrest, plea, or conviction.

2. That an emergency exists and this act is in force from its passage.

Driving commercial vehicle while intoxicated; penalties. Harmonizes the penalties for driving under the influence (DUI) and commercial DUI. The bill imposes a $250 mandatory minimum fine for a first offense of commercial DUI and mandatory minimum sentences of five days if the person's blood alcohol level was at least 0.15 and 10 days if the person's blood alcohol level was more than 0.20. The bill increases from five to 20 days the mandatory minimum sentence for a second offense committed within five years, adds a 10-day mandatory minimum sentence for a second offense committed within five to 10 years, and imposes a $500 mandatory minimum fine for any second offense committed within a 10-year period. The bill also imposes additional mandatory minimum sentences for a second offense committed within 10 years of 10 days if the person's blood alcohol level was at least 0.15 and 20 days if the person's blood alcohol level was more than 0.20 as well as an additional $500 mandatory minimum fine. The bill raises the penalty for a third offense committed within 10 years from a Class 1 misdemeanor with a mandatory minimum sentence of 10 days, or 30 days if the three offenses were committed within five years, to a Class 6 felony with a mandatory minimum sentence of 90 days, or six months if the three offenses were committed within five years, and a mandatory minimum fine of $1,000. The bill adds a penalty for a fourth or subsequent offense committed within a 10-year period that includes a mandatory minimum sentence of one year and a mandatory minimum fine of $1,000. The bill also provides that a person convicted of commercial DUI after being convicted of certain felony DUI or DUI-related offenses is guilty of a Class 6 felony with a mandatory minimum sentence of one year and a mandatory minimum fine of $1,000. The bill also provides that the punishment for any person convicted of commercial DUI who was transporting a minor at the time of the offense shall include an additional mandatory minimum sentence of five days and an additional fine of at least $500 and no more than $1,000. Finally, the bill provides that the mandatory minimum punishments are cumulative and mandatory minimum sentences must be served consecutively.

CHAPTER 286

*An Act to amend and reenact § **46.2-341.28** of the Code of Virginia, relating to driving commercial vehicle while intoxicated; penalties.*

[H 1622]
Approved March 3, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-341.28** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-341.28**. Penalty for driving commercial motor vehicle while intoxicated; subsequent offense; prior conviction.

~~Any~~ *A. Except as otherwise provided herein, any* person violating any provision of subsection A of § **46.2-341.24** ~~shall be~~ *is* guilty of a Class 1 misdemeanor *with a mandatory minimum fine of $250. If the person's blood alcohol level as indicated by the chemical test as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of five days or (ii) was more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10 days*.

B. 1. Any person convicted of a second offense committed within less than five years after a ~~first~~ *prior* offense under subsection A of § **46.2-341.24** shall *upon conviction of the second offense* be ~~punishable~~ *punished* by a *mandatory minimum* fine of ~~not less than $200 nor more than $2,500~~ *$500* and by confinement in jail for not less than one month nor more than one year. ~~Five~~ *Twenty* days of such confinement shall be a mandatory minimum sentence.

2. Any person convicted of a second offense committed within a period of five to 10 years of a ~~first~~ *prior* offense under subsection A of § **46.2-341.24** shall *upon conviction of the second offense* be ~~punishable~~ *punished* by a *mandatory minimum* fine of ~~not less than $200 nor more than $2,500~~ *$500* and by confinement in jail for not less than one month ~~nor more than one year~~. *Ten days of such confinement shall be a mandatory minimum sentence.*

3. Upon conviction of a second offense within 10 years of a prior offense, if the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10 days or (ii) was more than 0.20, he shall be confined for an additional mandatory minimum period of 20 days. In addition, such person shall be fined a mandatory minimum fine of $500.

C. 1. Any person convicted of ~~a third offense or subsequent offense committed within 10 years of an offense~~ *three offenses* under subsection A of § **46.2-341.24** ~~shall be punishable by a fine of not less than $500 nor more than $2,500 and by confinement in jail for not less than two months nor more than one year. Thirty days of such confinement~~ *within a 10-year period is upon conviction of the third offense guilty of a Class 6 felony. The sentence of any person convicted of three offenses under subsection A of § **46.2-341.24*** shall ~~be~~ *include* a mandatory minimum sentence ~~if the third or subsequent offense occurs within less than five years. Ten days of such confinement shall be a~~ *of 90 days, unless the three offenses were committed within a five-year period, in which case the sentence shall include a* mandatory minimum sentence ~~if the third or subsequent offense occurs within a period of five to 10 years of a first offense~~ *of confinement for six months. In addition, such person shall be fined a mandatory minimum fine of $1,000.*

*2. Any person who has been convicted of a violation of § **18.2-36.1**, **18.2-36.2**, **18.2-51.4**, or **18.2-51.5** or a felony violation under subsection A of § **46.2-341.24** is upon conviction of a subsequent violation under subsection A of § **46.2-341.24** guilty of a Class 6 felony. The punishment of any person convicted of such a subsequent violation under subsection A of § **46.2-341.24** shall include a mandatory minimum term of imprisonment of one year and a mandatory minimum fine of $1,000.*

*3. The punishment of any person convicted of a fourth or subsequent offense under subsection A of § **46.2-341.24** committed within a 10-year period shall, upon conviction, include a mandatory minimum term of imprisonment of one year. In addition, such person shall be fined a mandatory minimum fine of $1,000.*

*D. In addition to the penalty otherwise authorized by this section, any person convicted of a violation of subsection A of § **46.2-341.24**committed while transporting a person 17 years of age or younger shall be (i) fined an additional minimum of $500 and not more than $1,000 and (ii) sentenced to a mandatory minimum period of confinement of five days.*

E. For the ~~purposes~~ *purpose* of *determining the number of offenses committed by, and the punishment appropriate for, a person under* this section, a conviction *of any person* or finding of not innocent in the case of a juvenile under *the following shall be considered a conviction under subsection A of § **46.2-341.24**:* (i) § ***18.2-36.1***, **18.2-51.4**, or ~~§~~ **18.2-266**, *former § **18.1-54** (formerly § **18-75**), or subsection A of § **46.2-341.24**;* (ii) the ordinance of any county, city, or town in ~~this~~ *the* Commonwealth substantially similar to the provisions of ~~§~~ **18.2-51.4** ~~or §~~ **18.2-266**~~,~~ *any offense listed in clause (i); or* (iii) ~~subsection A of §~~ **46.2-341.24**~~, or (iv)~~ the

laws of any other state *or of the United States* substantially similar to the provisions of ~~§§~~ **18.2-51.4**~~,~~ **18.2-266** ~~or subsection A of §~~ **46.2-341.24**~~, shall be considered a prior conviction~~ *any offense listed in clause (i).*

F. Mandatory minimum punishments imposed pursuant to this section shall be cumulative, and mandatory minimum terms of confinement shall be served consecutively. However, in no case shall punishment imposed hereunder exceed the applicable statutory maximum Class 1 misdemeanor term of confinement or fine upon conviction of a first or second offense, or Class 6 felony term of confinement or fine upon conviction of a third or subsequent offense.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

DUI; search warrants for blood withdrawals. Provides that an application for a search warrant to perform a blood test on a person suspected of committing a DUI-related offense shall be given priority over pending matters that do not involve an imminent risk to another's health or safety.

CHAPTER 673

*An Act to amend and reenact § **19.2-52** of the Code of Virginia, relating to DUI; search warrants for blood withdrawals.*

[S 1564]
Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-52** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-52**. When search warrant may issue.

Except as provided in § **19.2-56.1**, search warrants, based upon complaint on oath supported by an affidavit as required in § **19.2-54**, may be issued by any judge, magistrate or other person having authority to issue criminal warrants, if he be satisfied from such complaint and affidavit that there is reasonable and probable cause for the issuance of such search warrant.

*An application for a search warrant to withdraw blood from a person suspected of violating § **18.2-266**, **18.2-266.1**, **18.2-272**, **29.1-738**, **29.1-738.02**, or **46.2-341.24** shall be given priority over any pending matters not involving an imminent risk to another's health or safety before such judge, magistrate, or other person having authority to issue criminal warrants.*

Providing support to terrorist organizations; penalty. Provides that any person who knowingly provides any material support to an individual or organization whose primary objective is to commit an act of terrorism and does so with the intent to further such objective is guilty of a Class 3 felony. If the provision of such material support results in the death of any person, the penalty is increased to a Class 2 felony. The bill also expands the definition of an act of terrorism to include an act committed outside the Commonwealth that would meet the definition of an act of violence if such act was committed within the Commonwealth.

CHAPTER 624

*An Act to amend and reenact §§ **18.2-46.4** and **18.2-46.5** of the Code of Virginia, relating to providing support to terrorist organizations; penalty.*

[H 2410]
Approved March 16, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-46.4** and **18.2-46.5** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-46.4**. Definitions.

As used in this article, unless the context requires otherwise or it is otherwise provided:

"Act of terrorism" means an act of violence as defined in clause (i) of subdivision A of § **19.2-297.1** *or an act that would be an act of violence if committed within the Commonwealth* committed *within or outside the Commonwealth* with the intent to (i) intimidate ~~the~~ *a* civilian population at large~~;~~ or (ii) influence the conduct or activities of ~~the~~ *a* government*, including the government* of the United States, a state, or locality, through intimidation.

"Base offense" means an act of violence as defined in clause (i) of subdivision A of § **19.2-297.1** committed with the intent required to commit an act of terrorism.

"Weapon of terrorism" means any device or material that is designed, intended or used to cause death, bodily injury or serious bodily harm, through the release, dissemination, or impact of (i) poisonous chemicals; (ii) an infectious biological substance; or (iii) release of radiation or radioactivity.

§ **18.2-46.5**. Committing, conspiring and aiding and abetting acts of terrorism prohibited; penalty.

A. Any person who commits or conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § **18.2-46.4**, is guilty of a Class 2 felony if the base offense of such act of terrorism may be punished by life imprisonment, or a term of imprisonment of not less than twenty years.

B. Any person who commits, conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § **18.2-46.4**, is guilty of a Class 3 felony if the maximum penalty for the base offense of such act of terrorism is a term of imprisonment or incarceration in jail of less than twenty years.

C. Any person who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause another to participate in an act or acts of terrorism, as defined in § **18.2-46.4**, is guilty of a Class 4 felony.

D. Any person who knowingly provides any material support (i) to an individual or organization, whose primary objective is to commit an act of terrorism and (ii) does so with the intent to further such individual's or organization's objective is guilty of a Class 3 felony. If the death of any person results from providing any material support, then the person who provided such material support is guilty of a Class 2 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Female genital mutilation; criminal penalty and civil action. Makes it a Class 1 misdemeanor for any person to knowingly circumcise, excise, or infibulate the labia major, labia minora, or clitoris of a minor. The bill makes it a Class 1 misdemeanor for any parent, guardian, or other person responsible for the care of a minor to consent to such circumcision, excision, or infibulation. The bill also makes it a Class 1 misdemeanor for any parent, guardian, or other person responsible for the care of a minor to knowingly remove or cause or permit the removal of such minor from the Commonwealth for the purposes of performing such circumcision, excision, or infibulation. The bill also provides a civil cause of action for any person injured by such circumcision, excision, or infibulation. The bill provides that any of these offenses shall be a separate and distinct offense and shall not preclude prosecution under any other statute.

CHAPTER 667

*An Act to amend and reenact § **19.2-8** of the Code of Virginia and to amend the Code of Virginia by adding sections numbered **8.01-42.5** and **18.2-51.7**, relating to female genital mutilation; criminal penalty and civil action.*

[S 1060]
Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-8** of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered **8.01-42.5** and **18.2-51.7** as follows:

*§ **8.01-42.5**. Civil action for female genital mutilation.*

*A. Any person injured by an individual who engaged in conduct that is prohibited under § **18.2-51.7**, whether or not the individual has been charged with or convicted of the alleged violation, may sue therefor and recover compensatory damages, punitive damages, and reasonable attorney fees and costs.*

*B. No action shall be commenced under this section more than 10 years after the later of (i) the date of the last act in violation of §**18.2-51.7** or (ii) the date on which such person attained 18 years of age.*

*§ **18.2-51.7**. Female genital mutilation.*

A. Any person who knowingly circumcises, excises, or infibulates, in whole or in any part, the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years is guilty of a Class 1 misdemeanor.

B. Any parent, guardian, or other person responsible for the care of a minor who consents to the circumcision, excision, or infibulation, in whole or in any part, of the labia majora or labia minora or clitoris of such minor is guilty of a Class 1 misdemeanor.

C. Any parent, guardian, or other person responsible for the care of a minor who knowingly removes or causes or permits the removal of such minor from the Commonwealth for the purposes of committing an offense under subsection A is guilty of a Class 1 misdemeanor.

D. A surgical operation is not a violation of this section if the operation is (i) necessary to the health of the person on whom it is performed and is performed by a person licensed in the place of its performance as a medical practitioner or (ii) performed on a person in labor who has just given birth and is performed for

medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

E. A violation of this section shall constitute a separate and distinct offense. The provisions of this section shall not preclude prosecution under any other statute.

§ **19.2-8**. Limitation of prosecutions.

A prosecution for a misdemeanor, or any pecuniary fine, forfeiture, penalty or amercement, shall be commenced within one year next after there was cause therefor, except that a prosecution for petit larceny may be commenced within five years, and for an attempt to produce abortion, within two years after commission of the offense.

A prosecution for any misdemeanor violation of § **54.1-3904** shall be commenced within two years of the discovery of the offense.

A prosecution for violation of laws governing the placement of children for adoption without a license pursuant to § **63.2-1701** shall be commenced within one year from the date of the filing of the petition for adoption.

A prosecution for making a false statement or representation of a material fact knowing it to be false or knowingly failing to disclose a material fact, to obtain or increase any benefit or other payment under the Virginia Unemployment Compensation Act (§ **60.2-100** et seq.) shall be commenced within three years next after the commission of the offense.

A prosecution for any violation of § **10.1-1320**, **62.1-44.32** (b), **62.1-194.1**, or Article 11 (§ **62.1-44.34:14** et seq.) of Chapter 3.1 of Title 62.1 that involves the discharge, dumping or emission of any toxic substance as defined in § **32.1-239** shall be commenced within three years next after the commission of the offense.

Prosecution of Building Code violations under § **36-106** shall commence within one year of discovery of the offense by the building official, provided that such discovery occurs within two years of the date of initial occupancy or use after construction of the building or structure, or the issuance of a certificate of use and occupancy for the building or structure, whichever is later. However, prosecutions under § **36-106** relating to the maintenance of existing buildings or structures as contained in the Uniform Statewide Building Code shall commence within one year of the issuance of a notice of violation for the offense by the building official.

Prosecution of any misdemeanor violation of § **54.1-111** shall commence within one year of the discovery of the offense by the complainant, but in no case later than five years from occurrence of the offense.

Prosecution of any misdemeanor violation of any professional licensure requirement imposed by a locality shall commence within one year of the discovery of the offense by the complainant, but in no case later than five years from occurrence of the offense.

Prosecution of nonfelonious offenses which constitute malfeasance in office shall commence within two years next after the commission of the offense.

Prosecution of any violation of § **55-79.87**, **55-79.88**, **55-79.89**, **55-79.90**, **55-79.93**, **55-79.94**, **55-79.95**, **55-79.103**, or any rule adopted under or order issued pursuant to § **55-79.98**, shall commence within three years next after the commission of the offense.

Prosecution of illegal sales or purchases of wild birds, wild animals and freshwater fish under § **29.1-553** shall commence within three years after commission of the offense.

Prosecution of violations under Title 58.1 for offenses involving false or fraudulent statements, documents or returns, or for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof, or for the offense of willfully failing to pay any tax, or willfully failing to make any return at the time or times required by law or regulations shall commence within three years next after the commission of the offense, unless a longer period is otherwise prescribed.

Prosecution of violations of subsection A or B of § **3.2-6570** shall commence within five years of the commission of the offense, except violations regarding agricultural animals shall commence within one year of the commission of the offense.

A prosecution for a violation of § **18.2-386.1** shall be commenced within five years of the commission of the offense.

A prosecution for any violation of the Campaign Finance Disclosure Act, Chapter 9.3 (§ **24.2-945** et seq.) of Title 24.2, shall commence within one year of the discovery of the offense but in no case more than three years after the date of the commission of the offense.

A prosecution of a crime that is punishable as a misdemeanor pursuant to the Virginia Computer Crimes Act (§ **18.2-152.1** et seq.) or pursuant to § **18.2-186.3** for identity theft shall be commenced before the earlier of (i) five years after the commission of the last act in the course of conduct constituting a violation of the article or (ii) one year after the existence of the illegal act and the identity of the offender are discovered by the Commonwealth, by the owner, or by anyone else who is damaged by such violation.

A prosecution of a misdemeanor under § ***18.2-51.7***, **18.2-64.2**, **18.2-67.4**, **18.2-67.4:1**, **18.2-67.4:2**, **18.2-67.5**, or **18.2-370.6** where the victim is a minor at the time of the offense shall be commenced no later than one year after the victim reaches majority.

A prosecution for a violation of § **18.2-260.1** shall be commenced within three years of the commission of the offense.

Nothing in this section shall be construed to apply to any person fleeing from justice or concealing himself within or without the Commonwealth to avoid arrest or be construed to limit the time within which any prosecution may be commenced for desertion of a spouse or child or for neglect or refusal or failure to provide for the support and maintenance of a spouse or child.

Search warrants; customer records from financial institutions. Provides that a search warrant for records pertaining to a customer of a financial institution, money transmitter, commercial business that provides credit reports, or credit card issuer may be executed in the Commonwealth by hand, mail, commercial delivery service, facsimile, or other electronic means. The bill requires the executing officer to file the warrant in the circuit court clerk's office where the warrant was executed within three days after receiving the ordered records. The bill eliminates the requirement that a copy of the warrant be filed where the warrant was issued for all search warrants. The bill provides that the search warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located. This bill is identical to **SB 1310.**

CHAPTER 641

*An Act to amend and reenact §§ **19.2-54** and **19.2-56** of the Code of Virginia, relating to search warrants.*

[H 1874]
Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **19.2-54** and **19.2-56** of the Code of Virginia are amended and reenacted as follows:

§ **19.2-54**. Affidavit preliminary to issuance of search warrant; general search warrant prohibited; effect of failure to file affidavit.

No search warrant shall be issued until there is filed with the officer authorized to issue the same an affidavit of some person reasonably describing the place, thing, or person to be searched, the things or persons to be searched for thereunder, alleging briefly material facts, constituting the probable cause for the issuance of such warrant and alleging substantially the offense in relation to which such search is to be made and that the object, thing, or person searched for constitutes evidence of the commission of such offense. The affidavit may be filed by electronically transmitted (i) facsimile process or (ii) electronic record as defined in § **59.1-480**. Such affidavit shall be certified by the officer who issues such warrant and delivered in person; mailed by certified mail, return receipt requested; or delivered by electronically transmitted facsimile process or by use of filing and security procedures as defined in the Uniform Electronic Transactions Act (§ **59.1-479** et seq.) for transmitting signed documents, by such officer or his designee or agent, to the clerk of the circuit court of the county or city wherein the search is made, ~~with a copy of the affidavit also being delivered to the clerk of the circuit court of the county or city where the warrant is issued, if in a different county or city,~~ within seven days after the issuance of such warrant and shall by such ~~clerks~~ *clerk* be preserved as a record and shall at all times be subject to inspection by the public after the warrant that is the subject of the affidavit has been executed or 15 days after issuance of the warrant, whichever is earlier; however, such affidavit, any warrant issued pursuant thereto, any return made thereon, and any order sealing the affidavit, warrant, or return may be temporarily sealed for a specific period of time by the appropriate court upon application of the attorney for the Commonwealth for good cause shown in an ex parte hearing. Any individual arrested and claiming to be aggrieved by such search and seizure or any person who claims to be entitled to lawful possession of such property seized may move the appropriate court for the unsealing of such affidavit, warrant, and return. The burden of proof with respect to continued sealing shall be upon the Commonwealth. Each such clerk shall maintain an index of all such affidavits filed in his office in order to facilitate inspection. No such warrant shall be issued on an affidavit omitting such essentials, and no general warrant for the search of a house, place, compartment, vehicle or baggage shall be issued. The term "affidavit" as used in this section, means statements made under oath or affirmation and preserved verbatim.

Failure of the officer issuing such warrant to file the required affidavit shall not invalidate any search made under the warrant unless such failure shall continue for a period of 30 days. If the affidavit is filed prior to the expiration of the 30-day period, nevertheless, evidence obtained in any such search shall not be admissible until a reasonable time after the filing of the required affidavit.

§ **19.2-56**. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall ~~(i)~~ *(a)* name the affiant, ~~(ii)~~ *(b)* recite the offense in relation to which the search is to be made, ~~(iii)~~ *(c)* name or describe the place to be searched, ~~(iv)~~ *(d)* describe the property or person to be searched for, and ~~(v)~~ *(e)* recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense in relation to which the warrant was issued as provided in § **19.2-57**.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except ~~(i)~~ *(1)* the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and ~~(ii)~~ *(2)* persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or without the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § **19.2-57**, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be

made in the circuit court clerk's office for the jurisdiction wherein the warrant was issued. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § **19.2-70.3** using the same process described in the preceding paragraph.

*Notwithstanding the provisions of § **19.2-57**, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § **6.2-604**, money transmitter as defined in § **6.2-1900**, commercial business providing credit history or credit reports, or issuer as defined in § **6.2-424** may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.*

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § **19.2-54**, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § **19.2-54**.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § **13.1-759** to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general

manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § **13.1-775**.

Search warrants; person subject to arrest. Authorizes the issuance of a search warrant to search for and seize any person for whom a warrant or process for arrest has been issued. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to **SB 1260.**

CHAPTER 233

*An Act to amend and reenact §§ **19.2-53**, **19.2-54**, and **19.2-56** of the Code of Virginia, relating to search warrants; persons subject to warrant or capias for arrest.*

[H 2084]
Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **19.2-53**, **19.2-54**, and **19.2-56** of the Code of Virginia are amended and reenacted as follows:

§ **19.2-53**. What may be searched and seized.

A. Search warrants may be issued for the search of or for specified places, things or persons, and seizure therefrom of the following things as specified in the warrant:

1. Weapons or other objects used in the commission of crime;

2. Articles or things the sale or possession of which is unlawful;

3. Stolen property or the fruits of any crime;

4. Any object, thing, or person, including without limitation, documents, books, papers, records or body fluids, constituting evidence of the commission of crime*; or*

5. Any person to be arrested for whom a warrant or process for arrest has been issued.

Notwithstanding any other provision in this chapter to the contrary, no search warrant may be issued as a substitute for a witness subpoena.

B. Any search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall be deemed to include the search and seizure of the physical components and the electronic or digital information contained in any such computer, computer network, or other device.

C. Any search, including the search of the contents of any computer, computer network, or other device conducted pursuant to subsection B, may be conducted in any location and is not limited to the location where the evidence was seized.

§ **19.2-54**. Affidavit preliminary to issuance of search warrant; general search warrant prohibited; effect of failure to file affidavit.

No search warrant shall be issued until there is filed with the officer authorized to issue the same an affidavit of some person reasonably describing the place, thing, or person to be searched, the things or persons to be searched for thereunder, alleging briefly material facts, constituting the probable cause for the issuance of such warrant and alleging substantially the offense *or the identity of the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which such search is to be made and that the object, thing, or person searched for constitutes evidence of the commission of such offense *or is the person to be arrested for whom a warrant or process for arrest has been issued*. The affidavit may be filed by electronically transmitted (i) facsimile process or (ii) electronic record as defined in § **59.1-480**. Such affidavit shall be certified by the officer who issues such warrant and delivered in person; mailed by certified mail, return receipt requested; or delivered by electronically transmitted facsimile process or by use of filing and security procedures as defined in the Uniform Electronic Transactions Act (§ **59.1-479** et seq.) for transmitting signed documents, by such officer or his designee or agent, to the clerk of the circuit court of the county or city wherein the search is made, with a copy of the affidavit also being delivered to the clerk of the circuit court of the county or city where the warrant is issued, if in a different county or city, within seven days after the issuance of such warrant and shall by such clerks be preserved as a record and shall at all times be subject to inspection by the public after the warrant that is the subject of the affidavit has been executed or 15 days after issuance of the warrant, whichever is earlier; however, such affidavit, any warrant issued pursuant thereto, any return made thereon, and any order sealing the affidavit, warrant, or return may be temporarily sealed for a specific period of time by the appropriate court upon application of the attorney for the Commonwealth for good cause shown in an ex parte hearing. Any individual arrested and claiming to be aggrieved by such search and seizure or any person who claims to be entitled to lawful possession of such property seized may move the appropriate court for the unsealing of such affidavit, warrant, and return. The burden of proof with respect to continued sealing shall be upon the Commonwealth. Each such clerk shall maintain an index of all such affidavits filed in his office in order to facilitate inspection. No such warrant shall be issued on an affidavit omitting such essentials, and no general warrant for the search of a house, place, compartment, vehicle or baggage shall be issued. The term "affidavit" as used in this section, means statements made under oath or affirmation and preserved verbatim.

Failure of the officer issuing such warrant to file the required affidavit shall not invalidate any search made under the warrant unless such failure shall continue for a period of 30 days. If the affidavit is filed prior to the expiration of the 30-day period, nevertheless, evidence obtained in any such search shall not be admissible until a reasonable time after the filing of the required affidavit.

§ **19.2-56**. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall ~~(i)~~ *(a)* name the affiant, ~~(ii)~~ *(b)* recite the offense *or the identity of the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which the search is to be

made, ~~(iii)~~ *(c)* name or describe the place to be searched, ~~(iv)~~ *(d)* describe the property or person to be searched for, and ~~(v)~~ *(e)* recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime *or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched*.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense *or over the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which the warrant was issued as provided in § **19.2-57**.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except ~~(i)~~ *(1)* the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and ~~(ii)~~ *(2)* persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or without the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § **19.2-57**, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was issued. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § **19.2-70.3** using the same process described in the preceding paragraph.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § **19.2-54**, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § **19.2-54**.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § **13.1-759** to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § **13.1-775**.

Address confidentiality program; victims of sexual violence and human trafficking. Expands the types of crimes victims of which are eligible to apply for the address confidentiality program to include sexual violence. The bill provides that such programs may also include specialized services for victims of human trafficking. Current law permits victims of domestic violence and stalking to apply to this program. The bill requires that sexual or domestic violence programs be accredited by the Virginia Sexual and Domestic Violence Program Professional Standards Committee to accept applications and authorizes crime victim and witness assistance programs to accept applications. The bill increases program participants' certification period from one to three years. The bill contains technical amendments.

CHAPTER 498

*An Act to amend and reenact § **2.2-515.2** of the Code of Virginia, relating to address confidentiality program; victims of sexual violence and human trafficking.*

[H 2217]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **2.2-515.2** of the Code of Virginia is amended and reenacted as follows:

§ **2.2-515.2**. Address confidentiality program established; victims of domestic violence, stalking, sexual violence, or human trafficking; application; disclosure of records.

A. As used in this section:

"Address" means a residential street address, school address, or work address of a person as specified on the person's application to be a program participant.

"Applicant" means a person who is a victim of domestic violence ~~or~~, stalking, *or sexual violence* or is a parent or guardian of a minor child or incapacitated person who is the victim of domestic violence ~~or~~, stalking, *or sexual violence*.

"Domestic violence" means an act as defined in § **38.2-508** and includes threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law-enforcement officers. Such threat must be a threat of force which would place any person in reasonable apprehension of death or bodily injury.

~~"Domestic violence programs" means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence or stalking.~~

"Program participant" means a person certified by the Office of the Attorney General as eligible to participate in the Address Confidentiality Program.

"Sexual or domestic violence programs" means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence, or stalking. Such programs may also include specialized services for victims of human trafficking.

*"Sexual violence" means conduct that is prohibited under clause (ii), (iii), (iv), or (v) of § **18.2-48**, or § **18.2-61**, **18.2-63**, **18.2-64.1**, **18.2-67.1**, **18.2-67.2**, **18.2-67.3**, **18.2-67.4**, **18.2-67.5**, **18.2-348**, **18.2-349**, **18.2-***

355, ***18.2-356***, ***18.2-357***, ***18.2-357.1***, *or* ***18.2-368***, *regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted of the alleged violation.*

"Stalking" means conduct that is prohibited under § **18.2-60.3**, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted for the alleged violation.

B. The Statewide Facilitator for Victims of Domestic Violence shall establish a program to be known as the "Address Confidentiality Program" to protect victims of domestic violence~~ and~~, stalking, *or sexual violence* by authorizing the use of designated addresses for such victims. An individual who is at least 18 years of age, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of an incapacitated person, or an emancipated minor may apply in person~~,~~ at *(i) sexual or* domestic violence programs that~~provide services where the role of the services provider is (i) to~~ *have been accredited by the Virginia Sexual and Domestic Violence Program Professional Standards Committee established pursuant to § **9.1-116.3** and are qualified to (a)* assist the eligible person in determining whether the address confidentiality program should be part of such person's overall safety plan~~; (ii) to~~, *(b)* explain the address confidentiality program services and limitations~~; (iii) to~~, *(c)* explain the program participant's responsibilities~~;~~, and~~ (iv) to~~, *(d)*assist the person eligible for participation with the completion of application materials *or (ii) crime victim and witness assistance programs*. The Office of the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if the application contains the following:

1. A sworn statement by the applicant declaring to be true and correct under penalty of perjury that the applicant has good reason to believe that:

a. The applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of domestic violence, *sexual violence,* or stalking;

b. The applicant fears further~~ violent acts or~~ acts of *violence*, stalking, *retribution, or intimidation* from the applicant's assailant, *abuser, or trafficker*; and

c. The applicant is not on active parole or probation supervision requirements under federal, state, or local law.

2. A designation of the Office of the Attorney General as agent for the purpose of receiving mail on behalf of the applicant;

3. The applicant's actual address to which mail can be forwarded and a telephone number where the applicant can be called;

4. A listing of any minor children residing at the applicant's actual address, each minor child's date of birth, and each minor child's relationship to the applicant; and

5. The signature of the applicant and any person who assisted in the preparation of the application and the date.

C. Upon approval of a completed application, the Office of the Attorney General shall certify the applicant as a program participant. An applicant shall be certified for~~ one year~~ *three years* following the date of the approval, unless the certification is withdrawn or invalidated before that date. A program participant may apply to be recertified every~~ year~~ *three years*.

D. Upon receipt of first-class mail addressed to a program participant, the Attorney General or his designee shall forward the mail to the actual address of the program participant. The actual address of a program participant shall be available only to the Attorney General and to those employees involved in the operation of the Address Confidentiality Program and to law-enforcement officers. A program participant's actual address may be entered into the Virginia Criminal Information Network (VCIN) system so that it may be made known to law-enforcement officers accessing the VCIN system for law-enforcement purposes.

E. The Office of the Attorney General may cancel a program participant's certification if:

1. The program participant requests withdrawal from the program;

2. The program participant obtains a name change through an order of the court and does not provide notice and a copy of the order to the Office of the Attorney General within seven days after entry of the order;

3. The program participant changes his residence address and does not provide seven days' notice to the Office of the Attorney General prior to the change of address;

4. The mail forwarded by the Office of the Attorney General to the address provided by the program participant is returned as undeliverable;

5. Any information contained in the application is false;

6. The program participant has been placed on parole or probation while a participant in the address confidentiality program; or

7. The applicant is required to register as a sex offender pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1.

For purposes of the address confidentiality program, residents of temporary housing for 30 days or less are not eligible to enroll in the address confidentiality program until a permanent residential address is obtained.

The application form shall contain a statement notifying each applicant of the provisions of this subsection.

F. A program participant may request that any state or local agency use the address designated by the Office of the Attorney General as the program participant's address, except when the program participant is purchasing a firearm from a dealer in firearms. The agency shall accept the address designated by the Office of the Attorney General as a program participant's address, unless the agency has received a written exemption from the Office of the Attorney General demonstrating to the satisfaction of the Attorney General that:

1. The agency has a bona fide statutory basis for requiring the program participant to disclose to it the actual location of the program participant; and

2. The disclosed confidential address of the program participant will be used only for that statutory purpose and will not be disclosed or made available in any way to any other person or agency.

A state agency may request an exemption by providing in writing to the Office of the Attorney General identification of the statute or administrative rule that demonstrates the agency's bona fide requirement and authority for the use of the actual address of an individual. A request for a waiver from an agency may be for an

individual program participant, a class of program participants, or all program participants. The denial of an agency's exemption request shall be in writing and include a statement of the specific reasons for the denial. Acceptance or denial of an agency's exemption request shall constitute final agency action.

Any state or local agency that discloses the program participant's confidential address provided by the Office of the Attorney General shall be immune from civil liability unless the agency acted with gross negligence or willful misconduct.

A program participant's actual address shall be disclosed pursuant to a court order.

G. Records submitted to or provided by the Office of the Attorney General in accordance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ **2.2-3700** et seq.) to the extent such records contain information identifying a past or current program participant, including such person's name, actual and designated address, telephone number, and any email address. However, access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of a program participant in cases where the program participant is a minor child or an incapacitated person, except when the parent or legal guardian is named as the program participant's assailant.

H. Neither the Office of the Attorney General, its officers or employees, or others who have a responsibility to a program participant under this section shall have any liability nor shall any cause of action arise against them in their official or personal capacity from the failure of a program participant to receive any first class mail forwarded to him by the Office of the Attorney General pursuant to this section. Nor shall any such liability or cause of action arise from the failure of a program participant to timely receive any first class mail forwarded by the Office of the Attorney General pursuant to this section.

Computer trespass; government computers and computers used for public utilities; penalty. Increases the Class 1 misdemeanor computer trespass crimes to a Class 6 felony if the computer affected is one that is exclusively for the use of, or used by or for, the Commonwealth, a local government within the Commonwealth, or certain public utilities.

CHAPTER 562

*An Act to amend and reenact § **18.2-152.4** of the Code of Virginia, relating to computer trespass; government computers and public utilities; penalty.*

[H 1815]
Approved March 16, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-152.4** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-152.4**. Computer trespass; penalty.

A. It shall be unlawful for any person, with malicious intent, to:

1. Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs or computer software from a computer or computer network;

2. Cause a computer to malfunction, regardless of how long the malfunction persists;

3. Alter, disable, or erase any computer data, computer programs or computer software;

4. Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;

5. Use a computer or computer network to cause physical injury to the property of another;

6. Use a computer or computer network to make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs or computer software residing in, communicated by, or produced by a computer or computer network;

7. [Repealed.]

8. Install or cause to be installed, or collect information through, computer software that records all or a majority of the keystrokes made on the computer of another without the computer owner's authorization; or

9. Install or cause to be installed on the computer of another, computer software for the purpose of (i) taking control of that computer so that it can cause damage to another computer or (ii) disabling or disrupting the ability of the computer to share or transmit instructions or data to other computers or to any related computer equipment or devices, including but not limited to printers, scanners, or fax machines.

B. Any person who violates this section is guilty of computer trespass, which shall be a Class 1 misdemeanor. *Any person who violates this section for the purposes of affecting a computer that is exclusively for the use of, or exclusively used by or for, (i) the Commonwealth or any local government within the*

Commonwealth or any department or agency thereof or (ii) a provider of telephone, including wireless or voice over Internet protocol, oil, electric, gas, sewer, wastewater, or water service to the public is guilty of a Class 6 felony. If there is damage to the property of another valued at $1,000 or more caused by such person's act in violation of this section, the offense shall be a Class 6 felony. If a person installs or causes to be installed computer software in violation of this section on more than five computers of another, the offense shall be a Class 6 felony. If a person violates subdivision A 8, the offense shall be a Class 6 felony.

C. Nothing in this section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, a Virginia-based electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this article. Nothing in this section shall be construed to prohibit the monitoring of computer usage of, the otherwise lawful copying of data of, or the denial of computer or Internet access to a minor by a parent or legal guardian of the minor.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4**, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

CRIMINAL – SUMMARY ONLY

HB1642 and SB1031- § 54.1-3408 - Possession and administration of naloxone. Adds employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, and employees of the Department of General Services Division of Consolidated Laboratory Services to the list of individuals who may possess and administer naloxone or other opioid antagonist, provided that they have completed a training program. The bill contains an emergency clause. This bill is identical to **SB 1031.**

SB1008 - §§ 15.2-914, 16.1-333.1, 19.2-389, 19.2-392.02, 22.1-296.3, 32.1-126.01, 32.1-162.9:1, 37.2-314, 37.2-408.1, 37.2-416, 37.2-506, 63.2-901.1, 63.2-1601.1, 63.2-1717, 63.2-1719, 63.2-1720 - Criminal history records checks; barrier crimes. Clarifies the individual crimes that constitute a barrier for (i) individuals seeking employment at nursing homes, home care organizations, hospices, state facilities, and private providers licensed by the Department of Behavioral Health and Developmental Services, community services boards, behavioral health authorities, assisted living facilities, adult day care centers, children's welfare agencies, family day homes approved by family day systems, and children's residential facilities; (ii) applicants for licensure, registration, or approval as assisted living facilities, child welfare agencies, or family day homes approved by family day systems; (iii) individuals with whom a local board of social services or child-placing agency is considering placing a child on an emergency, temporary, or permanent basis; (iv) foster and adoptive homes seeking approval from child-placing agencies; and (v) providers of adult services and adult foster care seeking approval by the Department of Social Services. The bill also adds certain offenses to the list of barrier crimes.

HB1422 and SB839 - § 59.1-200 - Virginia Consumer Protection Act; storm-related repairs. Provides that it is a prohibited practice under the Virginia Consumer Protection Act for a supplier to engage in fraudulent or improper or dishonest conduct while engaged in a transaction that was initiated (i) during a declared state of emergency or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is a licensed contractor. This bill is identical to SB 839.

HB1453 and SB848 - §§ 8.01-225 and 54.1-3408 - Dispensing of naloxone. Allows a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423 to dispense naloxone to a person who has completed a training program on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber, (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, and (iii) without charge or compensation. The bill also provides that dispensing may occur at a site other than that of the controlled substance registration, provided that the entity possessing the controlled substance registration maintains records in accordance with regulations of the Board of Pharmacy. The bill further provides that a person who dispenses naloxone shall not be liable for civil damages of ordinary negligence for acts or omissions resulting from the rendering of such treatment if he acts in good faith and that a person to whom naloxone has been dispensed pursuant to the provisions of the bill may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. The bill contains an emergency clause. This bill is identical to SB 848.

HB1921 and SB973 - § 18.2-57 - Assault and battery; health care providers; penalty. Expands the penalty for battery against a health care provider who is engaged in the performance of his duties to apply in hospitals or in emergency rooms on the premises of any clinic or other facility rendering emergency care. Under current law, the penalties only apply to a battery against an emergency health care provider. The bill requires the Department of Health to work with stakeholder groups to develop guidelines regarding the publication of penalties for battery on a health care provider and for the training of health care professionals and providers in violence prevention programs. This bill is identical to SB 973.

HB1545 and SB853 - §§ 19.2-321.1 and 19.2-321.2 - Delayed appeals in criminal cases; assignment of errors dismissed in part. Provides that an appellant may file a motion for leave to pursue a delayed appeal in a

criminal case in the Court of Appeals of Virginia when the appeal was dismissed, in whole or in part, for a failure to (i) initiate the appeal; (ii) adhere to proper form, procedures, or time limits in the perfection of the appeal; or (iii) file the indispensable transcript or written statement of facts, even if other parts of the appeal were refused on the merits. Under current law, an appellant may not pursue a delayed appeal in such a case if part of the appeal was refused on the merits. The bill also provides that an appellant may file a motion for leave to pursue a delayed appeal in a criminal case that is appealed to the Supreme Court of Virginia from the Court of Appeals of Virginia for those assignments of error that were dismissed because they did not adhere to a proper form, even if other assignments of error were refused on the merits. As introduced, this bill was a recommendation of the Judicial Council of Virginia. This bill is identical to SB 853.

HB1560 - § 19.2-294.2 - Procedure when aliens convicted of certain felonies; forms. Requires an alienage determination made by a probation or parole officer to be submitted to the Central Criminal Records Exchange of the Department of State Police (Exchange) in a format approved by the Exchange. Current law requires the Exchange to provide reporting forms to the probation and parole officers.

HB1580 - § 18.2-374.1:1 - Possession of child pornography by employees of the Department of Social Services. Provides that an employee of the Department of Social Services or a local department of social services may, in the course of conducting his professional duties, lawfully possess child pornography for a bona fide purpose.

HB1404 and SB1054 - §§ 15.2-1716.1 and 18.2-212 - Activation of fire alarms; reimbursement of expenses; penalty. Removes the condition that a building must be for public use in order for the Class 1 misdemeanor for maliciously activating a building's fire alarm to apply. The bill authorizes any locality to provide by ordinance that a person convicted of maliciously activating a fire alarm shall be liable for the reasonable expense in responding to such a fire alarm. Current law allows such an ordinance to impose liability for the reasonable expense of an emergency response to an imitation version of a weapon of terrorism, fire bomb, other explosive device, bomb threat, or incitement of a bomb threat. The bill increases the maximum amount that a locality or volunteer emergency medical services agency may recover under such an ordinance from $1,000 to $2,500. This bill is identical to SB 1054.

HB1913 and SB1390 - §§ 58.1-623, 58.1-1000, and 58.1-1017.3 - Purchase of cigarettes for resale; penalties. Creates a new requirement that purchasers of cigarettes for resale must apply for a special cigarette exemption certificate from the Department of Taxation in order to not be liable for the payment of sales tax at the time of purchase. The bill sets forth numerous requirements that a taxpayer must meet in order to qualify for a cigarette exemption certificate and establishes processes and procedures for the application, renewal, denial, and revocation of the certificates. The bill creates new recordkeeping requirements for the sale or distribution of any quantity of cigarettes in excess of 50 cartons, or with a value greater than $10,000 in any single sale. The bill also contains technical amendments. The provisions of the bill requiring the use of a cigarette exemption certificate have a delayed effective date of January 1, 2018. This bill is identical to SB 1390.

HB2165 - §§ 54.1-3401, 54.1-3408.02, and 54.1-3410 - Opiate prescriptions; electronic prescriptions. Requires a prescription for any controlled substance containing an opiate to be issued as an electronic prescription and prohibits a pharmacist from dispensing a controlled substance that contains an opiate unless the prescription is issued as an electronic prescription, beginning July 1, 2020. The bill defines electronic prescription as a written prescription that is generated on an electronic application and provides that Schedule II through V prescriptions must be transmitted in accordance with federal regulations. The bill requires the Secretary of Health and Human Resources to convene a work group to review actions necessary for the implementation of the bill's provisions and to evaluate hardships on prescribers and the inability of prescribers to comply with the deadline for electronic prescribing and to make recommendations for any extension or exemption processes relative to compliance or disruptions due to natural or manmade disasters or technology gaps, failures, or interruptions of service. The bill requires the work group to report on its progress to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2017, and to issue a final report to such Chairmen by November 1, 2018.

HB1610 and SB1546- § 54.1-3446 - Drug Control Act; Schedule I. Adds certain chemical substances to Schedule I of the Drug Control Act. The Board of Pharmacy has added these substances to Schedule I in an

expedited regulatory process. A substance added via this process is removed from the schedule after 18 months unless a general law is enacted adding the substance to the schedule. The bill also removes two substances, benzylfentanyl and thienylfentanyl, from Schedule I. The bill contains technical amendments. This bill is identical to SB 1546.

HB1799 and SB1403 - §§ 2.2-4006 and 54.1-3443 - Board of Pharmacy to deschedule or reschedule controlled substances. Authorizes the Board of Pharmacy (Board) to designate, deschedule, or reschedule as a controlled substance any substance 30 days after publication in the Federal Register of a final or interim final order or rule designating such substance as a controlled substance or descheduling or rescheduling such substance. Under current law, the Board may act 120 days from such publication date. The bill also provides that a person is immune from prosecution for prescribing, administering, dispensing, or possessing pursuant to a valid prescription a substance approved as a prescription drug by the U.S. Food and Drug Administration on or after July 1, 2017, in accordance with a final or interim final order or rule despite the fact that such substance has not been scheduled by the Board. The immunity provided by the bill remains in effect until the earlier of (i) nine months from the date of the publication of the interim final order or rule or, if published within nine months of the interim final order or rule, the final order or rule or (ii) the substance is scheduled by the Board or by law. This bill is identical to SB 1403.

HB1922 and SB1462 - § 63.2-1605 - Financial exploitation of adults; reporting to local law enforcement. Clarifies that all cases involving suspected financial exploitation of an adult shall be immediately referred to a local law-enforcement agency for investigation. The bill directs local law-enforcement agencies to provide a preferred point of contact for referrals. This bill is identical to SB 1462.

HB2470 - §§ 54.1-3448 and 54.1-3454 - Drug Control Act; Schedule II and Schedule V. Adds thiafentanil to Schedule II of the Drug Control Act and brivaracetam to Schedule V of the Drug Control Act.

SB1027 - §§ 18.2-250.1 and 54.1-3408.3 - Cannabidiol oil and THC-A oil; permitting of pharmaceutical processors to manufacture and provide. Authorizes a pharmaceutical processor, after obtaining a permit from the Board of Pharmacy (the Board) and under the supervision of a licensed pharmacist, to manufacture and provide cannabidiol oil and THC-A oil to be used for the treatment of intractable epilepsy. The bill sets limits on the number of permits that the Board may issue and requires that the Board adopt regulations establishing health, safety, and security requirements for permitted processors. The bill provides that only a licensed practitioner of medicine or osteopathy who is a neurologist or who specializes in the treatment of epilepsy may issue a written certification to a patient for the use of cannabidiol oil or THC-A oil. The bill also requires that a practitioner who issues a written certification for cannabidiol oil or THC-A oil, the patient issued such certification, and, if the patient is a minor or incapacitated, the patient's parent or legal guardian register with the Board. The bill requires further that a pharmaceutical processor shall not provide cannabidiol oil or THC-A oil to a patient or a patient's parent or legal guardian without first verifying that the patient, the patient's parent or legal guardian if the patient is a minor or incapacitated, and the practitioner who issued the written certification have registered with the Board. Finally, the bill provides an affirmative defense for agents and employees of pharmaceutical processors in a prosecution for the manufacture, possession, or distribution of marijuana. The bill contains an emergency clause.

HB2064 - § 18.2-57.3 - Assault and battery against a family or household member; eligibility for first offender status. Precludes a person who has been convicted of any felony defined as an act of violence from being eligible for first offender status for assault and battery against a family or household member unless the attorney for the Commonwealth does not object to the person being placed on first offender status. Under current law, only prior convictions for assault and battery against a family or household member serve as a disqualifier.

HB2051 and SB1091 - §§ 18.2-251, 18.2-259.1, and 46.2-390.1 - Driver's license; marijuana possession. Revises the existing provision that a person loses his driver's license for six months when convicted of or placed on deferred disposition for a drug offense to provide that the provision does not apply to deferred disposition of simple possession of marijuana. The exception applies only to adults; juveniles will still be subject to license suspension. The bill provides that a court retains the discretion to suspend or revoke the driver's license of a person placed on deferred disposition for simple possession of marijuana and must suspend or revoke for six months the driver's license of such person who was operating a motor vehicle at the time of the offense. The bill

also requires that such a person whose driver's license is not suspended or revoked perform 50 hours of community service in addition to any community service ordered as part of the deferred disposition. The provisions of the bill are contingent upon written assurance from the U.S. Department of Transportation that Virginia will not lose any federal funds as a result of implementation of the bill. This bill is identical to SB1091.

FIREARMS – FULL TEXT

School security officers; carrying a firearm in performance of duties. Authorizes a school security officer to carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board he was an active law-enforcement officer in the Commonwealth; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications to carry a concealed handgun as a retired law-enforcement officer; (iv) he has met the additional training and certification requirements of the Department of Criminal Justice Services (DCJS); (v) the local school board solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board grants him the authority to carry a firearm in the performance of his duties. The bill requires DCJS to establish additional firearms training and certification requirements for school security officers who carry a firearm in the performance of their duties. Existing law requires DCJS to establish minimum training and certification requirements for school security officers.

CHAPTER 311

*An Act to amend and reenact §§ **9.1-102**, **18.2-308.1**, and **22.1-280.2:1** of the Code of Virginia, relating to school security officers; carrying a firearm in performance of duties.*

[H 1392]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **9.1-102**, **18.2-308.1**, and **22.1-280.2:1** of the Code of Virginia are amended and reenacted as follows:

§ **9.1-102**. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ **2.2-4000** et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § **46.2-882** and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § **53.1-120**, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § **8.01-293**, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § **66-25.3**;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § **15.2-1731**;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § **9.1-131**;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. **90-351**, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ **15.2-1706** and **15.2-1707**;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § **19.2-81.3**. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § **9.1-1301**;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. (Effective until July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Alcoholic Beverage Control Board;

f. (Effective July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the

subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School and Campus Safety *(VCSCS)* pursuant to § **9.1-184**. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of ~~these~~ *the* standards and certification requirements *in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment*;

43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ **9.1-185** et seq.);

44. License and regulate bail enforcement agents in accordance with Article 12 (§ **9.1-186** et seq.);

45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ **9.1-900** et seq.);

46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

47. Assess and report, in accordance with § **9.1-190**, the crisis intervention team programs established pursuant to § **9.1-187**;

48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

49. Register tow truck drivers in accordance with § **46.2-116** and carry out the provisions of § **46.2-117**;

50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. (Effective July 1, 2017) In accordance with § **9.1-102.1**, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ **9.1-138** et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation; and

53. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

§ **18.2-308.1**. Possession of firearm, stun weapon, or other weapon on school property prohibited; penalty.

A. If any person knowingly possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § **18.2-308**, other than a firearm; upon (a) the property of any public, private or religious elementary, middle or high school, including buildings and grounds; (b) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (c) any school bus owned or operated by any such school, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. If any person knowingly possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or religious elementary, middle or high school, including buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (iii) any school bus owned or operated by any such school, he ~~shall be~~ *is* guilty of a Class 6 felony.

C. If any person knowingly possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material within a public, private or religious elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person ~~shall be~~ *is* guilty of a Class 6 felony and sentenced to a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence.

The exemptions set out in §§ **18.2-308** and **18.2-308.016** shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises; (iv) any law-enforcement officer, or retired law-enforcement officer qualified pursuant to subsection C of § **18.2-308.016**; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; (vii) a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school; ~~or~~ (viii) *a school security officer authorized to carry a firearm pursuant to § **22.1-***

280.2:1*; or (ix)* an armed security officer, licensed pursuant to Article 4 (§ **9.1-138** et seq.) of Chapter 1 of Title 9.1, hired by a private or religious school for the protection of students and employees as authorized by such school. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

As used in this section:

"Stun weapon" means any device that emits a momentary or pulsed output, which is electrical, audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

§ **22.1-280.2:1**. Employment of school security officers.

Local school boards may employ school security officers, as defined in § **9.1-101** for the purposes set forth therein. *Such school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board he was an active law-enforcement officer as defined in § **9.1-101** in the Commonwealth; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § **18.2-308.016**; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § **9.1-102**, provided that if he received such training from a local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board grants him the authority to carry a firearm in the performance of his duties.*

Possession of antique firearms; nonviolent felons. Permits nonviolent felons to possess, transport, and carry muzzle-loading firearms and black powder in a quantity not exceeding five pounds if it is intended to be used solely for sporting, recreational, or cultural purposes in muzzle-loading firearms.

CHAPTER 767

*An Act to amend and reenact § **18.2-308.2** of the Code of Virginia, relating to possession of certain antique firearms; nonviolent felons.*

[S 1533]
Approved March 27, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-308.2** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-308.2**. Possession or transportation of firearms, firearms ammunition, stun weapons, explosives or concealed weapons by convicted felons; penalties; petition for permit; when issued.

A. It shall be unlawful for (i) any person who has been convicted of a felony; (ii) any person adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder in violation of § **18.2-31** or **18.2-32**, kidnapping in violation of § **18.2-47**, robbery by the threat or presentation of firearms in violation of § **18.2-58**, or rape in violation of § **18.2-61**; or (iii) any person under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act which would be a felony if committed by an adult, other than those felonies set forth in clause (ii), whether such conviction or adjudication occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or ammunition for a firearm, any stun weapon as defined by § **18.2-308.1**, or any explosive material, or to knowingly and intentionally carry about his person, hidden from common observation, any weapon described in subsection A of § **18.2-308**. However, such person may possess in his residence or the curtilage thereof a stun weapon as defined by § **18.2-308.1**. Any person who violates this section shall be guilty of a Class 6 felony. However, any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § **17.1-805** shall be sentenced to a mandatory minimum term of imprisonment of five years. Any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of any other felony within the prior 10 years shall be sentenced to a mandatory minimum term of imprisonment of two years. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, ammunition for a firearm, explosive material or other weapon while carrying out his duties as a member of the Armed Forces of the United States or of the National Guard of Virginia or of any other state, (ii) any law-enforcement officer in the performance of his duties, (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms, (iv) any person whose right to possess firearms or ammunition has been restored under the law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport, possess, or receive firearms by such state, or (v) any person adjudicated delinquent as a juvenile who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge and who is not otherwise prohibited under clause (i) or (ii) of subsection A.

C. Any person prohibited from possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon under subsection A may petition the circuit court of the jurisdiction in which he resides or, if the person is not a resident of the Commonwealth, the circuit court of any county or city where such person was last convicted of a felony or adjudicated delinquent of a disqualifying offense pursuant to subsection A, for a permit to possess or carry a firearm, ammunition for a firearm, or a stun weapon; however, no person who has been convicted of a felony shall be qualified to petition for such a permit unless his civil rights have been restored by

the Governor or other appropriate authority. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. The court may, in its discretion and for good cause shown, grant such petition and issue a permit. The provisions of this section relating to firearms, ammunition for a firearm, and stun weapons shall not apply to any person who has been granted a permit pursuant to this subsection.

C1. Any person who was prohibited from possessing, transporting or carrying explosive material under subsection A may possess, transport or carry such explosive material if his right to possess, transport or carry explosive material has been restored pursuant to federal law.

*C2. The prohibitions of subsection A shall not prohibit any person other than a person convicted of an act of violence as defined in §**19.2-297.1** or a violent felony as defined in subsection C of § **17.1-805** from possessing, transporting, or carrying (i) antique firearms or (ii) black powder in a quantity not exceeding five pounds if it is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. For the purposes of this subsection, "antique firearms" means any firearm described in subdivision 3 of the definition of "antique firearm" in subsection G of § **18.2-308.2:2**.*

D. For the purpose of this section:

"Ammunition for a firearm" means the combination of a cartridge, projectile, primer, or propellant designed for use in a firearm other than an antique firearm as defined in § **18.2-308.2:2**.

"Explosive material" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord but shall not include fireworks or permissible fireworks as defined in § **27-95**.

FIREARMS – SUMMARY ONLY

HB1849 - § 18.2-308.04 - Concealed handgun permit; permit requirements. Provides that a concealed handgun permit shall be of a size comparable to a Virginia driver's license and may be laminated or use a similar process to protect the permit. Current law requires that the permit be no larger than two inches wide by three and one-fourth inches long.

HB2308 and SB1465 - § 18.2-308.016 - Carrying a concealed handgun; retired conservation officers. Adds conservation officers retired from the Department of Conservation and Recreation to the list of retired persons eligible to carry a concealed handgun without a permit. This bill is identical to **SB 1465.**

SB953 - § 29.1-100 - Muzzleloader firearms; definition. Incorporates the Virginia criminal law definition of a muzzleloader into the current statutory definitions of muzzleloading pistol, muzzleloading rifle, and muzzleloading shotgun located in Title 29.1 (Game, Inland Fisheries and Boating).

HB2369 - § 18.2-308.011 - Concealed handgun permit; change of address. Replaces the requirement that a concealed carry permit holder present proof of a new address with a requirement that the permit holder present written notice of the change of address on a form provided by the Department of State Police for a court to issue a replacement concealed handgun permit due to a change of address.

HB2424 - § 18.2-308.016 - Carrying concealed weapons; former attorneys for the Commonwealth and assistant attorneys for the Commonwealth. Exempts from the prohibition on carrying a concealed handgun a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). The bill provides that a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who has received such proof of consultation and favorable review shall have the opportunity to annually participate, at his expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth.

MISCELLANEOUS – FULL TEXT

§ 18.2-460. Obstructing justice; resisting arrest; penalty.

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for

the Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to § 3.2-6555, he shall be guilty of a Class 1 misdemeanor.

B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1 misdemeanor.

C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer, lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in any court relating to a violation of or conspiracy to violate § 18.2-248 or subdivision (a) (3), (b) or (c) of § 18.2-248.1, or § 18.2-46.2 or § 18.2-46.3, or relating to the violation of or conspiracy to violate any violent felony offense listed in subsection C of § 17.1-805, he shall be guilty of a Class 5 felony.

D. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.
Code 1950, § 18.1-310; 1960, c. 358; 1975, cc. 14, 15; 1976, c. 269; 1984, c. 571; 1989, c. 506; 1993, c. 747; 1996, c. 718; 1999, cc. 770, 800; 2002, cc. 527, 810, 818; 2003, cc. 111, 149; 2004, cc. 396, 435; 2007, cc. 220, 282; 2009, c. 242.

§ 18.2-479.1. Fleeing from a law-enforcement officer; penalty.

A. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor.

B. For purposes of this section, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a law-enforcement officer when (i) the officer applies physical force to the person, or (ii) the officer communicates to the person that he is under arrest and (a) the officer has the legal authority and the immediate physical ability to place the person under arrest, and (b) a reasonable person who receives such communication knows or should know that he is not free to leave.
2003, cc. 112, 805.

Dangerous dogs. Removes the requirement that a law-enforcement officer or animal control officer apply for a summons requiring a dog owner to appear before a general district court when the officer has reason to believe that the dog is dangerous. In the case of a dog that has bitten a cat or dog, the bill requires investigation by an officer for certain exemptions from the definition of "dangerous dog" to apply and removes an exemption for good cause as determined by a court. In the case of a dog that has bitten a person, the bill creates an exemption when an investigating officer finds that the injury is minor. The bill allows a court to use good cause as a reason to determine that a dog is not dangerous. The bill also reduces from 45 days to 30 days the period within which (i) an owner of a dog found to be dangerous is required to obtain a dangerous dog registration certificate and (ii) a convicted owner of a dangerous dog is required to comply with certain provisions. The bill contains technical amendments.

CHAPTER 396

*An Act to amend and reenact § **3.2-6540** of the Code of Virginia, relating to dangerous dogs.*

[H 2381]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **3.2-6540** of the Code of Virginia is amended and reenacted as follows:

§ **3.2-6540**. Control of dangerous dogs; penalties.

A. As used in this section~~:~~

~~"Dangerous dog" means a~~*, "dangerous dog" means:*

1. A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a ~~person or~~ companion animal that is a dog or cat~~,~~ or killed a companion animal that is a dog or cat. ~~When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed~~ *A canine or canine crossbreed is not a* dangerous *dog if, upon investigation, a law-enforcement officer or animal control officer finds that* (i) ~~if~~ no serious physical injury, as determined by a licensed veterinarian, has occurred to the dog or cat as a result of the attack or bite; (ii) ~~if~~ both animals are owned by the same person; *or* (iii) ~~if~~ such attack ~~occurs~~ *occurred* on the property of the attacking or biting dog's owner or custodian; or ~~(iv) for other good cause as determined by the court~~

2. A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

B. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog ~~that has bitten, attacked, or inflicted injury on a person~~ shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, *or for other good cause,* that the dog is not dangerous or a threat to the community.

~~B.~~ *C.* Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog ~~shall~~ *may* apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt

powers, may compel the owner, custodian, or harborer of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harborer thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ **19.2-260** et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

~~C.~~ *D.* No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.

E. No animal shall be found to be a dangerous dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog.

~~D.~~ *F.* If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

~~E.~~ *G.* The owner of any animal found to be a dangerous dog shall, within ~~45~~ *30* days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of $150, in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of $85 and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.

~~F.~~ *H.* All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed; and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (a) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (b) the animal has been permanently identified by means of electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least $100,000, that covers animal

bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least $100,000.

~~G.~~ *I.* While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to § **3.2-6503**. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

~~H.~~ *J.* The owner shall cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

~~I.~~ *K.* After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

~~J.~~ *L.* Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

~~K.~~ *M.* The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harborer of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by a local governing body pursuant to § **3.2-6562** or (ii) grant the owner up to ~~45~~ *30* days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to § **3.2-6562**. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

~~L.~~ *N.* All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § **3.2-6556**.

~~M.~~ *O.* The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous dogs. No locality may impose a felony penalty for violation of such ordinances.

Crime victim's right to nondisclosure of certain information; murder. Requires that written consent provided by the victim's next of kin to law enforcement is necessary, if the victim is a minor, before a law-enforcement agency may disclose any information that identifies the victim of a crime that resulted in the victim's death.

CHAPTER 500

*An Act to amend and reenact § **19.2-11.2** of the Code of Virginia, relating to crime victim's right to nondisclosure of certain information; murder.*

[H 2240]
Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-11.2** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-11.2**. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.

Upon request of any witness in a criminal prosecution under § **18.2-46.2**, **18.2-46.3**, or **18.2-248** or of any violent felony as defined by subsection C of § **17.1-805**, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim *of any crime involving any sexual assault, sexual abuse, or family abuse or the victim's next of kin if the victim is a minor and the victim's death results from any crime*, a law-enforcement agency may not disclose to the public information ~~which~~ *that* directly or indirectly identifies the victim of ~~a~~ *such* crime ~~involving any sexual assault, sexual abuse or family abuse,~~ except to the extent that disclosure is ~~(i)~~ *(a)* of the site of the crime, ~~(ii)~~ *(b)* required by law, ~~(iii)~~ *(c)* necessary for law-enforcement purposes, or ~~(iv)~~ *(d)* permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

Critical incident stress management team and critical stress management team privileged communications. Provides that certain communications regarding a critical incident to a peer support team member are included in the critical incident stress management team privilege. Under current law, the privilege applies only to members of a critical incident stress management team. The bill specifies that a peer support team shall be headed by a Virginia-licensed clinical psychologist, Virginia-licensed psychiatrist, Virginia-licensed clinical social worker, or Virginia-licensed professional counselor with at least five years of experience as a mental health consultant who works directly with emergency medical services personnel or public safety personnel to meet the accreditation standards. Finally, the bill defines a critical incident as an incident that induces an abnormally high level of negative emotions in response to a perceived loss of control and is often related to a threat to the well-being of emergency medical services personnel or public safety personnel or to the well-being of another individual for whom such personnel has some obligation of personal or professional concern.

CHAPTER 609

*An Act to amend and reenact §§ **19.2-271.4** and **32.1-111.3** of the Code of Virginia, relating to critical incident stress management teams and privileged communications of critical stress management teams.*

[S 1330]
Approved March 16, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ **19.2-271.4** and **32.1-111.3** of the Code of Virginia are amended and reenacted as follows:

§ **19.2-271.4**. Privileged communications by certain public safety personnel.

A. A person who is a member of a critical incident stress management *or peer support* team, established pursuant to subdivision A 13 of § **32.1-111.3**, shall not disclose nor be compelled to testify regarding any information communicated to him by emergency medical services or public safety personnel who are the subjects of peer support services regarding a critical incident. Such information shall also be exempt from the Virginia Freedom of Information Act (§ **2.2-3700** et seq.).

B. A person whose communications are privileged under subsection A may waive the privilege.

C. The provisions of this section shall not apply when:

1. Criminal activity is revealed;

2. A member of a critical incident stress management *or peer support* team is a witness or a party to a critical incident that prompted the peer support services;

3. A member of a critical incident stress management *or peer support* team reveals the content of privileged information to prevent a crime against any other person or a threat to public safety;

4. The privileged information reveals intent to defraud or deceive the investigation into the critical incident;~~ or~~

5. A member of a critical incident stress management *or peer support* team reveals the content of privileged information to the employer of the emergency medical services or public safety personnel regarding criminal acts committed or information that would indicate that the emergency medical services or public safety personnel pose a threat to themselves or others*; or*

6. A member of a critical incident stress management or peer support team is not acting in the role of a member at the time of the communication.

D. For the purposes of this section, "critical incident" means an incident that induces an abnormally high level of negative emotions in response to a perceived loss of control. Such an incident is most often related to a threat to the well-being of the emergency medical services or public safety employee or to the well-being of another individual for whom such employee has some obligation of personal or professional concern.

§ **32.1-111.3**. Statewide Emergency Medical Services Plan; Trauma Triage Plan; Stroke Triage Plan.

A. The Board of Health shall develop a Statewide Emergency Medical Services Plan that shall provide for a comprehensive, coordinated, emergency medical services system in the Commonwealth and shall review, update, and publish the Plan triennially, making such revisions as may be necessary to improve the effectiveness and efficiency of the Commonwealth's emergency medical services system. The Plan shall incorporate the regional emergency medical services plans prepared by the regional emergency medical services councils pursuant to § **32.1-111.4:2**. Publishing through electronic means and posting on the Department website shall satisfy the publication requirement. The objectives of such Plan and the emergency medical services system shall include, but not be limited to, the following:

1. Establishing a comprehensive statewide emergency medical services system, incorporating facilities, transportation, manpower, communications, and other components as integral parts of a unified system that will serve to improve the delivery of emergency medical services and thereby decrease morbidity, hospitalization, disability, and mortality;

2. Reducing the time period between the identification of an acutely ill or injured patient and the definitive treatment;

3. Increasing the accessibility of high quality emergency medical services to all citizens of Virginia;

4. Promoting continuing improvement in system components including ground, water, and air transportation; communications; hospital emergency departments and other emergency medical care facilities; health care provider training and health care service delivery; and consumer health information and education;

5. Ensuring performance improvement of the emergency medical services system and emergency medical services and care delivered on scene, in transit, in hospital emergency departments, and within the hospital environment;

6. Working with professional medical organizations, hospitals, and other public and private agencies in developing approaches whereby the many persons who are presently using the existing emergency department for routine, nonurgent, primary medical care will be served more appropriately and economically;

7. Conducting, promoting, and encouraging programs of education and training designed to upgrade the knowledge and skills of emergency medical services personnel, including expanding the availability of paramedic and advanced life support training throughout the Commonwealth with particular emphasis on regions underserved by emergency medical services personnel having such skills and training;

8. Consulting with and reviewing, with agencies and organizations, the development of applications to governmental or other sources for grants or other funding to support emergency medical services programs;

9. Establishing a statewide air medical evacuation system which shall be developed by the Department of Health in coordination with the Department of State Police and other appropriate state agencies;

10. Establishing and maintaining a process for designation of appropriate hospitals as trauma centers and specialty care centers based on an applicable national evaluation system;

11. Maintaining a comprehensive emergency medical services patient care data collection and performance improvement system pursuant to Article 3.1 (§ **32.1-116.1** et seq.);

12. Collecting data and information and preparing reports for the sole purpose of the designation and verification of trauma centers and other specialty care centers pursuant to this section. All data and information collected shall remain confidential and shall be exempt from the provisions of the Virginia Freedom of Information Act (§ **2.2-3700** et seq.);

13. Establishing and maintaining a process for crisis intervention and peer support services for emergency medical services personnel and public safety personnel, including statewide availability and accreditation of critical incident stress management *or peer support* teams *and personnel. Such accreditation standards shall include a requirement that a peer support team be headed by a Virginia-licensed clinical psychologist, Virginia-licensed psychiatrist, Virginia-licensed clinical social worker, or Virginia-licensed professional counselor, who has at least five years of experience as a mental health consultant working directly with emergency medical services personnel or public safety personnel*;

14. Establishing a statewide program of emergency medical services for children to provide coordination and support for emergency pediatric care, availability of pediatric emergency medical care equipment, and pediatric training of health care providers;

15. Establishing and supporting a statewide system of health and medical emergency response teams, including emergency medical services disaster task forces, coordination teams, disaster medical assistance teams, and other support teams that shall assist local emergency medical services agencies at their request during mass casualty, disaster, or whenever local resources are overwhelmed;

16. Establishing and maintaining a program to improve dispatching of emergency medical services personnel and vehicles, including establishment of and support for emergency medical services dispatch training, accreditation of 911 dispatch centers, and public safety answering points;

17. Identifying and establishing best practices for managing and operating emergency medical services agencies, improving and managing emergency medical services response times, and disseminating such information to the appropriate persons and entities;

18. Ensuring that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event there are victims as defined in § **19.2-11.01**, and that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund become the lead coordinating agencies for those individuals determined to be victims; and

19. Maintaining current contact information for both the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund.

B. The Board of Health shall also develop and maintain as a component of the Emergency Medical Services Plan a statewide prehospital and interhospital Trauma Triage Plan designed to promote rapid access for pediatric and adult trauma patients to appropriate, organized trauma care through the publication and regular updating of information on resources for trauma care and generally accepted criteria for trauma triage and appropriate transfer. The Trauma Triage Plan shall include:

1. A strategy for maintaining the statewide Trauma Triage Plan through development of regional trauma triage plans that take into account the region's geographic variations and trauma care capabilities and resources, including hospitals designated as trauma centers pursuant to subsection A and inclusion of such regional plans in the statewide Trauma Triage Plan. The regional trauma triage plans shall be reviewed triennially. Plans should ensure that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event there are victims as defined in § **19.2-11.01**, and that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund become the lead coordinating agencies for those individuals determined to be victims; and maintain current contact information for both the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund.

2. A uniform set of proposed criteria for prehospital and interhospital triage and transport of trauma patients developed by the Advisory Board, in consultation with the Virginia Chapter of the American College of Surgeons, the Virginia College of Emergency Physicians, the Virginia Hospital and Healthcare Association, and prehospital care providers. The Advisory Board may revise such criteria from time to time to incorporate accepted changes in medical practice or to respond to needs indicated by analyses of data on patient outcomes. Such criteria shall be used as a guide and resource for health care providers and are not intended to establish, in and of themselves, standards of care or to abrogate the requirements of § **8.01-581.20**. A decision by a health care provider to deviate from the criteria shall not constitute negligence per se.

3. A performance improvement program for monitoring the quality of emergency medical services and trauma services, consistent with other components of the Emergency Medical Services Plan. The program shall provide for collection and analysis of data on emergency medical and trauma services from existing validated sources, including the emergency medical services patient care information system, pursuant to Article 3.1 (§ **32.1-116.1** et seq.), the Patient Level Data System, and mortality data. The Advisory Board shall review and analyze such data on a quarterly basis and report its findings to the Commissioner. The Advisory Board may execute these duties through a committee composed of persons having expertise in critical care issues and representatives of emergency medical services providers. The program for monitoring and reporting the results of emergency medical services and trauma services data analysis shall be the sole means of encouraging and promoting compliance with the trauma triage criteria.

The Commissioner shall report aggregate findings of the analysis annually to each regional emergency medical services council. The report shall be available to the public and shall identify, minimally, as defined in the statewide plan, the frequency of (i) incorrect triage in comparison to the total number of trauma patients delivered to a hospital prior to pronouncement of death and (ii) incorrect interfacility transfer for each region.

The Advisory Board or its designee shall ensure that each hospital director or emergency medical services agency chief is informed of any incorrect interfacility transfer or triage, as defined in the statewide Trauma

Triage Plan, specific to the hospital or agency and shall give the hospital or agency an opportunity to correct any facts on which such determination is based, if the hospital or agency asserts that such facts are inaccurate. The findings of the report shall be used to improve the Trauma Triage Plan, including triage, and transport and trauma center designation criteria.

The Commissioner shall ensure the confidentiality of patient information, in accordance with § **32.1-116.2**. Such data or information in the possession of or transmitted to the Commissioner, the Advisory Board, any committee acting on behalf of the Advisory Board, any hospital or prehospital care provider, any regional emergency medical services council, emergency medical services agency that holds a valid license issued by the Commissioner, or group or committee established to monitor the quality of emergency medical services or trauma services pursuant to this subdivision, or any other person shall be privileged and shall not be disclosed or obtained by legal discovery proceedings, unless a circuit court, after a hearing and for good cause shown arising from extraordinary circumstances, orders disclosure of such data.

C. The Board shall also develop and maintain as a component of the Statewide Emergency Medical Services Plan a statewide prehospital and interhospital Stroke Triage Plan designed to promote rapid access for stroke patients to appropriate, organized stroke care through the publication and regular updating of information on resources for stroke care and generally accepted criteria for stroke triage and appropriate transfer. The Stroke Triage Plan shall include:

1. A strategy for maintaining the statewide Stroke Triage Plan through development of regional stroke triage plans that take into account the region's geographic variations and stroke care capabilities and resources, including hospitals designated as "primary stroke centers" through certification by the Joint Commission, DNV Healthcare, or a comparable process consistent with the recommendations of the Brain Attack Coalition, and inclusion of such regional plans in the statewide Stroke Triage Plan. The regional stroke triage plans shall be reviewed triennially.

2. A uniform set of proposed criteria for prehospital and interhospital triage and transport of stroke patients developed by the Advisory Board, in consultation with the American Stroke Association, the Virginia College of Emergency Physicians, the Virginia Hospital and Healthcare Association, and prehospital care providers. The Board may revise such criteria from time to time to incorporate accepted changes in medical practice or to respond to needs indicated by analyses of data on patient outcomes. Such criteria shall be used as a guide and resource for health care providers and are not intended to establish, in and of themselves, standards of care or to abrogate the requirements of § **8.01-581.20**. A decision by a health care provider to deviate from the criteria shall not constitute negligence per se.

D. Whenever any state-owned aircraft, vehicle, or other form of conveyance is utilized under the provisions of this section, an appropriate amount not to exceed the actual costs of operation may be charged by the agency having administrative control of such aircraft, vehicle, or other form of conveyance.

Virginia Freedom of Information Act; completed unattended death investigations; mandatory disclosure. Requires that records of completed unattended death investigations be released to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. The bill also defines "unattended death" and "immediate family member."

CHAPTER 828

*An Act to amend and reenact § **2.2-3706** of the Code of Virginia, relating to the Virginia Freedom of Information Act; completed unattended death investigations; mandatory disclosure.*

[S 1102]
Approved April 26, 2017

Be it enacted by the General Assembly of Virginia:

1. That § **2.2-3706** of the Code of Virginia is amended and reenacted as follows:

§ **2.2-3706**. Disclosure of criminal records; limitations.

A. All public bodies engaged in criminal law-enforcement activities shall provide requested records in accordance with this chapter as follows:

1. Records required to be released:

a. Criminal incident information relating to felony offenses, which shall include:

(1) A general description of the criminal activity reported;

(2) The date the alleged crime was committed;

(3) The general location where the alleged crime was committed;

(4) The identity of the investigating officer or other point of contact; and

(5) A general description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of subdivision a.

Where the release of criminal incident information, however, is likely to jeopardize an ongoing investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in subdivision a shall be construed to authorize the withholding of those portions of such information that are not likely to cause the above-referenced damage;

b. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation; ~~and~~

c. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; *and*

*d. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § **64.2-200**.*

2. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

a. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information subject to release in accordance with subdivision 1 a;

b. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ **2.2-307** et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ **23.1-809** et seq.) of Chapter 8 of Title 23.1;

c. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

d. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

e. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;

f. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§**19.2-152.2** et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ **9.1-173** et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ **53.1-141** et seq.) of Chapter 4 of Title 53.1;

g. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

h. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

i. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

j. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § **19.2-11.2**; and

k. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § **9.1-913**; and

3. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

B. Noncriminal records. Those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature may be withheld where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a law-enforcement agency shall be governed by the provisions of subdivision A 2 i of this section and subdivision 1 of § **2.2-3705.1**, as applicable.

C. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

D. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

MISCELLANEOUS – SUMMARY ONLY

HB1405 and SB855 – Uncodified Act - Designating the Trooper Chad Phillip Dermyer Memorial Bridge. Designates the State Route 143 bridge in the City of Newport News at exit 255 over Interstate 64 the "Trooper Chad Phillip Dermyer Memorial Bridge." This bill is identical to **SB 855.**

HB1939 -§ 29.1-530.1 - Hunting apparel; blaze pink. Allows hunters to wear blaze pink instead of blaze orange hunting apparel when required during firearms deer hunting season or the special season for hunting deer with a muzzle-loading rifle.

HB1652 and SB1273 - § 16.1-69.35 - City of Richmond general district court; concurrent criminal jurisdiction. Provides that the separate division of the City of Richmond general district court that is operated south of the James River shall have concurrent jurisdiction over criminal matters arising in that part of the city, not exclusive jurisdiction over such matters. This bill is identical to SB 1273.

HB1493 - § 18.2-191 - Definition of sales draft; credit card offenses; penalty. Includes within the definition of "sales draft," with regard to offenses relating to credit cards, the electronic form evidencing a purchase of goods, services, or a thing of value. A person convicted of forgery of such a sales draft is guilty of a Class 5 felony.

SB1040 - § 2.2-3705.1 - Virginia Freedom of Information Act (FOIA); record exclusion for personal contact information; limitation. Provides that personal contact information provided to a public body for the purpose of receiving electronic mail from the public body is excluded from the mandatory disclosure provisions of FOIA, provided that the electronic mail recipient has requested that the public body not disclose such information. The bill defines "personal contact information" as the home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device. Current law excludes "personal information," which is defined as including a broader range of information than the limited definition of personal contact information in the bill.

SB1272 - §§ 46.2-945 and 46.2-946 - Nonresident Violator Compact; codification. Codifies the text of the Nonresident Violator Compact of 1977. The bill removes duplicative provisions of the Code of Virginia. This bill is a recommendation of the Virginia Code Commission.

HB1840 - § 32.1-36.1 - Confidentiality of tests for human immunodeficiency virus; release of information. Clarifies that information about the results of tests to determine infection with human immunodeficiency virus shall be released only to persons or entities permitted or authorized to obtain protected health information under any applicable federal or state law.

HB1568 and SB897 - §§ 63.2-1720 through 63.2-1721.1, 63.2-1722, 63.2-1724, and 63.2-1725 - Child care providers; criminal history background check; penalty. Requires the following individuals to undergo a fingerprint-based national criminal history background check: (i) applicants for employment by, employees of, applicants to serve as volunteers with, and volunteers with any licensed family day system, child day center exempt from licensure pursuant to § 63.2-1716, registered family day home, or family day home approved by a family day system; (ii) applicants for licensure as a family day system, registration as a family day home, or approval as a family day home by a family day system, as well as their agents and any adult living in such family day home; and (iii) individuals who apply for or enter into a contract with the Department of Social Services under which a child day center, family day home, or child day program will provide child care services funded by the Child Care and Development Block Grant, as well as the applicant's current or prospective employees and volunteers, agents, and any adult living in the child day center or family day home. The bill also mandates that all background checks required pursuant to §§ 63.2-1720.1 and 63.2-1721.1 be completed by September 30, 2017, or by the date specified on any federal waiver obtained by the Commonwealth, and every five years thereafter. The bill has an expiration date of July 1, 2018. The bill further provides that if any provision of the federal Child Care and Development Block Grant Act of 2014 establishing a corresponding requirement is repealed prior to July 1, 2018, the provision of the bill establishing such requirement shall expire upon the date of such repeal. This bill is identical to SB 897.

HB1945 - § 9.1-102 - Department of Criminal Justice Services; model addiction recovery program; jails. Requires the Department of Criminal Justice Services, in consultation with the Department of Behavioral Health and Developmental Services, to develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. The bill provides that such programs shall be based on existing addiction recovery programs being administered by any local or regional jails in the Commonwealth and requires that participation in such program be voluntary and that such program address multiple aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process.

SB1434 - § 63.2-1720 - Assisted living facilities and adult day care centers; background checks. Allows licensed assisted living facilities and adult day care centers to continue to employ a person convicted of one misdemeanor barrier crime not involving abuse or neglect if five years have elapsed following the conviction.

HB2287 and SB1288 - § 16.1-300 - Confidentiality of Department of Juvenile Justice records; gang task forces. Permits the Department of Juvenile Justice to disclose, at its discretion, the social reports and records of children who are committed to the Department to a gang task force, provided that its membership (i) consists of only representatives of state or local government or (ii) includes a law-enforcement officer who is present at the time of the disclosure. This bill is identical to SB 1288.

HB2329 - § 19.2-81 - Division of Capitol Police; arrest without warrant. Adds members of the Division of Capitol Police to the list of officers authorized to arrest without a warrant in certain situations.

HB1903 - § 8.01-390.3 - Admissibility of business records; criminal proceedings. Extends to criminal proceedings the existing procedures in civil proceedings for the authentication and foundation necessary for the admission of a business record under the business records exception to the rule against hearsay.

SB1069 - §§ 46.2-1600, 46.2-1603, 46.2-1603.2, 46.2-1604, 46.2-1605, and 46.2-1606 - Titling out-of-state salvage vehicles. Provides a process by which the owner of a salvage vehicle that has been rebuilt, titled, and registered in another state may obtain a nonnegotiable title for such vehicle to operate on the highways of the Commonwealth.

HB1590 - § 8.01-226 - Duty of care to law-enforcement officers and firefighters; fireman's rule. Provides that the common-law doctrine known as the fireman's rule, as described in the bill, shall not be a defense to certain claims. The fireman's rule is based on assumption of the usual risks of injury in such employment, whether caused by a negligent or a nonnegligent act of the defendant.

HB2066 - § 19.2-387.2 - Criminal history record information; National Crime Prevention and Privacy Compact of 1998. Authorizes Virginia to become a signatory to the National Crime Prevention and Privacy Compact of 1998. The Compact allows member states to exchange criminal history records for noncriminal justice purposes according to the laws of the requesting state.

HB1720 - § 18.2-488.1 - Flag at half staff or mast; public safety personnel. Expands the category of flags required to be flown at half staff or mast when a service member, police officer, firefighter, or emergency medical services provider is killed in the line of duty to include flags flown at any building owned and operated by any political subdivision of the Commonwealth. In addition, the bill adds state correctional officers to the list of public safety personnel for whom such flags are flown at half staff or mast.

SB968 - § 29.1-336 - Hunting license; bear, deer, or turkey; electronic carry. Removes the requirement that a license to hunt bear, deer, or turkey be carried in paper form, allowing it to be carried by electronic or computerized means.

HB2243 - §§ 9.1-400, 9.1-400.1, 9.1-401, 9.1-404, and 9.1-407 - Line of Duty Act. Clarifies provisions of the Line of Duty Act, including clarifying that suspension or reinstatement of health insurance benefits begins and ends at the beginning of a health insurance plan year rather than in the middle of a plan year and recognizing

current practice that the Line of Duty Act administrator provides materials for training. The bill codifies certain provisions of the Line of Duty Act that currently are in the appropriation act. The bill modifies the provision that would have disqualified, effective July 1, 2017, the surviving spouse of a deceased member who remarried from receiving health insurance benefits, by restricting the disqualification to surviving spouses who remarry on or after July 1, 2017. The bill contains an emergency clause.

HB2067 - § 15.2-1707 - Decertification of law-enforcement officers; notification. Requires persons obligated to notify the Criminal Justice Services Board when a law-enforcement officer or jail officer has committed an act or been convicted of a crime that requires decertification to notify the Criminal Justice Services Board within 48 hours of becoming aware of such act or conviction. The bill requires that, upon such notification, decertification be immediate. Any conviction of a misdemeanor that has been appealed to a court of record shall not be considered a conviction unless a final order of conviction is entered.

HB1929 - § 33.2-1808 - Public-Private Transportation Act; comprehensive agreement. Requires all comprehensive agreements originally entered into on or after July 1, 2017, resulting in privately funded roads open for public transportation to include a provision requiring funding for adequate staffing, defined in the bill, for general law-enforcement services by the Virginia State Police.

SB873 - § 27-15.1 - Authority of fire chief over immediate airspace at a fire, explosion, or uncontrolled release of hazardous materials. Includes immediate airspace under the current authority of the fire chief or other officer in charge of maintaining order where there is imminent danger or the actual occurrence of fire or explosion or the uncontrolled release of hazardous materials that threaten life or property.

SB1506 - § 52-46 - Applicant Fingerprint Database; Federal Bureau of Investigation records. Authorizes the Department of State Police to submit fingerprints and accompanying records to the Federal Bureau of Investigation (FBI) to be advised through the FBI's Next Generation Identification Rap Back service when an individual subject to a criminal background check as a condition of licensure, certification, employment, or volunteer service with an agency or entity is arrested for, or convicted of, a criminal offense not reported to the Department that would disqualify that individual from such licensure, certification, employment, or volunteer service.

HB1938 - §§ 15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-303.3, 29.1-306, 29.1-519, 29.1-521, 29.1-521.2, 29.1-524, 29.1-525, 29.1-528.1, and 29.1-549 - Slingbow hunting; license. Authorizes the use of a slingbow to hunt deer and small game when a hunter is licensed to hunt with a bow and arrow.

HB2374 - § 18.2-340.33 - Charitable gaming; conduct of raffles. Increases from one to three the number of times per calendar year that a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code may conduct a raffle for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501(c) tax-exempt organization. The bill also provides that no more than one such raffle shall be conducted in any one geographical region of the Commonwealth.

HB1971 - §§ 2.2-3705.7 and 2.2-3711 - Virginia Freedom of Information Act; record and meeting exclusions for multidisciplinary child abuse teams. Excludes the records of a multidisciplinary team as they relate to individual child abuse or neglect cases or sex offenses involving a child from mandatory disclosure under the Virginia Freedom of Information Act. The bill also provides an exemption from open meeting requirements to such teams and sexual assault response teams.

HB1540 - §§ 2.2-3701, 2.2-3707, 2.2-3707.1, 2.2-3708, 2.2-3708.1, 2.2-3711, 2.2-3712, 10.1-104.7, 15.2-1416, 23.1-1303, and 54.1-2400.2 - Virginia Freedom of Information Act (FOIA); public access to meetings of public bodies. Revises FOIA's various open meeting exemptions relating to legal matters, litigation, certain museums, and the Virginia Commonwealth University Health System Authority. The bill also (i) clarifies where meeting notices and minutes are to be posted, (ii) requires copies of proposed agendas to be made available, (iii) eliminates reporting to the Joint Commission on Science and Technology when a state public body convenes an

electronic communication meeting, and (iv) makes technical corrections to several open meeting exemptions to provide context for those meeting exemptions that currently only cross-reference corollary records exemptions. The bill also clarifies closed meeting procedures. The bill contains numerous technical corrections. This bill is a recommendation of the Freedom of Information Advisory Council pursuant to the HJR 96 FOIA study (2014-2016).

SB926 - § 15.2-980 - Noise violations; civil penalties. Allows localities to authorize the chief law-enforcement officer in the locality to enforce a uniform schedule of civil penalties for violation of that locality's noise ordinance.

SB1594 - § 19.2-12 - Conservators of the peace; investigator employed by an attorney for the Commonwealth. Designates an investigator who is employed by an attorney for the Commonwealth as a conservator of the peace, provided that such investigator was an active law-enforcement officer within 10 years immediately prior to being employed by the attorney for the Commonwealth and retired or resigned from that position in good standing.

SB1341 - § 8.01-390, 2.2-3817, 2.2-3818, and 2.2-3819 - Digital certification of government records. Provides for the Secretary of the Commonwealth, in cooperation with the Virginia Information Technologies Agency, to develop standards for the use of digital signatures by government agencies on electronic records generated by such agencies. The bill further provides that such agencies may provide copies of digital records, via a website or upon request, and may charge a fee of $5 for each digitally certified copy of an electronic record. Any digitally certified record submitted to a court in the Commonwealth shall be deemed to be authenticated by the custodian of the record. The bill defines "agency" to include all state agencies and local government entities, including constitutional officers, except circuit court clerks.

SB904 - § 18.2-283.1 - Carrying weapon into courthouse; Workers' Compensation commissioner or deputy commissioner exempt. Provides an exception from the prohibition against carrying a weapon into courthouses in the Commonwealth for a commissioner or deputy commissioner of the Workers' Compensation Commission while in the conduct of official duties.

SB1061 - § 2.2-3802 - Government Data Collection and Dissemination Practices Act; exemption for sheriff's departments. Adds an exemption to the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) for personal information systems maintained by sheriff's departments of counties and cities that deal with investigations and intelligence gathering relating to criminal activity and limits the existing exemptions for personal information systems maintained by the Department of State Police, police departments of localities and of the Chesapeake Bay Bridge and Tunnel Commission, and sheriff's departments to those personal information systems that deal with investigations and intelligence gathering related to criminal activity. The bill contains technical amendments. The bill contains an emergency clause.

HB1539 - §§ 2.2-3701, 2.2-3704, 2.2-3704.1, 2.2-3704.2, 2.2-3705.1 through 2.2-3705.8, 2.2-3711, 2.2-3714, 2.2-3806, 22.1-253.13:3, 22.1-279.8, 23.1-2425, 32.1-48.08, 32.1-48.011, 32.1-48.015, 32.1-283.1, 32.1-283.2, 32.1-283.3, 32.1-283.5, 32.1-283.6, 44-146.18, 44-146.22, 54.1-2517, and 54.1-2523 - Virginia Freedom of Information Act (FOIA); public access to records of public bodies. Clarifies the definition of public record. The bill also (i) defines "personal contact information" that is excluded from FOIA's mandatory disclosure provisions in certain cases; (ii) clarifies that a requester has the right to inspect records or receive copies at his option; (iii) clarifies language in certain record exclusions under FOIA that certain records may be disclosed at the discretion of the custodian; (iv) consolidates the personnel record exclusion with the limitation on the application of that exclusion, and specifically clarifies that the name, in addition to position, job classification, and salary, of a public employee is public information as per opinions of the Attorney General and the FOIA Council; (v) eliminates, effective July 1, 2018, the exclusion for the Alcoholic Beverage Control Authority relating to operating and marketing strategies; (vi) eliminates the exclusion for correspondence of local officials as unnecessary; (vii) consolidates various public safety exclusions relating to building plans and drawings and critical infrastructure into a single exclusion; (viii) eliminates the exclusion for administrative investigations of the Department of Human Resource Management, as the exclusion is already covered under the personnel records exclusion; (ix) expands the exclusion for personal information provided to the Virginia College Savings Plan to cover qualified beneficiaries, designated survivors, and authorized individuals, which terms are defined

in the bill; (x) consolidates the various record exclusions for the Department of Health Professions and the Department of Health into single exclusions for each Department; (xi) clarifies certain Department of Social Services exclusions; (xii) provides an exclusion for local finance boards that provide postemployment benefits other than pensions; and (xiii) eliminates the record exclusion for Virginia Wildlife Magazine. The bill also limits the application of the working papers exemption by stating that information publicly available or not otherwise subject to an exclusion under FOIA or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. The bill contains numerous technical amendments. This bill is a recommendation of the Freedom of Information Advisory Council pursuant to the HJR 96 FOIA study (2014-2016).

HB1854 - §§ 2.2-419, 2.2-422, 2.2-423, 2.2-426, 2.2-430, 2.2-431, 2.2-3101, 2.2-3103.1, 2.2-3110, 2.2-3112, 2.2-3114, 2.2-3115, 2.2-3116, 2.2-3121, 2.2-4369, 24.2-502, 30-101, 30-103.1, 30-105, 30-106, 30-110, 30-124, 30-129.1, 30-356 and 2.2-3118.2 - Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; filing of required disclosures; registration of lobbyists; candidate filings; judges; definition of gift; informal advice; civil penalties; technical amendments. Makes numerous changes to the laws governing lobbyist reporting, the conflict of interest acts, and the Virginia Conflict of Interest and Ethics Advisory Council (the Council), including (i) allowing the Secretary of the Commonwealth to suspend any penalty that could be assessed against a lobbyist's principal for failing to file the required disclosure if such failure is beyond the control of the principal; (ii) clarifying the procedures for terminating the services of a lobbyist; (iii) requiring that lobbyist registration forms be filed electronically; (iv) eliminating the requirement that a lobbyist list the names, addresses, and telephone numbers of all other lobbyists representing the same principal; (v) creating a separate statement for a lobbyist's principal to waive the principal signature requirement on the lobbyist disclosure form; (vi) granting the clerk of the local governing body or school board the same power as the Council to redact from any disclosure form released to the public any residential address, personal telephone number, or signature; (vii) eliminating the minimum duration of the mandatory refresher ethics orientation session for General Assembly members; (viii) allowing written informal advice from the Council to confer immunity from prosecution upon individuals acting in accordance with such advice; (ix) clarifying the Council's authority to grant extensions from the filing deadline and imposing a $250 civil penalty on agency heads or local clerks who fail to provide the disclosure forms to filers in a timely manner; (x) requiring lobbyists to provide a report of gifts made during a regular session of the General Assembly no later than three weeks after adjournment to legislators and certain executive branch officials who are required to file a session gift report; and (xi) directing that candidates for statewide office and the General Assembly are required to file a disclosure form with the State Board of Elections and candidates for a constitutional office are required to file a disclosure form with the local general registrar. The bill also extends the filing deadline for disclosure forms from January 15 to February 1 and clarifies the reporting period covered by the disclosure forms. The bill eliminates events open to individuals who share a common interest from the definition of a "widely attended event," attendance at which is not subject to the gift cap. The bill also exempts from the definition of a "gift" (a) gifts from a person's child-in-law; (b) gifts related to a person's volunteer service; (c) meals provided for attendance at an official meeting of the Commonwealth, its political subdivisions, or certain other entities; and (d) attendance at a reception or similar function. The bill also exempts members of the judiciary from certain provisions governing prohibited gifts and prohibited personal interests in a transaction where such members are already subject to similar or greater prohibitions under the Canons of Judicial Conduct for the State of Virginia. The bill also clarifies that a legislator may have a personal interest in a contract with a government agency, not including a legislative branch agency, when the Virginia Public Procurement Act allows the award of such contract without competition. The bill further clarifies the exceptions that allow state and local officers and employees who have a personal interest in a transaction to participate in the transaction. Finally, the bill contains technical amendments. The bill contains an emergency clause that applies to the changes described in clauses (x) and (xi). This bill is identical to SB 1312.

HB2391 and SB1293 - §§ 2.2-1201.1 and 19.2-389 - Department of Human Resources Management; criminal background checks; state agency positions designated as sensitive; agencies to report to the Department. Requires each state agency to continue to record in the Personnel Management Information System (PMIS) positions that it has designated as sensitive to ensure that the Department of Human Resources Management has a list of all such positions. The bill clarifies who would be subject to a criminal background investigation in a sensitive position. The bill expands the definition of sensitive position to include those positions (i) responsible for the health, safety, and welfare of citizens or the protection of critical infrastructures;

(ii) that have access to sensitive information, including access to Federal Tax Information in approved exchange agreements with the Internal Revenue Service or Social Security Administration; and (iii) that are otherwise required by state or federal law to be designated as sensitive. The bill contains an emergency clause. This bill is identical to SB 1293.