Selected Acts of the 2024 Virginia General Assembly

Compiled by
The Virginia Department of State Police Office of Legal Affairs

This volume of Selected Acts contains legislation passed by the 2024 Session of the Virginia General Assembly that is relevant to criminal law and highway safety. Selected Acts can be found on the VSP Connect page under the Bureau dropdown via BSG in Legal Affairs page. It is also available on the Department's website under "News and Alerts" via the "Publications" tab.

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 were effective the moment they were 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, 2024. 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. This overview is only a brief synopsis of the bill. Before taking any enforcement action, carefully read the entire bill. 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://lis.virginia.gov/ and the Virginia State Police website at https://vsp.virginia.gov/.

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TRAFFIC – FULL TEXT

Preliminary analysis of breath to determine alcoholic content of blood; failure to advise person of rights. Provides that if a police officer or a member of any sheriff's department fails to advise a person of his rights to refuse a preliminary breath test, any preliminary breath test sample shall not be admissible by the Commonwealth in any motion to suppress for the purpose of determining probable cause.

CHAPTER 759

*An Act to amend and reenact § **18.2-267** of the Code of Virginia, relating to preliminary analysis of breath to determine alcoholic content of blood; failure to advise person of rights.*

[S 95]

Approved April 8, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-267** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-267**. Preliminary analysis of breath to determine alcoholic content of blood.

A. Any person who is suspected of a violation of § **18.2-266**, **18.2-266.1**, subsection B of § **18.2-272**, or a similar ordinance shall ~~be entitled~~ *have the right*, if such equipment is available, to have his breath analyzed to determine the probable alcoholic content of his blood. The person shall ~~also be entitled, upon request,~~ *have the right* to observe the process of analysis and to see the blood-alcohol reading on the equipment used to perform the breath test. His breath may be analyzed by any police officer of the Commonwealth, or of any county, city or town, or by any member of a sheriff's department in the normal discharge of his duties.

B. The Department of Forensic Science shall determine the proper method and equipment to be used in analyzing breath samples taken pursuant to this section and shall advise the respective police and sheriff's departments of the same.

C. Any person who has been stopped by a police officer of the Commonwealth, or of any county, city or town, or by any member of a sheriff's department and is suspected by such officer to be guilty of an offense listed in subsection A, shall have the right to refuse to permit his breath to be so analyzed, and his failure to permit such analysis shall not be evidence in any prosecution for an offense listed in subsection A.

D. Whenever the breath sample analysis indicates that alcohol is present in the person's blood, the officer may charge the person with a violation of an offense listed in subsection A. The person so charged shall then be subject to the provisions of §§ **18.2-268.1** through **18.2-268.12**, or of a similar ordinance.

E. The results of the breath analysis shall not be admitted into evidence in any prosecution for an offense listed in subsection A, the purpose of this section being to permit a preliminary analysis of the alcoholic content of the blood of a person suspected of having committed an offense listed in subsection A.

F. Police officers or members of any sheriff's department shall, upon stopping any person suspected of having committed an offense listed in subsection A, advise the person of his rights under the provisions of this section. *If a police officer or a member of any sheriff's department fails to advise a person of his rights under the*

provisions of this section, any breath sample obtained pursuant to this section shall not be admissible by the Commonwealth in any motion to suppress for the purpose of determining probable cause.

G. Nothing in this section shall be construed as limiting the provisions of §§ **18.2-268.1** through **18.2-268.12**.

Moving violations; highway work zones. Creates a traffic infraction for any moving violation in a highway work zone punishable by a fine of not less than $300 for the first offense and not less than $500 for any subsequent offense. The bill provides that for any subsequent offense that occurs within the same 12-month period as another such offense such fine shall be not less than $750.

CHAPTER 138

*An Act to amend the Code of Virginia by adding a section numbered **46.2-808.3**, relating to moving violations; highway work zones.*

[H 282]
Approved March 26, 2024

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **46.2-808.3** as follows:

*§ **46.2-808.3**. Violations committed within highway work zone; penalty.*

*Operation of any motor vehicle in a manner constituting a moving violation of any provision of this chapter in a highway work zone, as defined in § **46.2-878.1**, when workers are present and when such highway work zone is indicated by appropriately placed signs shall be unlawful and shall constitute a traffic infraction punishable by a fine of not less than $300 for the first offense and not less than $500 for any subsequent offense. However, if any such subsequent offense occurs within the same 12-month period as any other moving violation of any provision of this chapter while operating a motor vehicle in a highway work zone, as defined in § **46.2-878.1**, such fine shall be not less than $750.*

*A prosecution or proceeding under § **46.2-878.1** is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § **46.2-878.1** for the same act.*

Nothing in this section shall preclude the prosecution or conviction for reckless driving of any motor vehicle operator whose operation of any motor vehicle in a highway work zone demonstrates a reckless disregard for life, limb, or property.

Certain warning light units. Increases from two to four the number of flashing or steady-burning red or red and white combination warning light units with which a 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. This bill is identical to **SB 150.**

CHAPTER 76

*An Act to amend and reenact § **46.2-1024** of the Code of Virginia, relating to certain warning light units.*

[H 15]

Approved March 14, 2024

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~~ *four* flashing or steady-burning red or red and white combination warning light units of types approved by the Superintendent. Warning light units permitted by this section shall be lit only when answering emergency calls. A vehicle equipped with 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.

Claiming a deer, bear, turkey, or elk struck by motor vehicle. Allows any deer, bear, turkey, or elk that appears to have been killed in a collision with a motor vehicle to be claimed by and awarded to any person. Current law allows a deer or bear to only be claimed by and awarded to the driver of a motor vehicle who collides with such animal.

CHAPTER 83

*An Act to amend and reenact § **29.1-539** of the Code of Virginia, relating to claiming deer, bear, turkey, or elk struck by motor vehicle.*

[H 1025]
Approved March 14, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **29.1-539** of the Code of Virginia is amended and reenacted as follows:

§ **29.1-539**. Claiming deer, bear, turkey, or elk struck by motor vehicle.

A. Any person driving a motor vehicle who collides with a deer ~~or~~, bear*, turkey, or elk or who discovers a deer, bear, turkey, or elk that has been killed in a collision with a motor vehicle* may, upon compliance with the provisions of this section *and at any time of year*, ~~keep the deer or bear~~ *claim such animal* for his own use as if the animal had been killed by that person during hunting season for the animal.

B. Any person so killing any deer ~~or~~, bear*, turkey, or elk or who discovers a deer, bear, turkey, or elk that has been killed in a collision with a motor vehicle* shall immediately report the accident to ~~the~~ *a* conservation police officer or other law-enforcement officer of the county or city where the accident occurred. The conservation police officer or other law-enforcement officer shall view ~~the deer or bear~~ *such animal* and if he believes that ~~the deer or bear~~ *such animal* was killed by ~~the~~ *a* collision with ~~the~~ *a* motor vehicle or injured to such an extent as to require its death, he shall award the animal to the person claiming ~~the deer or bear,~~ *it* and shall give the person a ~~certificate to that effect on forms furnished by the Department~~ *call for service number or a report number*.

C. If any person driving a motor vehicle who collides with a deer, bear, turkey, or elk, or person who discovers a deer, bear, turkey, or elk that has been killed in a collision with a motor vehicle, does not claim such animal, a conservation police officer or other law-enforcement officer may award such animal to any other person who wishes to claim it pursuant to this section.

Amber warning lights; certain hunting vehicles. Authorizes road whips, defined in the bill, who are operating vehicles during certain fox hunts to display flashing amber warning lights when such vehicles are not in motion for the purpose of warning other vehicles of such hunt happening in the area. The bill requires such vehicles to also display a sign reading "Horse Crossing With Rider.

CHAPTER 95

*An Act to amend and reenact § **46.2-1025** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **46.2-1025.1**, relating to amber warning lights; certain hunting vehicles.*

[H 24]

Approved March 20, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1025** of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered **46.2-1025.1** 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;

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;

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

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;

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;

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

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

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;

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;

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;

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;

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;

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;

24. Vehicles used or operated by federally licensed amateur radio operators (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;

25. Publicly owned or operated transit buses;~~ and~~

26. Vehicles used for hauling trees, logs, or any other forest products when hauling such products, provided that the amber lights are mounted or installed so as to be visible from behind the vehicle*; and*

*27. Vehicles authorized to use amber lights pursuant to § **46.2-1025.1***.

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.

*§ **46.2-1025.1**. Flashing amber warning lights on certain fox hunting vehicles.*

A. For the purposes of this section, a "road whip" is a vehicle operator guiding or assisting with a hunt under the direction of a hunt master.

B. During a fox hunt, a road whip for a hunt organization exempt from federal taxation pursuant to § 501(c) of the Internal Revenue Code that is a member in good standing of the Masters of Foxhounds Association of North America may use a vehicle equipped with flashing amber warning lights for the purpose of warning other vehicles of such fox hunt happening in the area. Such road whip shall be (i) at least 21 years of age; (ii) in possession of a valid Virginia driver's license; (iii) an experienced member of such hunt organization; (iv) aware of the land being used for such hunt; (v) knowledgeable of the path the hunt may take and any highway where vehicles, hunters, horses, or hounds may be present; and (vi) under the supervision of the masters of the hunt, including having global positioning system (GPS) location monitoring and radio communication with such masters of the hunt or other hunting staff. Each such hunt may authorize such flashing amber warning lights on no more than two vehicles operated by such road whips per hunt. Any vehicle using flashing amber warning lights as authorized in this section shall display a sign on the rear of such vehicle that reads "Horse Crossing With Rider" in print large enough for a passing motorist to read. No flashing amber warning lights authorized pursuant to this section may be used while such vehicle is in motion.

Tow truck drivers; prohibited acts. Prohibits tow truck drivers from driving by the scene of a wrecked or disabled vehicle for which a law-enforcement tow has been initiated by a law-enforcement agency, initiating contact with the owner or operator of such vehicle by soliciting or offering towing services, and towing such vehicle.

CHAPTER 409

*An Act to amend and reenact § **46.2-118** of the Code of Virginia, relating to tow truck drivers; prohibited acts.*

[H 1073]

Approved April 4, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-118** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-118**. Prohibited acts by tow truck drivers and towing and recovery operators.

A. No tow truck driver shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Obtain any fee by fraud or misrepresentation;

5. Remove or tow a trespassing vehicle, as provided in § **46.2-1231**, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth; ~~or~~

6. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services*; or*

7. Drive by the scene of a wrecked or disabled vehicle for which a law-enforcement tow has been initiated by a law-enforcement agency, initiate contact with the owner or operator of such vehicle by soliciting or offering towing services, and tow such vehicle.

B. No towing and recovery operator shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Neglect to maintain on record at the towing and recovery operator's principal office a list of all drivers employed by the towing and recovery operator;

5. Obtain any fee by fraud or misrepresentation;

6. Advertise services in any manner that deceives, misleads, or defrauds the public;

7. Advertise or offer services under a name other than one's own name;

8. Fail to accept for payment cash, insurance company check, certified check, money order, or at least one of two commonly used, nationally recognized credit cards, except those towing and recovery operators who have an annual gross income of less than $10,000 derived from the performance of towing and recovery services shall not be required to accept credit cards, other than when providing police-requested towing as defined in § **46.2-1217**, but shall be required to accept personal checks;

9. Fail to display at the towing and recovery operator's principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles;

10. Fail to have readily available at the towing and recovery operator's principal office, at the customer's request, the maximum fees normally charged by the towing and recovery operator for basic services for towing and initial hookup of vehicles;

11. Knowingly charge excessive fees for towing, storage, or administrative services or charge fees for services not rendered;

12. Fail to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service;

13. Willfully invoice payment for any services not stipulated or otherwise incorporated in a contract for services rendered between the towing and recovery operator and any locality or political subdivision of the Commonwealth;

14. Employ a driver required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1;

15. Remove or tow a trespassing vehicle, as provided in § **46.2-1231**, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth;

16. Refuse, at the towing and recovery operator's place of business, to make change, up to $100, for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle;

17. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services;

18. Fail to provide the owner of a stolen vehicle written notice of his right under law to be reimbursed for towing and storage of his vehicle out of the state treasury from the appropriation for criminal charges as required in § **46.2-1209**; or

19. Refuse to allow, consistent with the protections detailed in the provisions of subsection E of § **46.2-644.01**, the owner of the vehicle towed, upon proof of ownership of the vehicle, to access and recover any personal items without retrieving the vehicle and without paying any fee.

C. No tow truck driver as defined in § **46.2-116** or towing and recovery operator as defined in § **46.2-100** shall knowingly permit another person to occupy a motor vehicle as defined in § **46.2-100** while such motor vehicle is being towed.

Tow truck drivers and towing and recovery operators; prohibited acts; certain solicitation and offering of services; penalty. Prohibits tow truck drivers and towing and recovery operators from causing any other person to solicit or offer towing services in any manner, directly or indirectly, at the scene of any wrecked or disabled motor vehicle upon a highway when such wrecked or disabled motor vehicle reasonably necessitates removal by a tow truck. The bill provides that a violation of such prohibition constitutes a Class 3 misdemeanor for the first offense and a Class 2 misdemeanor for any subsequent offense.

CHAPTER 337

*An Act to amend and reenact § **46.2-118** of the Code of Virginia, relating to tow truck drivers and towing and recovery operators; prohibited acts; certain solicitation and offering of services; penalty.*

[S 94]

Approved April 2, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-118** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-118**. Prohibited acts by tow truck drivers and towing and recovery operators.

A. No tow truck driver shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Obtain any fee by fraud or misrepresentation;

5. Remove or tow a trespassing vehicle, as provided in § **46.2-1231**, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth; or

6. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services.

B. No towing and recovery operator shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Neglect to maintain on record at the towing and recovery operator's principal office a list of all drivers employed by the towing and recovery operator;

5. Obtain any fee by fraud or misrepresentation;

6. Advertise services in any manner that deceives, misleads, or defrauds the public;

7. Advertise or offer services under a name other than one's own name;

8. Fail to accept for payment cash, insurance company check, certified check, money order, or at least one of two commonly used, nationally recognized credit cards, except those towing and recovery operators who have an annual gross income of less than $10,000 derived from the performance of towing and recovery services shall not be required to accept credit cards, other than when providing police-requested towing as defined in § **46.2-1217**, but shall be required to accept personal checks;

9. Fail to display at the towing and recovery operator's principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles;

10. Fail to have readily available at the towing and recovery operator's principal office, at the customer's request, the maximum fees normally charged by the towing and recovery operator for basic services for towing and initial hookup of vehicles;

11. Knowingly charge excessive fees for towing, storage, or administrative services or charge fees for services not rendered;

12. Fail to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service;

13. Willfully invoice payment for any services not stipulated or otherwise incorporated in a contract for services rendered between the towing and recovery operator and any locality or political subdivision of the Commonwealth;

14. Employ a driver required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ **9.1-900** et seq.) of Title 9.1;

15. Remove or tow a trespassing vehicle, as provided in § **46.2-1231**, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth;

16. Refuse, at the towing and recovery operator's place of business, to make change, up to $100, for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle;

17. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services;

18. Fail to provide the owner of a stolen vehicle written notice of his right under law to be reimbursed for towing and storage of his vehicle out of the state treasury from the appropriation for criminal charges as required in § **46.2-1209**; or

19. Refuse to allow, consistent with the protections detailed in the provisions of subsection E of § **46.2-644.01**, the owner of the vehicle towed, upon proof of ownership of the vehicle, to access and recover any personal items without retrieving the vehicle and without paying any fee.

C. No tow truck driver as defined in § **46.2-116** or towing and recovery operator as defined in § **46.2-100** shall knowingly permit another person to occupy a motor vehicle as defined in § **46.2-100** while such motor vehicle is being towed.

*D. No tow truck driver or towing and recovery operator as defined in § **46.2-116** shall cause any other person to solicit or offer towing services in any manner, directly or indirectly, at the scene of any wrecked or disabled motor vehicle upon a highway, as defined in § **46.2-100**, when such wrecked or disabled motor vehicle reasonably necessitates removal by a tow truck. In addition to any penalty authorized pursuant to this title, any tow truck driver or towing and recovery operator violating the provisions of this subsection shall be guilty of a Class 3 misdemeanor for the first offense and of a Class 2 misdemeanor for any subsequent offense.*

Towed vehicles; stolen or misused vehicle; police report. Requires the owner of a vehicle that was stolen, illegally used, or used without his permission and subsequently subject to a law-enforcement initiated tow to provide the report number and the name of the law-enforcement agency receiving the report that the motor vehicle was stolen, illegally used, or used without his permission to the towing facility where the vehicle is being stored in order to remove the vehicle without paying towing and storage fees.

CHAPTER 232

*An Act to amend and reenact § **46.2-1209** of the Code of Virginia, relating to towed vehicles; stolen or misused vehicle; police report.*

[S 261]
Approved March 28, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1209** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1209**. Unattended or immobile vehicles, generally.

A. The provisions of this article shall not apply to any motor vehicle, trailer, semitrailer, or part or combination thereof that weighs less than 75 pounds.

B. No person shall leave any motor vehicle, trailer, semitrailer, or part or combination thereof immobilized or unattended on or adjacent to any roadway if it constitutes a hazard in the use of the highway. No person shall leave any immobilized or unattended motor vehicle, trailer, semitrailer, or part or combination thereof longer than 24 hours on or adjacent to any roadway outside the corporate limits of any city or town, or on an interstate highway or limited access highway, expressway, or parkway inside the corporate limits of any city or town. Any law-enforcement officer or other uniformed employee of the local law-enforcement agency who specifically is authorized to do so by the chief law-enforcement officer or his designee may remove it or have it removed to a storage area for safekeeping and shall report the removal to the Department and to the owner of the motor vehicle, trailer, semitrailer, or combination as promptly as possible. Before obtaining possession of the motor vehicle, trailer, semitrailer, or combination, its owner or successor in interest to ownership shall pay to the parties entitled thereto all costs incidental to its removal or storage. In any violation of this section the owner of such motor vehicle, trailer, semitrailer or part or combination of a motor vehicle, trailer, or semitrailer, shall be presumed to be the person committing the violation; however, this presumption shall be rebuttable by competent evidence.

C. When a motor vehicle, trailer, semitrailer, or part or combination of a motor vehicle, trailer, or semitrailer was stolen or illegally used by a person other than the owner of the vehicle at the time of the theft or used without his authorization, express or implied, it shall be forthwith returned to its owner or the owner's successor in interest, other than an insurance company, who shall be relieved of the payment of any costs charged by the towing operator or storage facility for its daily storage, towing, and recovery fees, provided that the owner removes the vehicle within five business days following the owner's receipt of written notice by certified mail, return receipt requested. If the vehicle's owner fails to remove the vehicle within five days of receipt of such notice, the vehicle shall be released to the owner upon payment of the full costs of storage, towing, and recovery fees, and the owner shall then be entitled to seek reimbursement from the state treasury from the appropriation for criminal charges. The owner shall *provide the report number and the name of the law-enforcement agency receiving the*

report that the motor vehicle was stolen, illegally used, or used without his permission and produce a valid motor vehicle registration or other proof of ownership to the employees of the facility wherein the motor vehicle, trailer, semitrailer or part or combination thereof is being stored. In any case in which the identity of the violator cannot be determined, or where it is found by a court that this section was not violated, the costs of daily storage, towing, and recovery fees of the vehicle shall be reimbursed to the towing and recovery operator and paid out of the state treasury from the appropriation for criminal charges. Payment from the treasury shall be made no later than 45 days from the application for such payment. In all cases where an insurance company is the stolen vehicle owner's successor in interest, the motor vehicle, trailer, semitrailer, or part or combination thereof shall be released to the insurance company upon presentation of a valid motor vehicle registration and payment by the insurance company to the towing operator or storage facility for its daily storage, towing, and recovery fees. The insurance company shall be entitled to seek reimbursement for the costs of the daily storage, towing, and recovery fees through the state treasury from the appropriation for criminal charges. If any person convicted of violating this section fails or refuses to pay these costs or if the identity or whereabouts of the owner is unknown and unascertainable after a diligent search has been made, the locality or its authorized agent in possession of the motor vehicle, trailer, semitrailer, or combination thereof shall treat the vehicle as an abandoned vehicle under the provisions of Article 1 (§ **46.2-1200** et seq.).

Maximum width of vehicles; school buses. Increases from 100 inches to 102 inches the maximum total outside width permitted for school buses.

CHAPTER 361

*An Act to amend and reenact § **46.2-1105** of the Code of Virginia, relating to maximum width of vehicles; school buses.*

[S 572]
Approved April 2, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1105** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1105**. Width of vehicles generally; exceptions.

A. No vehicle, including any load thereon, but excluding the mirror required by § **46.2-1082** and any warning device installed on a school bus pursuant to § **46.2-1090**, shall exceed a total outside width ~~as follows:~~

~~1. Passenger bus operated in an incorporated city or town when authorized under § **46.2-1300** — 102 inches;~~

~~2. School buses — 100 inches;~~

~~3. Vehicles hauling boats or other watercraft — 102 inches;~~

~~4. Other vehicles —~~ *of* 102 inches.

B. Notwithstanding subsection A, a travel trailer as defined in § **46.2-1500** or a motor home may exceed 102 inches if such excess width is attributable to an appurtenance that extends no more than six inches beyond the body of the vehicle. For the purposes of this subsection, "appurtenance" includes (i) an awning and its support hardware and (ii) any appendage that is installed by the manufacturer or dealer intended to be an integral part of a motor home or travel trailer, but does not include any item that is temporarily attached to the exterior of the vehicle by the vehicle's owner for the purposes of transporting the item from one location to another.

License suspensions due to driving during a period of suspension or revocation; period of suspension. Prohibits any license suspensions due to driving during a period of suspension or revocation from extending beyond 10 years from the date of conviction for such violation**.**

CHAPTER 543

*An Act to amend and reenact § **46.2-301** of the Code of Virginia, relating to license suspensions due to driving during a period of suspension or revocation; period of suspension.*

[H 1080]

Approved April 5, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-301** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-301**. Driving while license, permit, or privilege to drive suspended or revoked.

A. In addition to any other penalty provided by this section, any motor vehicle administratively impounded or immobilized under the provisions of § **46.2-301.1** may, in the discretion of the court, be impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been (i) suspended or revoked for a violation of § **18.2-36.1**, **18.2-51.4**, **18.2-266**, **18.2-272**, or **46.2-341.24** or a substantially similar ordinance or law in any other jurisdiction or (ii) administratively suspended under the provisions of § **46.2-391.2**. However, if, at the time of the violation, the offender was driving a motor vehicle owned by another person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by the offender prior to the release of his motor vehicle.

B. Except as provided in § **46.2-304**, no resident or nonresident (i) whose driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the period of such suspension or revocation has terminated or the privilege has been reinstated or a restricted license is issued pursuant to subsection E. For the purposes of this section, the phrase "motor vehicle or any self-propelled machinery or equipment" shall not include mopeds.

C. A violation of subsection B is a Class 1 misdemeanor.

D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive a motor vehicle for the same period for which it had been previously suspended or revoked. In the event the person violated subsection B by driving during a period of suspension or revocation which was not for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension or revocation or to commence immediately if the previous suspension or revocation has expired. *However, no such suspension shall extend beyond 10 years from the conviction date for such violation of subsection B, unless required by Article 6.1 (§ **46.2-341.1** et seq.).*

E. Any person who is otherwise eligible for a restricted license may petition each court that suspended his license pursuant to subsection D for authorization for a restricted license, provided that the period of time for which the license was suspended by the court pursuant to subsection D, if measured from the date of conviction, has expired, even though the suspension itself has not expired. A court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted license for any of the purposes set forth in subsection E of § **18.2-271.1**. No restricted license shall be issued unless each court that issued a suspension of the person's license pursuant to subsection D authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or revocation of the person's license or privilege to drive for any other cause. No restricted license issued pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the Commercial Driver's License Act (§ **46.2-341.1** et seq.). The court shall forward to the Commissioner a copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a license is issued as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted license. A copy of the restricted license issued by the Commissioner shall be carried at all times while operating a motor vehicle.

F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in violation of the terms of a restricted license issued pursuant to subsection E of § **18.2-271.1** is not guilty of a violation of this section but is guilty of a violation of § **18.2-272**.

TRAFFIC – SUMMARY ONLY

HB840 and SB216 – §1 – Special license plates; 250th anniversary of the American Revolution. Authorizes the issuance of revenue-sharing special license plates marking the 250th anniversary of the American Revolution. The bill provides that the prepaid application requirements for special license plates shall not apply to such plates, that the provisions of the bill expire on July 1, 2032, that such plates shall not be newly issued on or after such date, and that such plates may continue in use for a period of time determined by the Commissioner of the Department of Motor Vehicles. This bill is identical to **SB 216.**

HB844 and SB353 – §§46.2-341.4, 46.2-341.12, 46.2-1700, and 46.2-1708 – Commercial driver's licenses and commercial learner's permits; definitions; commercial driver training; drug and alcohol violations. Conforms the definition of commercial motor vehicle to federal regulations, codifies the entry-level driver training system required by federal regulations, and removes contradictory provisions. The bill also prohibits the issuance or continued validity of commercial driver's licenses and commercial learner's permits after a drug or alcohol violation by the applicant, licensee, or permittee. The bill contains technical amendments. This bill is identical to **SB 353.**

HB 380 – §46.2-743 – Special license plates; United States Air Force. Authorizes the issuance of special license plates for active duty members with, honorably discharged veterans with six months of active duty service in, and retirees from the United States Air Force and unremarried surviving spouses of such service members. This bill incorporates **HB 1489.**

HB1362 – §46.2-844 – School bus video-monitoring system; citations. Prohibits a contract between a private vendor and a school division for the operation of school bus video-monitoring systems to capture passing stopped school bus violations from requiring a minimum quota of violations captured or citations issued for the video-monitoring system to be deployed.

HB1526 – §46.2-1145.1 – Motor vehicles; overweight permits for certain trucks operated by electric utilities. Requires the Department of Motor Vehicles to issue overweight permits for an electric utility's operation of vehicles used for the construction, operation, or maintenance of electrical facilities and infrastructure.

HB925 – §§46.2-1150, 4602-1231, and 46.2-1332 – Towing; vehicles with expired registration; civil penalty. Requires a towing operator, defined in the bill, for a parking lot of a multifamily dwelling unit, defined in the bill, to post written notice on a vehicle providing at least 48 hours' notice to a resident prior to removing a resident's vehicle, defined in the bill, from such parking lot of the multifamily dwelling unit for an expired registration or expired vehicle inspection sticker and to provide a copy of such notice to the landlord of such multifamily dwelling unit. The bill provides that a towing operator who fails to comply with these requirements shall be required to reimburse the resident for the cost of the tow and shall be subject to a civil penalty not to exceed $100.

HB1084 – §46.2-1241 – Disabled parking placards; validity; fees. Extends from six months to 12 months the maximum duration for which the DMV may issue a temporary removable windshield placard to a person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking. The bill also eliminates the fee for the issuance of temporary and permanent disabled parking placards and includes technical amendments.

HB1163 – §§46.2-204, 46.2-315, and 46.2-322 – Department of Motor Vehicles; medical review. Changes the standard for being denied a driver's license or having a driver's license reviewed or revoked for medical reasons by removing language regarding the presence of a disability or disease and requiring the existence of an impairment that will prevent the driver from exercising reasonable and ordinary control over a motor vehicle or drive a motor vehicle safely.

HB234 and SB516 – §46.2-915.1 – All-terrain vehicles and off-road motorcycles; seizure, impounding, and disposition. Authorizes the governing body of any city to provide by ordinance for the lawful seizure, impounding, and disposition of an illegally operated all-terrain vehicle or off-road motorcycle operated on a highway or sidewalk within such city. This bill is identical to **SB 516.**

HB1110 – §46.2-819.3:1 – Toll facilities; vehicle owner. Provides that, in the context of automated toll enforcement, the exemption from the definition of "owner" for vehicle rental or vehicle leasing companies applies only if such companies meet existing requirements related to handling toll invoices on rented or leased vehicles.

HB959 – §§46.2-1232, and 46.2-1233.3 – Towing violations; enforcement; fuel surcharge fee. Authorizes localities in Planning Districts 8 and 16 to require written authorization of the owner of the property from which the vehicle is towed at the time the vehicle is being towed and regulate the monitoring practices that may be used by towing and recovery operators. Current law authorizes localities other than those in Planning Districts 8 and 16 to require written authorization of the owner of the property from which the vehicle is towed at the time the vehicle is being towed. The bill changes the penalty for certain trespass towing offenses in Planning District 8 from $150 per violation paid to the Literary Fund to 10 times the total amount charged for such removal, towing, and storage to be paid to the victim of the unlawful towing. The bill also changes the expiration date of the authorization for towing and recovery operators to charge a fuel surcharge fee of no more than $20 for each vehicle towed or removed from private property without the consent of its owner and the prohibition on local governing bodies limiting or prohibiting such fee from July 1, 2024, to July 1, 2025.

HB1324 and SB6 – §46.2-391 – Issuance of restricted driver's license for multiple convictions of driving while intoxicated; completion of specialty dockets. Provides that a person whose driver's license has been revoked for multiple convictions of driving while intoxicated may file a petition for the issuance of a restricted driver's license without having to wait for the expiration of three years from the date of his last conviction, regardless of the date of such conviction, when such person's last conviction resulted from a final order being entered by a court after the successful completion of a Veterans Treatment Court Program, behavioral health docket, or other specialty docket. This bill is identical to **SB 6.**

SB66 – §46.2-118 – Towing without consent of vehicle owner; fee. Prohibits towing and recovery operators from requiring an individual who appears to retrieve a vehicle towed to provide to the towing and recovery operator, in addition to payment of fees, any document not otherwise required by law before releasing the vehicle to the individual.

HB1287 – §46.2-1232 – Towing companies; local authority. Clarifies that the provisions of existing law authorizing localities in Planning District 8 to require towing companies that tow from the county, city, or town to a storage or release location outside of the locality to obtain a permit to do so do not restrict or modify the authority of the locality to require that towing companies that tow and store or release vehicles within the county, city, or town to obtain from the locality a permit to do so.

SB336 – §§33.2-373, 46.2-208, and 46.2-882.1 – Photo speed monitoring devices; high-risk intersection segments. Permits a state or local law-enforcement agency to place and operate a photo speed monitoring device at a high-risk intersection segment, defined in the bill, located within the locality for the purpose of recording violations resulting from the operation of a vehicle in excess of the speed limit, provided that such law-enforcement agency certifies that a traffic fatality has occurred since January 1, 2014, in such segment. The bill provides the same requirements for such devices, information collected from such devices, and any enforcement actions resulting from information collected from such devices as current law applies to the use of such devices in school crossing zones and highway work zones.

CRIMINAL – FULL TEXT

Carnal knowledge and sexual battery; persons detained or arrested by a law-enforcement officer; confidential informants, pretrial defendants or posttrial offenders; penalty. Provides that an accused is guilty of carnal knowledge of a person serving as a confidential informant, defined in the bill, if he (i) is a law-enforcement officer; (ii) knows that such person is serving as a confidential informant for the law-enforcement agency where such officer is employed; and (iii) carnally knows, without use of force, threat, or intimidation, such confidential informant while such person is serving as a confidential informant or is expected to testify in a criminal case for which the confidential informant assisted the law-enforcement agency with its investigation. The bill provides that such offense is a Class 6 felony. The bill also provides that an accused is guilty of sexual battery if he sexually abuses (a) a person detained or arrested by a law-enforcement officer and the accused is a law-enforcement officer, (b) a pretrial defendant or posttrial offender and the accused is an owner or employee of the bail company that posted the pretrial defendant's or posttrial offender's bond, or (c) a person serving as a confidential informant and the accused is a law-enforcement officer. Current law provides that sexual battery is a Class 1 misdemeanor for a first offense and a Class 6 felony for a third or subsequent offense.

CHAPTER 592

*An Act to amend and reenact §§ **18.2-64.2** and **18.2-67.4** of the Code of Virginia, relating to carnal knowledge and sexual battery; persons detained or arrested by a law-enforcement officer, confidential informants, pretrial defendants or posttrial offenders; penalty.*

[S 394]

Approved April 5, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-64.2** and **18.2-67.4** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-64.2**. Carnal knowledge of a person detained or arrested by a law-enforcement officer or an inmate, parolee, probationer, juvenile detainee, pretrial defendant or posttrial offender, or confidential informant; penalty.

A. An accused is guilty of carnal knowledge of a person detained or arrested by a law-enforcement officer or an inmate, parolee, probationer, juvenile detainee, or pretrial defendant or posttrial offender if he is a law-enforcement officer or an employee or contractual employee of, or a volunteer with, a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home as defined in § **16.1-228**, a state or local court services unit as defined in § **16.1-235**, a local community-based probation services agency, or a pretrial services agency; is in a position of authority over the person detained or arrested by a law-enforcement officer, inmate, probationer, parolee, juvenile detainee, or pretrial defendant or posttrial offender; knows that the person detained or arrested by a law-enforcement officer, inmate, probationer, parolee, juvenile detainee, or pretrial defendant or posttrial offender is in the custody of a private, local, or state law-enforcement agency or under the jurisdiction of a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home as defined in § **16.1-228**, a state or local court services unit as defined in § **16.1-235**, a local community-based probation services agency, or a pretrial services agency; and carnally knows, without the use of force, threat, or intimidation, (i) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail or (ii) a person detained or arrested by a law-enforcement officer, probationer, parolee, juvenile detainee, or pretrial defendant or posttrial offender in the custody of a private, local, or state law-enforcement agency or under the jurisdiction of the Department of Corrections, the

Department of Juvenile Justice, a secure facility or detention home as defined in § **16.1-228**, a state or local court services unit as defined in § **16.1-235**, a local community-based probation services agency, a pretrial services agency, a local or regional jail for the purposes of imprisonment, a work program, or any other parole/probationary or pretrial services program or agency. Such offense is a Class 6 felony.

An accused is guilty of carnal knowledge of a pretrial defendant or posttrial offender if he (a) is an owner or employee of the bail bond company that posted the pretrial defendant's or posttrial offender's bond; (b) has the authority to revoke the pretrial defendant's or posttrial offender's bond; and (c) carnally knows, without use of force, threat, or intimidation, a pretrial defendant or posttrial offender. Such offense is a Class 6 felony.

An accused is guilty of carnal knowledge of a person serving as a confidential informant if he (1) is a law-enforcement officer; (2) knows that such person is serving as a confidential informant for the law-enforcement agency where such officer is employed; and (3) carnally knows, without use of force, threat, or intimidation, such confidential informant while such person is serving as a confidential informant or is expected to testify in a criminal case for which the confidential informant assisted the law-enforcement agency with its investigation. Such offense is a Class 6 felony.

B. For the purposes of this section:

"Carnal knowledge" includes the acts of sexual intercourse, cunnilingus, fellatio, anilingus, anal intercourse, and animate or inanimate object sexual penetration.

"Confidential informant" means any person, other than an employee of a law-enforcement agency, who engages in, or provides information about, criminal activity for the purpose of assisting a law-enforcement agency in investigating the criminal activity of another, in exchange for a benefit, the promise of a benefit, or the hope or expectation thereof.

"Law-enforcement officer" means the same as that term is defined in § **9.1-101**.

§ **18.2-67.4**. Sexual battery.

A. An accused is guilty of sexual battery if he sexually abuses, as defined in § **18.2-67.10**, (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation, or ruse~~,~~; (ii) within a two-year period, more than one complaining witness or one complaining witness on more than one occasion intentionally and without the consent of the complaining witness~~,~~; (iii) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail, and the accused is an employee or contractual employee of, or a volunteer with, the state or local correctional facility or regional jail; is in a position of authority over the inmate; and knows that the inmate is under the jurisdiction of the state or local correctional facility or regional jail~~, or~~; (iv) a probationer, parolee, or a pretrial defendant or posttrial offender under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services or agency and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail; is in a position of authority over an offender; and knows that the offender is under the jurisdiction of the Department of Corrections, a local community-based probation services agency, a pretrial services agency or a local or regional jail*; (v) a person detained or arrested by a law-enforcement officer and the accused is a law-enforcement officer; is in a position of authority over the*

person detained or arrested; and knows that the person detained or arrested by a law-enforcement officer is in the custody of a private, local, or state law-enforcement agency; (vi) a pretrial defendant or posttrial offender and the accused is an owner or employee of the bail company that posted the pretrial defendant's or posttrial offender's bond and has the authority to revoke the pretrial defendant's or posttrial offender's bond; or (vii) a person serving as a confidential informant and the accused is a law-enforcement officer; knows that such person is serving as a confidential informant for the law-enforcement agency where such officer is employed; and such person is serving as a confidential informant or is expected to testify in a criminal case for which he assisted the law-enforcement agency with its investigation.

B. Sexual battery is a Class 1 misdemeanor.

*C. For the purposes of this section, "confidential informant" means the same as that term is defined in § **18.2-64.2***.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Larceny offenses; venue. Allows grand larceny and embezzlement offenses to be prosecuted in any county or city where the victim of the larceny or embezzlement resides.

CHAPTER 475

*An Act to amend and reenact §§ **18.2-95** and **18.2-111** of the Code of Virginia, relating to larceny offenses; venue.*

[H 1256]
Approved April 4, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-95** and **18.2-111** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-95**. Grand larceny defined; how punished.

A. Any person who (i) commits larceny from the person of another of money or other thing of value of $5 or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of $1,000 or more, or (iii) commits simple larceny not from the person of another of any firearm, regardless of the firearm's value, shall be guilty of grand larceny, punishable by imprisonment in a state correctional facility for not less than one nor more than 20 years or, in the discretion of the jury or court trying the case without a jury, be confined in jail for a period not exceeding 12 months or fined not more than $2,500, either or both.

*B. A prosecution for a violation of this section may be had in (i) any place of venue under Article 2 (§ **19.2-244** et seq.) of Chapter 15 of Title 19.2 or (ii) any county or city where the victim of the larceny resides.*

§ **18.2-111**. Embezzlement deemed larceny; indictment.

A. If any person wrongfully and fraudulently use, dispose of, conceal or embezzle any money, bill, note, check, order, draft, bond, receipt, bill of lading or any other personal property, tangible or intangible, which he shall have received for another or for his employer, principal or bailor, or by virtue of his office, trust, or employment, or which shall have been entrusted or delivered to him by another or by any court, corporation or company, he shall be guilty of embezzlement. Proof of embezzlement shall be sufficient to sustain the charge of larceny. Any person convicted hereunder shall be deemed guilty of larceny and may be indicted as for larceny and upon conviction shall be punished as provided in § **18.2-95** or § **18.2-96**.

*B. A prosecution for a violation of this section may be had in (i) any place of venue under Article 2 (§ **19.2-244** et seq.) of Chapter 15 of Title 19.2 or (ii) any county or city where the victim of the embezzlement resides.*

Production, publication, sale, financing, etc., of child pornography; penalty. Amends the definition of "child pornography" to include sexually explicit visual material that depicts a minor in a state of nudity or engaged in sexual conduct where such depiction is obscene and specifies that such minor does not have to actually exist.

CHAPTER 262

*An Act to amend and reenact § **18.2-374.1** of the Code of Virginia, relating to production, publication, sale, financing, etc., of child pornography; penalty.*

[S 731]

Approved March 28, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-374.1** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-374.1**. Production, publication, sale, financing, etc., of child pornography; presumption as to age.

A. For purposes of this article and Article 4 (§ **18.2-362** et seq.) of this chapter, "child pornography" means sexually explicit visual material ~~which~~ *that (i)* utilizes or has as a subject an identifiable minor *or (ii) depicts a minor in a state of nudity or engaged in sexual conduct, as those terms are defined in § **18.2-390**, where such depiction is obscene as defined in § **18.2-372***. An identifiable minor is a person who was a minor at the time the visual depiction was created, adapted, or modified; or whose image as a minor was used in creating, adapting or modifying the visual depiction; and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and shall not be construed to require proof of the actual identity of the identifiable minor. *For the purposes of clause (ii), the minor depicted does not have to actually exist.*

For the purposes of this article and Article 4 (§ **18.2-362** et seq.) of this chapter, the term "sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film, digital image, including such material stored in a computer's temporary Internet cache when three or more images or streaming videos are present, or similar visual representation which depicts sexual bestiality, a lewd exhibition of nudity, as nudity is defined in § **18.2-390**, or sexual excitement, sexual conduct or sadomasochistic abuse, as also defined in § **18.2-390**, or a book, magazine or pamphlet which contains such a visual representation. An undeveloped photograph or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.

B. A person shall be guilty of production of child pornography who:

1. Accosts, entices or solicits a person less than 18 years of age with intent to induce or force such person to perform in or be a subject of child pornography; or

2. Produces or makes or attempts or prepares to produce or make child pornography; or

3. Who knowingly takes part in or participates in the filming, photographing, or other production of child pornography by any means; or

4. Knowingly finances or attempts or prepares to finance child pornography.

5. [Repealed.]

B1. [Repealed.]

C1. Any person who violates this section, when the subject of the child pornography is a child less than 15 years of age, shall be punished by not less than five years nor more than 30 years in a state correctional facility. However, if the person is at least seven years older than the subject of the child pornography the person shall be punished by a term of imprisonment of not less than five years nor more than 30 years in a state correctional facility, five years of which shall be a mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this section where the person is at least seven years older than the subject shall be punished by a term of imprisonment of not less than 15 years nor more than 40 years, 15 years of which shall be a mandatory minimum term of imprisonment.

C2. Any person who violates this section, when the subject of the child pornography is a person at least 15 but less than 18 years of age, shall be punished by not less than one year nor more than 20 years in a state correctional facility. However, if the person is at least seven years older than the subject of the child pornography the person shall be punished by term of imprisonment of not less than three years nor more than 30 years in a state correctional facility, three years of which shall be a mandatory minimum term of imprisonment. Any person who commits a second or subsequent violation of this section when he is at least seven years older than the subject shall be punished by a term of imprisonment of not less than 10 years nor more than 30 years, 10 years of which shall be a mandatory minimum term of imprisonment.

C3. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

D. For the purposes of this section it may be inferred by text, title or appearance that a person who is depicted as or presents the appearance of being less than 18 years of age in sexually explicit visual material is less than 18 years of age.

E. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs, where the alleged offender resides, or where any sexually explicit visual material associated with a violation of this section is produced, reproduced, found, stored, or possessed.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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Child abuse and neglect; mandatory reporters; statute of limitations; penalties. Adds aggravated sexual battery of a child and attempted rape, sodomy, aggravated sexual battery, or object sexual penetration of a child to the list of offenses for which a failure to report subjects a mandatory reporter to criminal liability. This bill incorporates **HB 449.**

CHAPTER 615

*An Act to amend and reenact § **63.2-1509** of the Code of Virginia, relating to child abuse and neglect; mandatory reporters; penalties.*

[H 1542]
Approved April 8, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **63.2-1509** of the Code of Virginia is amended and reenacted as follows:

§ **63.2-1509**. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;

2. Any hospital resident or intern, and any person employed in the nursing profession;

3. Any person employed as a social worker or family-services specialist;

4. Any probation officer;

5. Any teacher or other person employed in a public or private school, kindergarten, or child day program, as that term is defined in § **22.1-289.02**;

6. Any person providing full-time or part-time child care for pay on a regularly planned basis;

7. Any mental health professional;

8. Any law-enforcement officer or animal control officer;

9. Any mediator eligible to receive court referrals pursuant to § **8.01-576.8**;

10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;

11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;

12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ **9.1-151** et seq.) of Chapter 1 of Title 9.1;

13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;

14. Any person employed by a local department as defined in § **63.2-100** who determines eligibility for public assistance;

15. Any emergency medical services provider certified by the Board of Health pursuant to § **32.1-111.5**, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;

16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a public or private sports organization or team;

17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs;

18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client;

19. Any minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church, unless the information supporting the suspicion of child abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) would be subject to § **8.01-400** or **19.2-271.3** if offered as evidence in court; and

20. Any person who engages in the practice of behavior analysis, as defined in § **54.1-2900**.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or

his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § **8.01-399**. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall, due to the special medical needs of infants affected by substance exposure, include (i) a finding made by a health care provider within six weeks of the birth of a child that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made by a health care provider within four years following a child's birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy; or (iii) a diagnosis made by a health care provider within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report. Such reports shall not constitute a per se finding of child abuse or neglect. If a health care provider in a licensed hospital makes any finding or diagnosis set forth in clause (i), (ii), or (iii), the hospital shall require the development of a written discharge plan under protocols established by the hospital pursuant to subdivision B 6 of § **32.1-127**.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than $500 for the first failure and for any subsequent failures not less than $1,000. In cases evidencing acts *or attempted acts* of rape, sodomy, *aggravated sexual battery,* or object sexual penetration as defined in Article 7 (§ **18.2-61** et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

Forced labor or service; penalties. Expands the offense of abduction to penalize any person who, by force, intimidation or deception, and without legal justification or excuse, obtains the labor or services of another, or seizes, takes, transports, detains or secretes another person or threatens to do so. The bill also expands the offense of receiving money for procuring a person to penalize any person who causes another to engage in forced labor or services or provides or obtains labor or services by any act as described in the offense of abduction. Lastly, the bill allows any person injured as a result of an abduction for the purposes of forced labor or services to commence a civil action for recovery of compensatory damages, punitive damages, and reasonable attorney fees and costs.

CHAPTER 368

*An Act to amend and reenact §§ **8.01-42.4**, **18.2-47**, and **18.2-356** of the Code of Virginia, relating to forced labor or service; penalties.*

[H 633]
Approved April 3, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **8.01-42.4**, **18.2-47**, and **18.2-356** of the Code of Virginia are amended and reenacted as follows:

§ **8.01-42.4**. Civil action for trafficking in persons.

A. Any person injured by reason of (i) a violation of *subsection B of § **18.2-47** or* clause (iii), (iv), or (v) of § **18.2-48**; (ii) a violation of § **18.2-348**, **18.2-348.1**, **18.2-349**, **18.2-355**, **18.2-356**, **18.2-357**, **18.2-357.1**, or **18.2-368**; or (iii) a felony violation of § **18.2-346.01** 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 seven years after the later of the date on which such person (i) was no longer subject to the conduct prohibited by *subsection B of § **18.2-47** or* clause (iii), (iv), or (v) of § **18.2-48** or § **18.2-348**, **18.2-348.1**, **18.2-349**, **18.2-355**, **18.2-356**, **18.2-357**, **18.2-357.1**, or **18.2-368** or under a felony violation of § **18.2-346.01** or (ii) attained 18 years of age.

C. The provisions of this section shall apply whether or not an individual has been charged with or convicted of any of the alleged violations listed in subsection A.

§ **18.2-47**. Abduction and kidnapping defined; forced labor; punishment.

A. Any person who, by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to deprive such other person of his personal liberty or to withhold or conceal him from any person, authority or institution lawfully entitled to his charge, shall be deemed guilty of "abduction."

B. Any person who, by force, intimidation or deception, and without legal justification or excuse, *obtains the labor or services of another person, or* seizes, takes, transports, detains or secretes another person *or threatens to do so,* with the intent to subject him to forced labor or services, shall be deemed guilty of "abduction." For purposes of this subsection, the term "intimidation" shall include destroying, concealing, confiscating, withholding, or threatening to withhold a passport, immigration document, or other governmental identification ~~or~~, threatening to report another as being illegally present in the United States*, or threatening to separate another from or to harm a family member*.

C. The provisions of this section shall not apply to any law-enforcement officer in the performance of his duty. The terms "abduction" and "kidnapping" shall be synonymous in this Code. Except as provided in subsection D, abduction of a minor shall be punished as a Class 2 felony. Abduction for which no punishment is otherwise prescribed shall be punished as a Class 5 felony.

D. If an offense under subsection A is committed by the parent or a family or household member, as defined in § **16.1-228**, who has been ordered custody or visitation of the person abducted and punishable as contempt of court in any proceeding then pending, the offense shall be a Class 1 misdemeanor in addition to being punishable as contempt of court. However, such offense, if committed by the parent or a family or household member, as defined in § **16.1-228**, who has been ordered custody or visitation of the person abducted and punishable as contempt of court in any proceeding then pending and the person abducted is removed from the Commonwealth by the abducting parent or a family or household member, as defined in § **16.1-228**, who has been ordered custody or visitation, shall be a Class 6 felony in addition to being punishable as contempt of court.

§ **18.2-356**. Receiving money for procuring person; penalties.

Any person who receives any money or other valuable thing for or on account of (i) procuring for or placing in a house of prostitution or elsewhere any person for the purpose of causing such person to engage in unlawful sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act in violation of § **18.2-361**, or touching of the unclothed genitals or anus of another person with the intent to sexually arouse or gratify~~, or~~*;* (ii) causing any person to engage in ~~forced labor or services,~~ concubinage, prostitution, or the manufacture of any obscene material or child pornography*; or (iii) causing any person to engage in forced labor or services or providing or obtaining labor or services by any act in violation of subsection B of §* ***18.2-47*** is guilty of a Class 4 felony. Any person who violates clause (i) or (ii) with a person under the age of 18 is guilty of a Class 3 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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Controlled substances; manufacturing, selling, giving, distributing, etc.; adulterated or misbranded drugs; penalties. Makes it a Class 6 felony for any person, except for permitted manufacturers, to possess, purchase, sell, give, distribute, or possess with intent to sell, give, or distribute an encapsulating machine or a tableting machine that manufactures, compounds, converts, produces, processes, prepares, or otherwise introduces into the human body a controlled substance. The bill makes it a Class 5 felony if such person knows, intends, or has reasonable cause to believe that such action will result in the unlawful manufacture of a controlled substance or counterfeit controlled substance that contains (i) a controlled substance classified in Schedule I or Schedule II of the Drug Control Act or (ii) a controlled substance analog as defined in relevant law.

The bill also makes it a felony punishable by imprisonment for not less than 10 nor more than 40 years for any person 18 years of age or older to knowingly allow a minor or a mentally incapacitated or physically helpless person of any age to be present during the manufacture or attempted manufacture of any substance containing a detectable amount of fentanyl.

The bill also increases from a Class 2 misdemeanor to a Class 6 felony the penalty for violations related to adulterated or misbranded drugs and cosmetics.

CHAPTER 371

*An Act to amend and reenact §§ **18.2-248.02** and **54.1-3458** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **18.2-248.05**, relating to controlled substances; manufacturing, selling, giving, distributing, etc.; adulterated or misbranded drugs; penalties.*

[S 469]

Approved April 4, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-248.02** and **54.1-3458** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **18.2-248.05** as follows:

§ **18.2-248.02**. Allowing a minor or incapacitated person to be present during manufacture or attempted manufacture of methamphetamine or fentanyl prohibited; penalties.

Any person 18 years of age or older who knowingly allows (i) a minor under the age of 15, (ii) a minor 15 years of age or older with whom he maintains a custodial relationship, including but not limited to as a parent, step-parent, grandparent, step-grandparent, or who stands in loco parentis with respect to such minor, or (iii) a mentally incapacitated or physically helpless person of any age, to be present in the same dwelling, apartment as defined by § **55.1-2000**, unit of a hotel as defined in § **35.1-1**, garage, shed, or vehicle during the manufacture or attempted manufacture of methamphetamine as prohibited by subsection C1 of § **18.2-248** *or any substance containing a detectable amount of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts of isomers,* is guilty of a felony punishable by imprisonment for not less than 10 nor more than 40 years. This penalty shall be in addition to and served consecutively with any other sentence.

*§ **18.2-248.05**. Prohibited equipment related to manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance; penalties.*

A. For the purposes of this section:

"Encapsulating machine" means manual, semiautomatic, or fully automatic equipment that can be used to fill shells or capsules with powdered or granular solids or semisolid material to produce coherent solid contents.

"Tableting machine" means manual, semiautomatic, or fully automatic equipment that can be used to compact, compress, or mold powdered or granular solids or semisolid material to produce fused coherent solid tablets.

B. Except for manufacturers permitted pursuant to the Drug Control Act (§ ***54.1-3400*** *et seq.), it is unlawful for any person to possess, purchase, sell, give, distribute, or possess with intent to sell, give, or distribute an encapsulating machine or a tableting machine that manufactures, compounds, converts, produces, processes, prepares, or otherwise introduces into the human body a controlled substance. Any person who violates this section is guilty of a Class 6 felony. However, any person who violates this section knowing, intending, or having reasonable cause to believe that such action will result in the unlawful manufacture of a controlled substance or counterfeit controlled substance that contains (i) a controlled substance classified in Schedule I or Schedule II of the Drug Control Act or (ii) a controlled substance analog as defined in §* ***54.1-3456*** *is guilty of a Class 5 felony.*

§ **54.1-3458**. Violations.

A. Any person who violates any of the provisions of § **54.1-3457** shall be guilty of a Class ~~2 misdemeanor~~ *6 felony*.

B. No person shall be subject to the penalties of this section for having violated subdivisions 1 and 3 of § **54.1-3457** if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in this Commonwealth from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this chapter.

C. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section for the dissemination of such false advertisement, unless he has refused, on the request of the Board, to furnish the Board the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in this Commonwealth who caused him to disseminate such advertisement.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Xylazine; manufacturing; selling; giving; distributing; possessing; veterinary use exemption; penalties. Provides that any person who knowingly manufactures, sells, gives, distributes, or possesses with the intent to manufacture, sell, give, or distribute the substance xylazine, when intended for human consumption, is guilty of a Class 5 felony. Under the bill, any person who knowingly possesses xylazine, when intended for human consumption, is guilty of a Class 1 misdemeanor. Under the bill, it is not an offense to (i) manufacture xylazine for legitimate veterinary use; (ii) distribute or sell xylazine for authorized veterinary use; (iii) possess, administer, prescribe, or dispense xylazine in good faith for use by animals within the course of legitimate veterinary practice; or (iv) possess or administer xylazine pursuant to a valid prescription from a licensed veterinarian. This bill is identical to **SB 614.**

CHAPTER 472

*An Act to amend the Code of Virginia by adding a section numbered **18.2-251.5**, relating to manufacturing, selling, giving, distributing, or possessing xylazine; penalties.*

[H 1187]

Approved April 4, 2024

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **18.2-251.5** as follows:

*§ **18.2-251.5**. Manufacturing, selling, giving, distributing, or possessing xylazine; penalties.*

A. Any person who knowingly manufactures, sells, gives, distributes, or possesses with the intent to manufacture, sell, give, or distribute the substance xylazine, when intended for human consumption, is guilty of a Class 5 felony.

B. Any person who knowingly possesses the substance xylazine, when intended for human consumption, is guilty of a Class 1 misdemeanor.

C. Notwithstanding subsections A and B, it shall not be an offense to (i) manufacture xylazine for legitimate veterinary use; (ii) distribute or sell xylazine for authorized veterinary use; (iii) possess, administer, prescribe, or dispense xylazine in good faith for use by animals within the course of legitimate veterinary practice; or (iv) possess or administer xylazine pursuant to a valid prescription from a licensed veterinarian.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Unlawful dissemination or sale of images of another; penalty. Expands the current categories of images that are unlawful to disseminate or sell to include any videographic or still image that depicts another person whose genitals, pubic area, buttocks, or female breast are not exposed but such videographic or still image is obscene, as defined in the bill.
The bill adds to the statute of limitations for the misdemeanor offense of unlawful creation of the image of another to provide that a prosecution shall be commenced within five years of the commission of the offense or within one year of the date the victim discovers the offense or, by the exercise of due diligence, reasonably should have discovered the offense, whichever is later. The bill creates the same statute of limitations for the offense of unlawful dissemination or sale of the image of another. Current law starts the statute of limitations for the offense of unlawful creation of the image of another upon the commission of the offense.

CHAPTER 697

*An Act to amend and reenact §§ **18.2-386.2** and **19.2-8** of the Code of Virginia, relating to unlawful dissemination or sale of images of another; penalty.*

[H 926]

Approved April 8, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-386.2** and **19.2-8** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-386.2**. Unlawful dissemination or sale of images of another; penalty.

A. Any person who, with the intent to coerce, harass, or intimidate, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another person *(i)* who is totally nude~~,~~ ~~or~~*; (ii) who is* in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast~~,~~*; or (iii) whose genitals, pubic area, buttocks, or female breast are not exposed but such videographic or still image is obscene as defined in § **18.2-372*** where such person knows or has reason to know that he is not licensed or authorized to disseminate or sell such videographic or still image is guilty of a Class 1 misdemeanor. For purposes of this subsection, "another person" includes a person whose image was used in creating, adapting, or modifying a videographic or still image with the intent to depict an actual person and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic.

B. If a person uses services of an Internet service provider, an electronic mail service provider, or any other information service, system, or access software provider that provides or enables computer access by multiple users to a computer server in committing acts prohibited under this section, such provider shall not be held responsible for violating this section for content provided by another person.

C. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any videographic or still image created by any means whatsoever is produced, reproduced, found, stored, received, or possessed in violation of this section.

D. 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 for a violation for which a penalty is provided for by § **55.1-1989** 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 *misdemeanor* violation of § **18.2-386.1** *or* ***18.2-386.2*** shall be commenced within five years of the commission of the offense *or within one year of the date the victim discovers the offense or, by the exercise of due diligence, reasonably should have discovered the offense, whichever is later*.

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 § **18.2-64.2**, **18.2-67.4**, **18.2-67.4:1**, **18.2-67.4:2**, **18.2-67.5**, or **18.2-370.6** or clause (ii) of § **18.2-371** 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, unless the alleged offender of such offense was an adult and more than three years older than the victim at the time of the offense, in which instance such prosecution shall be commenced no later than five years 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.

Purchase, possession, and sale of retail tobacco products; retail tobacco products and liquid nicotine tax; penalties. Prohibits Internet sales of liquid nicotine or nicotine vapor products, except to a retail dealer, and prohibits the sale of retail tobacco products from vending machines. The bill updates, for the purpose of the crime of selling or distributing tobacco products to a person younger than 21 years of age, the definition of "retail tobacco products" by including in such definition products currently defined as "nicotine vapor products" or "alternative nicotine vapor products." The bill also removes provisions prohibiting the attempt to purchase, the purchase, or the possession of tobacco products by persons younger than 21 years of age.

The bill provides that the punishment of a retail dealer that sells, gives, or furnishes a tobacco product to a person younger than 21 years of age or to a person who does not demonstrate that such person is at least 21 years of age is (i) a civil penalty of $1,000 for a first offense within a 36-month period, (ii) a civil penalty of $5,000 for a second offense within a 36-month period such retail dealer shall become subject to specific age-verification requirements, (iii) a civil penalty of $10,000 and a 30-day suspension of such retail dealer's distributor's license for a third offense within a 36-month period, and (iv) revocation of such license and such retail dealer shall be ineligible to hold a license for a period of three years following the most recent violation for a fourth offense within a 36-month period. The bill requires the Department of Taxation, in collaboration with the Virginia Alcoholic Beverage Control Authority and local law enforcement, to conduct a compliance check every 24 months on any retail dealer selling retail tobacco products and to use a person younger than 21 years of age to conduct such checks.

The bill also imposes a tax upon liquid nicotine in closed systems, as defined in the bill, at the rate of $0.066 per milliliter and upon liquid nicotine in open systems, as defined in the bill, at the rate of 20 percent of the wholesale price for purchases on and after July 1, 2024. The bill applies licensing requirements to manufacturers, distributors, and retail dealers of liquid nicotine and creates new safety requirements related to the advertising, marketing, and labeling of liquid nicotine and nicotine vapor products. This bill is identical to SB 582.

CHAPTER 821

An Act to amend and reenact §§ ***18.2-246.8****,* ***18.2-371.2****,* ***22.1-79.5****,* ***22.1-206****,* ***22.1-279.6****,* ***58.1-1021.01****,* ***58.1-1021.02****,* ***58.1-1021.04:1****,* ***58.1-1021.04:5****,* ***59.1-293.10****, and* ***59.1-293.11*** *of the Code of Virginia and to amend the Code of Virginia by adding in Article 2.1 of Chapter 10 of Title 58.1 sections numbered* ***58.1-1021.06*** *through* ***58.1-1021.09*** *and by adding in Chapter 23.2 of Title 59.1 sections numbered* ***59.1-293.12****,* ***59.1-293.13****, and* ***59.1-293.14****, relating to purchase, possession, and sale of retail tobacco products; retail tobacco products and liquid nicotine tax; penalties.*

[H 790]
Approved April 17, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-246.8**, **18.2-371.2**, **22.1-79.5**, **22.1-206**, **22.1-279.6**, **58.1-1021.01**, **58.1-1021.02**, **58.1-1021.04:1**, **58.1-1021.04:5**, **59.1-293.10**, and **59.1-293.11** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2.1 of Chapter 10 of Title 58.1 sections numbered **58.1-1021.06** through **58.1-1021.09** and by adding in Chapter 23.2 of Title 59.1 sections numbered **59.1-293.12**, **59.1-293.13**, and **59.1-293.14** as follows:

§ **18.2-246.8**. Age verification requirements.

A. No person shall mail, ship, or otherwise deliver cigarettes in connection with a delivery sale unless prior to the first delivery sale to a consumer such person:

1. Obtains from the prospective consumer a certification that includes (i) a reliable confirmation that the consumer is at least the legal minimum purchase age~~,~~ and (ii) a statement signed by the prospective consumer in writing that certifies the prospective consumer's address and that the consumer is at least 21 years of age. Such statement shall also confirm (a) that the prospective consumer understands that signing another person's name to

such certification is illegal, (b) that the sale of cigarettes to individuals under the legal minimum purchase age is illegal, and (c) that the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of the Commonwealth;

2. Makes a good faith effort to verify the information contained in the certification provided by the prospective consumer pursuant to ~~subsection A~~ *subdivision 1* against a commercially available database of valid, government-issued identification that contains the date of birth or age of the individual placing the order, or obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order;

3. Provides to the prospective consumer, via ~~e-mail~~ *email* or other means, a notice that meets the requirements of § **18.2-246.9**; and

4. Receives payment for the delivery sale from the prospective consumer by a credit or debit card that has been issued in such consumer's name or by a check drawn on the consumer's account.

B. *1. Except as provided in § **58.1-1021.06**, if a purchase order for a liquid nicotine or nicotine vapor product, as defined in § **58.1-1021.01**, is made via the Internet, no person shall make a delivery for such order unless the delivery is to a retail dealer, as defined in § **58.1-1021.01**.*

2. Persons accepting purchase orders made via the Internet for delivery sales may request that prospective consumers provide their ~~e-mail~~ *email* addresses.

§ **18.2-371.2**. Prohibiting purchase or possession of retail tobacco products and hemp products intended for smoking by a person under 21 years of age or sale of retail tobacco products and hemp products intended for smoking to persons under 21 years of age; civil penalties.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person ~~less~~ *younger* than 21 years of age, knowing or having reason to believe that such person is ~~less~~ *younger* than 21 years of age, any *retail* tobacco product~~, nicotine vapor product, alternative nicotine product,~~ or hemp product intended for smoking.

~~Tobacco products, nicotine vapor products, alternative nicotine products, and~~ *No person shall sell retail tobacco products or* hemp products intended for smoking ~~may be sold~~ from a vending machine ~~only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of such products by persons under 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not generally accessible to persons under 21 years of age. An establishment that prohibits the presence of persons under 21 years of age unless accompanied by a person 21 years of age or older is not open to the general public~~.

B. ~~No person less than 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking by a person less than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part of a scientific study being conducted by an organization for the purpose of medical research to further efforts in cigarette and tobacco use prevention and~~

~~cessation and tobacco product regulation, provided that such medical research has been approved by an institutional review board pursuant to applicable federal regulations or by a research review committee pursuant to Chapter 5.1 (§ **32.1-162.16** et seq.) of Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a law enforcement officer or his agent when the same is necessary in the performance of his duties.~~

~~C.~~ No person shall sell a *retail* tobacco product~~, nicotine vapor product, alternative nicotine product,~~ or hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least 21 years of age. ~~Such identification is not required from an individual whom the person has reason to believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.~~

*Before a retail dealer may sell retail tobacco products, other than cigar and pipe tobacco products as defined in § **58.1-1021.01**, to any consumer, the person selling, offering for sale, giving, or furnishing the retail tobacco products shall verify that the consumer is of legal age by examining from any person who appears to be under 30 years of age a government-issued photographic identification that establishes that the person is of legal age or, if required pursuant to subdivision C 4 b of § **58.1-1021.04:1** or subdivision B 2 b of § **59.1-293.12**, verifying the identification presented using identification fraud detection software, technology, or a scanner that confirms the authenticity of such identification.*

This subsection shall not apply to mail order or Internet sales, provided that the person offering the *retail* tobacco product~~, nicotine vapor product, alternative nicotine product,~~ or hemp product intended for smoking for sale through mail order or the Internet (i) prior to the sale of the *retail* tobacco product~~, nicotine vapor product, alternative nicotine product,~~ or hemp product intended for smoking verifies that the purchaser is at least 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the *retail* tobacco product~~, nicotine vapor product, alternative nicotine product,~~ or hemp product intended for smoking will be released to the purchaser.

~~D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.~~

~~E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi is punishable by a civil penalty not to exceed $100 for a first violation, a civil penalty not to exceed $200 for a second violation, and a civil penalty not to exceed $500 for a third or subsequent violation.~~

C. A violation of subsection A or ~~C~~ *B* by an individual or by a separate retail establishment ~~that involves the sale, distribution, or purchase of a bidi~~ is punishable by a civil penalty in the amount of $500 for a first violation~~, a civil penalty in the amount of $1,000 for a second violation,~~ and a civil penalty in the amount of $2,500 for a ~~third~~ *second* or subsequent violation *within a three-year period*. ~~Where a defendant retail establishment offers~~

~~proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed $1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi~~ *If applicable, upon a second or subsequent violation within a three-year period, the Department of Taxation may suspend or revoke any approved license, permit, or registration issued pursuant to subsection C of § **58.1-1021.04:1***.

~~A violation of subsection B is punishable by a civil penalty not to exceed $100 for a first violation and a civil penalty not to exceed $250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § **16.1-278.8**.~~ *For any violation of this section by an employee of a retail establishment, (i) such penalty shall be assessed against the establishment and (ii) an additional penalty of $100 shall be assessed against the employee.*

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A~~,~~ *or* B~~, or C~~.

~~F.~~ *D.* 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any *retail* tobacco product~~, nicotine vapor product, alternative nicotine product,~~ or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of *retail* tobacco products~~, nicotine vapor products, alternative nicotine products,~~ or hemp products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed $500. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed $500. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

~~G.~~ *E.* Nothing in this section shall be construed to create a private cause of action.

~~H.~~ *F.* Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § **4.1-105** may issue a summons for any violation of this section. *Additionally, any retailer selling retail tobacco products shall be subject to the enforcement and compliance provisions of Chapter 23.2 (§ **59.1-293.10** et seq.) of Title 59.1.*

~~I.~~ *G.* As used in this section:

~~"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.~~

~~"Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.~~

"Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. "Electronic smoking device" includes any component, part, or accessory of the device, whether or not sold separately, and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include any (i) battery or battery charger when sold separately or (ii) device used for heated tobacco products. "Electronic smoking device" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration.

"Hemp product" ~~means~~ *and "hemp product intended for smoking" mean* the same as ~~that term is~~ *those terms are* defined in § **3.2-4112**.

~~"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.~~

"~~Tobacco~~ *Retail tobacco* product" means *(i)* any product *containing,* made of*, or derived from* tobacco *or that contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated tobacco product, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (ii) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine;* and ~~includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings~~ *(iii) any component, part, or accessory of a product described in clause (i) or (ii), whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling papers, blunt or hemp wraps, and pipes. "Retail tobacco product" includes any nicotine vapor product as that term is defined in § **58.1-1021.01**.* "~~Tobacco~~ *Retail tobacco* product" does not include ~~any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act~~ *drugs or devices, as such terms are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration*.

"Wrappings" includes ~~papers~~ *materials* made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

§ **22.1-79.5**. Policy regarding retail tobacco products and hemp products intended for smoking.

Each school board shall develop and implement a policy to prohibit, at any time, the use and distribution of any *retail* tobacco product ~~or nicotine vapor product~~ *or hemp product intended for smoking*, as those terms are defined in § **18.2-371.2**, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

Such policy shall include (i) provisions for its enforcement among students, employees, and visitors, including the enumeration of possible sanctions or disciplinary action consistent with state or federal law, and (ii) referrals to resources to help staff and students overcome tobacco addiction.

Each school board shall work to ensure adequate notice of this policy.

§ **22.1-206**. Instruction concerning drugs, alcohol, substance abuse, retail tobacco products, hemp products intended for smoking, and gambling.

A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking, and drunk driving shall be provided in the public schools. The Virginia Alcoholic Beverage Control Authority shall provide educational materials to the Department of Education. The Department of Education shall review and shall distribute such materials as are approved to the public schools.

~~C.~~ The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall distribute to each local school division educational materials concerning the health and safety risks of using *retail* tobacco products~~, nicotine vapor products, and alternative nicotine products~~ *and hemp products intended for smoking*, as such terms are defined in § **18.2-371.2**. Instruction concerning the health and safety risks of using tobacco products~~, nicotine vapor products, and alternative nicotine products~~ *and hemp products intended for smoking*, as such terms are defined in § **18.2-371.2**, shall be provided in each public elementary and secondary school in the Commonwealth, consistent with such educational materials.

~~D.~~ *C.* Instruction concerning gambling and the addictive potential thereof shall be provided by the public schools as prescribed by the Board.

§ **22.1-279.6**. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension ~~and~~, expulsion, and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal, and case laws, for school board

policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies; (iv) standards for dress or grooming codes; and (v) standards for reducing bias and harassment in the enforcement of any code of student conduct.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § **22.1-253.13:7** and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include in the regulations on codes of student conduct procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § **18.2-56**, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than $2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal or his designee to notify the parent of any student involved in an alleged incident of bullying within 24 hours of learning of the allegation of bullying.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § **22.1-279.7**.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § **22.1-277.07**.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing any *retail* tobacco product or ~~nicotine vapor product~~ *hemp product intended for smoking*, as those terms are defined in § **18.2-371.2**, on a school bus, on school property, or at an on-site or off-site school-sponsored activity.

I. Any school board may include in its code of student conduct a dress or grooming code. Any dress or grooming code included in a school board's code of student conduct or otherwise adopted by a school board shall (i) permit any student to wear any religiously and ethnically specific or significant head covering or hairstyle, including hijabs, yarmulkes, headwraps, braids, locs, and cornrows; (ii) maintain gender neutrality by subjecting any student to the same set of rules and standards regardless of gender; (iii) not have a disparate impact on students of a particular gender; (iv) be clear, specific, and objective in defining terms, if used; (v) prohibit any school board employee from enforcing the dress or grooming code by direct physical contact with a student or a student's attire; and (vi) prohibit any school board employee from requiring a student to undress in front of any other individual, including the enforcing school board employee, to comply with the dress or grooming code.

§ **58.1-1021.01**. Definitions.

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

"Actual cost" means the actual price paid by a remote retail seller for each individual stock keeping unit or SKU.

"Alternative nicotine product" means any noncombustible product containing nicotine that is not made of tobacco and is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product or any product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, other than any roll of tobacco that is a cigarette as such term is defined in § **58.1-1000**.

"Closed system" means any nicotine vapor product capable of utilizing a disposable container that is (i) prefilled with liquid nicotine and sealed by the manufacturer, (ii) not easily refillable or intended or designed to be refillable, and (iii) intended or used to dispense liquid nicotine for use in a nicotine vapor product that is intended or designed for reuse. "Closed system" does not include any open system.

"Consumer" means the person who is the end or final user of tobacco products *or liquid nicotine*.

"Delivery sale" means a sale of liquid nicotine or nicotine vapor products to a consumer in the Commonwealth in which the consumer submits the order for the sale by telephone, over the Internet, or through the mail or another delivery system, and where the liquid nicotine or nicotine vapor products are shipped through a delivery

service. "Delivery sale" does not include a sale of liquid nicotine or nicotine vapor products not for personal consumption to a person who is a manufacturer, distributor, or retail dealer.

"Distributor" means (i) any person engaged in the business of selling tobacco products in the Commonwealth who brings, or causes to be brought, into the Commonwealth from outside the Commonwealth any tobacco products for sale; (ii) any person who makes, manufactures, fabricates, or stores tobacco products in the Commonwealth for sale in the Commonwealth; (iii) any person engaged in the business of selling tobacco products outside the Commonwealth who ships or transports tobacco products to any person in the business of selling tobacco products in the Commonwealth; or (iv) any retail dealer in possession of untaxed tobacco products in the Commonwealth.

"Heated tobacco product" means a product containing tobacco that produces an inhalable aerosol (i) by heating the tobacco by means of an electronic device without combustion of the tobacco or (ii) by heat generated from a combustion source that only or primarily heats rather than burns the tobacco.

"Liquid nicotine" means a liquid or other substance containing nicotine in ~~any~~ *a* concentration that is sold, marketed, ~~or~~ *and* intended for use in a nicotine vapor product.

"Loose leaf tobacco" means any leaf tobacco that is not intended to be smoked, but ~~shall~~ *does* not include moist snuff. Loose leaf tobacco weight unit categories shall be as follows:

1. "Loose leaf tobacco half pound-unit" means a ~~consumer sized~~ *consumer-sized* unit, pouch, or package containing at least ~~4~~ *four* ounces but not more than ~~8~~ *eight* ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

2. "Loose leaf tobacco pound-unit" means a ~~consumer sized~~ *consumer-sized* unit, pouch, or package containing more than ~~8~~ *eight* ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

3. "Loose leaf tobacco single-unit" means a ~~consumer sized~~ *consumer-sized* unit, pouch, or package containing less than ~~4~~ *four* ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

"Manufacturer" means a person who manufactures or produces tobacco products and sells tobacco products to a distributor.

"Manufacturer's representative" means a person employed by a manufacturer to sell or distribute the manufacturer's tobacco products.

"Manufacturer's sales price" means the actual price for which a manufacturer, manufacturer's representative, or any other person sells tobacco products to an unaffiliated distributor.

"Moist snuff" means a tobacco product consisting of finely cut, ground, or powdered tobacco that is not intended to be smoked but ~~shall~~ *does* not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form*, including liquid nicotine*. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, *closed system, open system,* or similar product or device and any cartridge or other container of nicotine in a solution or other form*, including liquid nicotine,* that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Open system" means a nicotine vapor product designed and intended by the manufacturer to be reusable and refilled with liquid nicotine of the end user's choice. "Open system" does not include any closed system.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Pipe tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered or purchased by consumers as tobacco to be smoked in a pipe.

"Remote retail sale" means any sale of cigars or pipe tobacco to a consumer in the Commonwealth when (i) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the consumer when the request for the purchase or order is made, or (ii) the cigars or pipe tobacco are delivered to the consumer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the consumer when the buyer obtains possession of the cigars or pipe tobacco.

"Remote retail seller" means a person located within or outside of ~~this state~~ *the Commonwealth* that makes remote retail sales of cigars or pipe tobacco.

"Retail dealer" means every person ~~who~~ *that* sells or offers for sale any tobacco product *or liquid nicotine* to consumers at retail in a transaction other than a remote retail sale *and includes any person that holds an approved Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or an Other Tobacco Products Distributor's License issued by the Department of Taxation*.

"SKU" means an individual stock keeping unit identifier used for tracking inventory.

"Tobacco product" or "tobacco products" means (i) "cigar" as defined in § 5702(a) of the Internal Revenue Code, and as such section may be amended; (ii) "smokeless tobacco" as defined in § 5702(m) of the Internal Revenue Code, and as such section may be amended; or (iii) "pipe tobacco" as defined in § 5702(n) of the Internal Revenue Code, and as such section may be amended. "Tobacco products" shall also include loose leaf tobacco.

§ **58.1-1021.02**. Tax on tobacco products and liquid nicotine.

A. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon the privilege of selling or dealing in tobacco products *and liquid nicotine* in the Commonwealth by any person engaged in business as a distributor or remote retail seller thereof, at the following rates:

1. Upon each package of moist snuff, at the rate of $0.18 per ounce with a proportionate tax at the same rate on all fractional parts of an ounce. The tax shall be computed based on the net weight as listed by the manufacturer on the package in accordance with federal law.

2. For purposes of the tax under this article, loose leaf tobacco shall be classified as loose leaf tobacco single-units, loose leaf tobacco half pound-units, and loose leaf tobacco pound-units. Such tax shall be imposed ~~on~~ *upon* the distributor for loose leaf tobacco as follows:

a. $0.21 for each loose leaf tobacco single-unit;

b. $0.40 for each loose leaf tobacco half pound-unit;

c. $0.70 for each loose leaf tobacco pound-unit; and

d. For any other unit, pouch, or package of loose leaf tobacco, the tax shall be by net weight and shall be $0.21 per unit, pouch, or package plus $0.21 for each increment of ~~4~~ *four* ounces or portion thereof that the loose leaf tobacco exceeds 16 ounces.

The tax for each unit, pouch, or package of loose leaf tobacco shall be in accordance with the provisions of subdivisions ~~a.~~ through ~~d.~~ only and regardless of sales price.

3. ~~Upon~~ *Except as otherwise provided, upon* tobacco products other than moist snuff or loose leaf tobacco, at the rate of 10 percent of the manufacturer's sales price of such tobacco products.

Upon cigars and pipe tobacco products sold by remote retail sellers, the tax rates delineated in this subdivision shall apply to:

~~(a)~~ *a.* The actual cost; or

~~(b)~~ *b.* If the actual cost is not available, the average of the actual cost over the 12 calendar months before January 1 of the year in which the sale occurs.

4. a. Upon the privilege of selling or dealing in liquid nicotine in the Commonwealth by any person engaged in business as a distributor of liquid nicotine, at the following rates:

(1) Upon liquid nicotine in closed systems at the rate of $0.066 per milliliter beginning July 1, 2024, for taxable sales or purchases occurring on and after such date.

(2) Upon liquid nicotine in open systems at the rate of 10 percent of the wholesale price beginning July 1, 2024, for taxable sales or purchases occurring on and after such date.

b. For any transaction involving liquid nicotine between a distributor and a retail dealer, both the distributor and the retail dealer shall maintain and retain records of any invoice or sales receipt that shall include itemized

lists of the types of products included in such transaction, the tax due on each product pursuant to this subsection, and the total amount of taxes paid. In every instance, a distributor shall be responsible for paying the tax on liquid nicotine pursuant to this subdivision 4 at the time of sale to a retail dealer. Such taxes shall apply only to liquid nicotine and not to any batteries, filters, or other mechanical or aesthetic components of liquid nicotine in a closed system or an open system.

Such tax shall be imposed at the time the remote retail seller located within or outside the Commonwealth makes a remote retail sale to a consumer within the Commonwealth. It is the intent and purpose of this subdivision that the remote retail seller be liable for the tax. It is further the intent and purpose of this article to impose the tax once, and only once on all tobacco products, including cigars and pipe tobacco sold in the Commonwealth.

~~Such~~ *Except as otherwise provided, such* tax shall be imposed on tobacco products (i) at the time of retail sale by a retail dealer or distributor; (ii) at the time the distributor makes, manufactures, or fabricates tobacco products in the Commonwealth for sale in the Commonwealth; or (iii) at the time the distributor ships or transports tobacco products to retailers in the Commonwealth to be sold by those retailers. It is the intent and purpose of this article that the distributor who first possesses the tobacco product subject to this tax in the Commonwealth shall be the distributor liable for the tax. It is further the intent and purpose of this article to impose the tax once~~,~~ and only once on all tobacco products for sale in the Commonwealth.

B. No tax shall be imposed pursuant to this section upon tobacco products not within the taxing power of the Commonwealth under the Commerce Clause of the United States Constitution.

C. A distributor that calculates and pays the tax pursuant to subdivision A 1 or A 2 in good faith reliance on the net weight listed by the manufacturer on the package or on the manufacturer's invoice shall not be liable for additional tax, or for interest or penalties, solely by reason of a subsequent determination that such weight information was incorrect.

§ **58.1-1021.04:1**. Distributor's or remote retail seller's license; liquid nicotine and nicotine vapor products license; penalties.

A. *1.* No person shall engage in the business of selling or dealing in tobacco products as a distributor in the Commonwealth without first having received a separate license from the Department for each location or place of business. Each application for a distributor's license shall be accompanied by a fee to be prescribed by the Department. Every application for such license shall be made on a form prescribed by the Department and the following information shall be provided on the application:

~~1.~~ *a.* The name and address of the applicant. If the applicant is a firm, partnership, or association, the name and address of each of its members shall be provided. If the applicant is a corporation, the name and address of each of its principal officers shall be provided;

~~2.~~ *b.* The address of the applicant's principal place of business;

~~3.~~ *c.* The place or places where the business to be licensed is to be conducted; and

~~4.~~ *d.* Such other information as the Department may require for the purpose of the administration of this article.

~~B.~~ *2.* A person outside the Commonwealth who ships or transports tobacco products to retailers in the Commonwealth, to be sold by those retailers, may make application for license as a distributor, be granted such a license by the Department, and thereafter be subject to all the provisions of this article. Once a license is granted pursuant to this section, such person shall be entitled to act as a licensed distributor and, unless such person maintains a registered agent pursuant to Chapter 9 *(§ **13.1-601** et seq.)*, 10 *(§ **13.1-801** et seq.)*, 12 *(§ **13.1-1000** et seq.),* or 14 *(§ **13.1-1200** et seq.)* of Title 13.1 or Chapter 2.1 *(§ **50-73.1** et seq.)* or 2.2 *(§ **50-73.79** et seq.)* of Title 50, shall be deemed to have appointed the Clerk of the State Corporation Commission as the person's agent for the purpose of service of process relating to any matter or issue involving the person and arising under the provisions of this article.

The Department shall conduct a background investigation, to include a Virginia ~~Criminal History Records~~ *criminal history records* search, and fingerprints of the applicant, or the responsible principals, managers, and other persons engaged in handling tobacco products at the licensable locations, that shall be submitted to the Federal Bureau of Investigation if the Department deems a ~~National Criminal Records~~ *national criminal records* search necessary, on applicants for licensure as tobacco products distributors. The Department may refuse to issue a distributor's license or may suspend, revoke, or refuse to renew a distributor's license issued to any person, partnership, corporation, limited liability company, or business trust~~,~~ if it determines that the principals, managers, and other persons engaged in handling tobacco products at the licensable location of the applicant have been (i) found guilty of any fraud or misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, or racketeering; or (iii) convicted of a felony. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application for a distributor's license to the Department, ~~shall be~~ *is* guilty of a Class 1 misdemeanor. The Department may establish an application or renewal fee not to exceed $750 to be retained by the Department to be applied to the administrative and other costs of processing distributor's license applications, conducting background investigations, and issuing distributor's licenses. Any amount collected pursuant to this section in excess of such costs as of June 30 in ~~even numbered~~ *even-numbered* years shall be reported to the State Treasurer and deposited into the state treasury.

~~C.~~ *3.* No person inside or outside the Commonwealth shall make a remote retail sale of cigars or pipe tobacco to consumers in the Commonwealth without (i) completing an application for and being granted a license as a remote retail seller; (ii) determining whether economic nexus activity thresholds have been met to register for a dealer's certificate under § **58.1-613**; (iii) if economic nexus thresholds are met, collecting and remitting the excise tax pursuant to subsection A of § **58.1-1021.02**; (iv) providing for age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is of age; and (v) if economic nexus thresholds are met~~,~~ and excise tax is being remitted using the actual cost list method to calculate the excise tax, providing the remote retail seller's certified actual cost list to the Department for each SKU to be offered for remote retail sale in the subsequent calendar year. The actual cost list shall be updated quarterly as new SKUs are added to a remote retail seller's inventory. New SKUs will be added using the actual cost first paid for the SKU.

~~D.~~ *B.* Upon receipt of an application in proper form and payment of the required license fee, the Department shall, unless otherwise provided by this article, issue to the applicant a license, which shall permit the licensee to engage in business as a distributor at the place of business shown on the license. Each license, or a copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be transferable to any

other person. Distributor's licenses issued pursuant to this section shall be valid for a period of three years from the date of issue unless revoked by the Department in the manner provided herein. The Department may at any time revoke the license issued to any distributor who is found guilty of violating or noncompliance with any of the provisions of this chapter~~,~~ or any of the rules of the Department adopted and promulgated under authority of this chapter. *The Department shall suspend or revoke the license issued to any distributor who is found guilty of a second or subsequent violation of subsection A or B of § **18.2-371.2**.*

C. 1. No person shall engage in the business of selling or dealing liquid nicotine or nicotine vapor products or who ships or transports liquid nicotine or nicotine vapor products to retailers in the Commonwealth, to be sold by those retailers, as a manufacturer, distributor, or retail dealer in the Commonwealth without first having received a separate license from the Department for each location or place of business. Each application for a manufacturer's, distributor's, or retail dealer's liquid nicotine and nicotine vapor products license shall be accompanied by a fee to be prescribed by the Department. Any retail dealer who holds an approved Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or an Other Tobacco Products (OTP) Distributor's License issued by the Department shall not be required to obtain a license under this subsection. Every application for such liquid nicotine and nicotine vapor products license shall be made on a form prescribed by the Department and the following information shall be provided on the application:

a. The name and address of the applicant. If the applicant is a firm, partnership, or association, the name and address of each of its members shall be provided. If the applicant is a corporation, the name and address of each of its principal officers shall be provided;

b. The address of the applicant's principal place of business;

c. The place or places where the business to be licensed is to be conducted; and

d. Such other information as the Department may require for the purpose of the administration of this article.

2. The Department shall conduct a background investigation, to include a Virginia criminal history records search of the applicant, or the responsible principals and managers of liquid nicotine and nicotine vapor products at the licensable locations that shall be submitted to the Federal Bureau of Investigation if the Department deems a national criminal records search necessary, on applicants for licensure as a liquid nicotine and nicotine vapor products manufacturer, distributor, or retailer, as applicable. The Department may refuse to issue a license or may suspend, revoke, or refuse to renew a license issued to any person, partnership, corporation, limited liability company, or business trust if it determines that the principals and managers at the licensable location of the applicant have been (i) found guilty of any fraud or misrepresentation in any connection; (ii) convicted of robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, gambling, perjury, bribery, treason, tax evasion, or racketeering; or (iii) convicted of a felony within the last five years. Anyone who knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application for a license to the Department is guilty of a Class 1 misdemeanor. The Department may establish an application or renewal fee to be retained by the Department to be applied to the administrative and other costs of processing license applications, conducting background investigations, and issuing licenses. Any amount collected pursuant to this section in excess of such costs as of June 30 in even-numbered years shall be reported to the State Treasurer and deposited into the state treasury.

*3. Upon receipt of an application in proper form and payment of the required license fee, the Department shall, unless otherwise provided by this article, issue to the applicant a liquid nicotine and nicotine vapor products license, which shall permit the licensee to engage in business as a manufacturer, distributor, or retail dealer at the place of business shown on the license. Each license, or a copy thereof, shall be prominently displayed on the premises covered by the license. No license shall be transferable to any other person, partnership, corporation, limited liability company, or business trust; however, the Department may grant a temporary license to any applicant that has purchased the business of any manufacturer, distributor, or retail dealer licensed pursuant to this section while such applicant's application for licensure is pending. Licenses, other than temporary licenses, issued pursuant to this section shall be valid for two years from the date of issue unless revoked by the Department in the manner provided in this section. The Department may at any time suspend or revoke the approved license, permit, or registration issued in accordance with subsection C of § **58.1-1021.04:1** to any person who is found guilty of violating or noncompliance with any of the provisions of this chapter or any of the rules of the Department adopted and promulgated under authority of this chapter. Any person authorized to sell liquid nicotine or nicotine vapor products pursuant to subsection C of § **58.1-1021.04:1** shall, as a condition of renewing or extending an approved license, permit, or registration, be required to submit to the Department an accurate record of any taxes paid on liquid nicotine pursuant to § **58.1-1021.02**.*

4. No person shall make a sale of liquid nicotine or nicotine vapor products (i) to any person who has not attained the legal age for purchasing liquid nicotine or nicotine vapor products and (ii) without a valid liquid nicotine and nicotine vapor products license issued pursuant to this subsection. Any person who is found guilty of violating or noncompliance with this subdivision shall be subject to the following penalties:

a. For the first violation in a 36-month period, a penalty of no less than $1,000;

b. For a second violation in a 36-month period, a penalty of no less than $5,000 and a 30-day suspension of the liquid nicotine and nicotine vapor products license. If the person is found to be in violation of clause (i) of this subdivision 4, such person shall be required to verify that any consumer who appears to be under 30 years of age is of legal age by verifying such consumer's government-issued photographic identification using fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and

c. For a third violation in a 36-month period, a penalty of no less than $10,000, revocation of the liquid nicotine and nicotine vapor products license, and ineligibility to possess a liquid nicotine and nicotine vapor products license for a period of three years from the date of the most recent violation.

5. No person inside or outside the Commonwealth shall make a retail sale of liquid nicotine and nicotine vapor products without verifying that the consumer is of legal age by examining from any person who appears to be under 30 years of age a government-issued photographic identification that establishes that the person is of legal age or providing for age verification through an independent age verification service that compares information available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is of age.

*6. For any transaction between a distributor and a retail dealer involving liquid nicotine or nicotine vapor products, both the distributor and the retail dealer shall maintain and retain records of any invoice or sales receipt involved that shall include itemized lists of the types of products included in such transaction, the tax due on each product pursuant to subsection B of § **58.1-1021.02**, and the total amount of taxes paid. Such records*

shall be produced and provided to the Department as necessary for auditing, compliance, and enforcement purposes.

~~E.~~ *D.* The Department shall compile and maintain a current list of licensed distributors and remote retail sellers *of tobacco products and of manufacturers, distributors, and retail dealers of liquid nicotine and nicotine vapor products*. The list shall be updated on a monthly basis~~,~~ and published on the Department's ~~official Internet~~ website, available to any interested party.

§ **58.1-1021.04:5**. Tax Commissioner to establish guidelines and rules.

The Tax Commissioner shall establish guidelines and rules, including ~~record keeping~~ *recordkeeping* requirements, for implementation of the tax on tobacco products under ~~Article 2.1 (§ **58.1-1021.01** et seq.) of Chapter 10 of Title 58.1 of the Code of Virginia~~ *this article*. The establishment of the guidelines and rules by the Tax Commissioner shall be exempt from the provisions of the Administrative Process Act (§ **2.2-4000** et seq.).

*§ **58.1-1021.06**. Delivery sales of liquid nicotine and nicotine vapor products.*

*A. A retail dealer shall not make a delivery sale of liquid nicotine or nicotine vapor products without a license issued pursuant to § **58.1-1021.04:1**. Such delivery sales and any shipment shall be made only to a legal consumer.*

B. A retail dealer may not ship for delivery sale any liquid nicotine or nicotine vapor products without first making a good faith effort to verify the age of the purchaser of the liquid nicotine or nicotine vapor products through an independent age verification software, service, or technology that compares information available from public records to the personal information entered by the purchaser during the ordering process that establishes the purchaser is of legal age or older.

C. Prior to shipment of liquid nicotine or nicotine vapor products for a delivery sale, a retail dealer shall be fully paid for the purchase and shall accept payment from the consumer by a check drawn on an account in the consumer's name, by a credit card issued in the consumer's name, or by a debit card issued in the consumer's name. A retail dealer taking a delivery sale may request the electronic mail address of the consumer as a condition of completing such delivery sale.

*§ **58.1-1021.07**. Retail sales of liquid nicotine and nicotine vapor products; identification and use by minors.*

Before a retail dealer may sell liquid nicotine or nicotine vapor products to any consumer, the person selling, offering for sale, giving, or furnishing the liquid nicotine or nicotine vapor product shall verify that the consumer is of legal age by:

*1. For any retail sale by a retail dealer, examining from any person who appears to be under 30 years of age a government-issued photographic identification that establishes the person is of legal age or, if required pursuant to subdivision C 4 b of § **58.1-1021.04:1** or subdivision B 2 b of § **59.1-293.12**, verifying the identification presented using identification fraud detection software, technology, or scanner that confirms the authenticity of such identification; or*

2. For any delivery sale by a retail dealer to a consumer in the Commonwealth, performing an age verification through an independent, age verification software, service, or technology that compares information available from public records to the personal information entered by the purchaser during the ordering process that establishes that the purchaser is of legal age or older.

*§ **58.1-1021.08**. General requirements for liquid nicotine and nicotine vapor products sales and resale.*

A. A retail dealer shall procure liquid nicotine and nicotine vapor products only from distributors duly permitted to operate in the Commonwealth pursuant to this article.

B. A retail dealer shall sell liquid nicotine and nicotine vapor products only to consumers and is prohibited from selling to manufacturers, distributors, other retailer dealers, and any other commercial entities.

C. A retail dealer shall not sell more than two packages of nicotine vapor products and five bottles or packages of liquid nicotine in any one transaction to a consumer.

*D. In every instance, a distributor shall be responsible for paying the tax on liquid nicotine pursuant to § **58.1-1021.02** at the time of sale to a retail dealer.*

E. A manufacturer may use as an ingredient in liquid nicotine and a distributor or retail dealer may sell liquid nicotine containing a flavoring or food grade additive or synthetic flavoring substance that is used to add flavor and that is not prohibited by the federal Food and Drug Administration as an additive in nicotine vapor products.

*§ **58.1-1021.09**. Safety requirements for liquid nicotine and nicotine vapor products.*

A. 1. Any retail dealer shall comply with the following requirements:

a. Any liquid nicotine container shall use a child-resistant cap that has the child-resistant effectiveness set forth in the poison prevention packaging standards under 16 C.F.R. § 1700.15(b)(1);

b. Any liquid nicotine container shall use a tamper-evident package feature that is designed to remain intact and that does remain intact when handled in a reasonable manner during the manufacture, distribution, and retail display of such liquid nicotine or nicotine vapor product container; and

c. Any label on a liquid nicotine container shall meet the nicotine addictiveness warning statement requirements under 21 C.F.R. § 1143.3.

2. Any retail dealer selling liquid nicotine or nicotine vapor products shall also be required to display signage clearly indicating "products are not for sale to minors" or "underage sales prohibited" and to display vapor products behind a counter or in an enclosed display that is inaccessible without the assistance of a sales representative of the retailer.

B. No person may sell, offer for sale, or otherwise distribute any liquid nicotine or nicotine vapor product with labeling or packaging that is not in compliance with 21 C.F.R. § 1143.3 or that:

1. Imitates or mimics a trademark of any kind or trade dress of any food products, including candy, cookies, cereal, juice boxes, or soft drinks, that are or have primarily been marketed to minors;

2. Depicts images or references to video games, movies, videos, celebrity endorsements, or animated television shows known to appeal to minors;

3. Depicts the actual consumption of liquid nicotine or nicotine vapor products or a minor using liquid nicotine or nicotine vapor products;

4. Makes any health, medicinal, or therapeutic claims about liquid nicotine or nicotine vapor products; or

5. Otherwise promotes overconsumption of liquid nicotine or nicotine vapor products.

C. Any person shall advertise or market any liquid nicotine or nicotine vapor products only where consistent with the following requirements:

1. All advertisements and marketing shall accurately and legibly identify the person responsible for its content, shall be truthful and appropriately substantiated, shall not be presented in a manner that is materially false or untrue, and shall not be presented in a manner that imitates or mimics a trademark of any kind or trade dress of any food products, including candy, cookies, cereal, juice boxes, or soft drinks, that are or have primarily been marketed to minors;

2. Any advertising or marketing in broadcast, cable, radio, print, and digital communications or any event marketing or sponsorships shall be made only where at least 85 percent of the audience is reasonably expected to be at least 21 years of age, as determined by reliable, up-to-date audience composition data;

3. No advertising or marketing may contain any statement concerning a brand or product that is inconsistent with any statement or images on its labeling; and

4. No advertising or marketing may contain any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the health benefits of consumption of liquid nicotine or nicotine vapor products.

CHAPTER 23.2.
RETAIL TOBACCO PRODUCTS AND NICOTINE VAPOR PRODUCTS CONTAINING LIQUID NICOTINE.

§ **59.1-293.10**. Definitions.

As used in this chapter, unless the context requires another meaning:

"Child-resistant packaging" means packaging that is designed or constructed to meet the child-resistant effectiveness standards set forth in 16 C.F.R. § 1700.15(b)(1) when tested in accordance with the protocols described in 16 C.F.R. § 1700.20 as in effect on July 1, 2015.

"Department" means the Department of Taxation.

"Liquid nicotine" means ~~a liquid or other substance containing nicotine in any concentration that is sold, marketed, or intended for use in a nicotine vapor product~~ *the same as that term is defined in § **58.1-1021.01***.

"Liquid nicotine container" means a bottle or other container holding liquid nicotine in any concentration but does not include a cartridge containing liquid nicotine if such cartridge is prefilled and sealed by the manufacturer of such cartridge and is not intended to be opened by the consumer.

"Nicotine vapor product" ~~has~~ *means* the same ~~meaning~~ as *that term is defined* in §-**18.2-371.2** ***58.1-1021.01*** *and includes liquid nicotine containers*.

*"Retail dealer" means the same as that term is defined in § **58.1-1021.01***.

*"Retail tobacco product" means (i) any product containing, made of, or derived from tobacco or that contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, dissolved, inhaled, absorbed, or ingested by other means, including a cigarette, a heated tobacco product, chewing tobacco, snuff, or snus; (ii) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; and (iii) any component, part, or accessory of a product described in clause (i) or (ii), whether or not such component, part, or accessory contains tobacco or nicotine, including filters, rolling papers, blunt or hemp wraps, and glass pipes. "Retail tobacco product" includes any nicotine vapor product. "Retail tobacco product" does not include drugs or devices, as such terms are defined in 21 U.S.C. § 321, or combination products, as such term is used in 21 U.S.C. § 353, if such drugs, devices, or combination products are authorized for sale by the U.S. Food and Drug Administration. "Retail tobacco product" does not include any cigar or pipe tobacco as defined in § **58.1-1021.01***.

"Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation that owns, operates, or manages any tobacco retail establishment. "Tobacco retailer" does not include nonmanagement employees of a tobacco retail establishment.

"Tobacco retail establishment" means any place of business where retail tobacco products are available for sale to the general public, including any grocery store, retail tobacco product shop, kiosk, convenience store, gasoline service station, bar, or restaurant where retail tobacco products are available for sale to the general public.

§ **59.1-293.11**. Sale or distribution of liquid nicotine container; prohibition; penalty.

A. No person shall sell or distribute at retail or offer for retail sale or distribution a liquid nicotine container in the Commonwealth on or after October 1, 2015, unless such liquid nicotine container meets child-resistant packaging standards.

B. The requirements of subsection A shall not prohibit a wholesaler or retailer from selling its existing inventory of liquid nicotine until January 1, 2016, if the wholesaler or retailer can establish that the inventory was purchased prior to October 1, 2015, in a quantity comparable to that of the inventory purchased during the same period of the prior year.

C. Any person who sells or distributes at retail or offers for retail sale or distribution a liquid nicotine container in the Commonwealth on or after October 1, 2015, that he knows or has reason to know does not satisfy the child-resistant packaging standards required by this section is guilty of a Class 4 misdemeanor. However, no

person shall be guilty of a violation of this section who relies in good faith on any information provided by the manufacturer of a liquid nicotine container that such container meets the requirements of this section.

D. The provisions of this chapter do not apply to any manufacturer or wholesaler of liquid nicotine containers who sells or distributes a liquid nicotine container, provided that any such liquid nicotine container sold or distributed is intended for use outside of the Commonwealth.

E. The provisions of subsection A shall be null, void, and of no force and effect upon the effective date of either enacted federal legislation or final regulations issued by the U.S. Food and Drug Administration or by any other federal agency where such legislation or regulations mandate child-resistant packaging for liquid nicotine containers.

F. The provisions of this section with respect to retail sales, retail establishments, and offers for retail sales shall only apply to retail sales or offers at retail of liquid nicotine containers before July 1, 2024.

*§ **59.1-293.12**. Restrictions on the sale of retail tobacco products to minors; penalties.*

*A. A retail dealer shall comply with the provisions of this section, §§ **18.2-246.8**, **18.2-246.10**, **18.2-371.2**, and **59.1-293.13**, and any other state or local law related to the sale of retail tobacco products. If the Department determines that a retail dealer has violated any such provision of law, the Department may suspend or revoke such retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or Other Tobacco Products (OTP) Distributor's License.*

*B. 1. For each retail dealer, the Department shall conduct an unannounced investigation at least once every 24 months to verify that the retail dealer is not selling retail tobacco products to persons under 21 years of age. If the Department determines that the retail dealer has violated any provision of this section, § **18.2-246.8**, **18.2-246.10**, **18.2-371.2**, or **59.1-293.13**, or any other state or local law related to the sale of retail tobacco products, it shall conduct an unannounced investigation of the retail dealer within six months of such violation.*

*2. If the Department determines that a retail dealer, or a retail dealer's agent or employee, sold a retail tobacco product to a person under 21 years of age or violated subsection A or B of § **18.2-371.2**, the Department shall impose and the retail dealer shall be subject to:*

a. For the first violation in a 36-month period, a penalty of no less than $1,000;

b. For a second violation in a 36-month period, a penalty of no less than $5,000. Any retail dealer found to be in violation of this subdivision 2 b shall be required to verify that any consumer who appears to be under 30 years of age is of legal age by verifying such consumer's government-issued photographic identification using fraud detection software, technology, or a scanner that confirms the authenticity of such identification; and

c. For a third violation in a 36-month period, a penalty of no less than $10,000 and a 30-day suspension of the retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or OTP Distributor's License.

d. For a fourth violation in a 36-month period, revocation of the retail dealer's Retail Sales and Use Tax Exemption Certificate for Stamped Cigarettes Purchased for Resale or OTP Distributor's License, and

ineligibility to possess any such certificate or license for a period of three years from the date of the most recent violation.

*3. Any civil penalties assessed pursuant to this section shall be paid into the Tobacco Retail Enforcement Fund, established pursuant to § **59.1-293.14**.*

*C. The Department shall collaborate with the Virginia Alcoholic Beverage Control Authority and local law enforcement to the extent possible to enforce the provisions of this section and § **4.1-103.01**.*

*§ **59.1-293.13**. Required education for retail dealers and employees.*

Any retail dealer shall be required to attest that it has conducted education and training for its employees related to:

*1. The provisions of § **59.1-293.12**;*

*2. The prohibitions on the sale of retail tobacco products to persons under age 21 and other restrictions prescribed by §§ **18.2-246.8**, **18.2-246.10**, and **18.2-371.2**;*

3. Forms of identification that are acceptable as proof of age; and

4. The legal penalties that may be incurred for violation of the provisions of law identified in subdivisions 1 and 2.

*§ **59.1-293.14**. Tobacco Retail Enforcement Fund.*

*There is hereby created in the state treasury a special nonreverting fund to be known as the Tobacco Retail Enforcement Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues accruing to the Fund pursuant to this article, all funds appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of funding the Department of Taxation's direct and indirect costs of the license administration and enforcement program administered pursuant to Article 2.1 (§ **58.1-1021.01** et seq.) of Chapter 10 of Title 58.1 and the administrative costs of education and training, retail inspections, and unannounced compliance checks in accordance with the provisions of §§ **59.1-293.12** and **59.1-293.13**. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner.*

2. That the Department of Taxation shall develop guidelines implementing the provisions of this act. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ **2.2-4000** et seq. of the Code of Virginia).

3. That the Department of Taxation shall develop or revise the forms and applications necessary to implement the provisions of this act.

Hate crimes and discrimination; ethnic animosity; penalties. Provides that it is the policy of the Commonwealth to safeguard all individuals within the Commonwealth from unlawful discrimination in employment and in places of public accommodation because of such individual's ethnic origin and prohibits such discrimination. The bill also adds victims who are intentionally selected because of their ethnic origin to the categories of victims whose intentional selection for a hate crime involving assault, assault and battery, or trespass for the purpose of damaging another's property results in a higher criminal penalty for the offense. The bill also provides that no provider or user of an interactive computer service on the Internet shall be liable for any action voluntarily taken by it in good faith to restrict access to material that the provider or user considers to be intended to incite hatred on the basis of ethnic origin. This bill is identical to **SB 7.**

CHAPTER 266

*An Act to amend and reenact §§ **2.2-3900**, **2.2-3902**, **2.2-3904**, **2.2-3905**, **8.01-49.1**, **18.2-57**, and **18.2-121** of the Code of Virginia, relating to hate crimes and discrimination; ethnic animosity; penalties.*

[H 18]

Approved April 2, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **2.2-3900**, **2.2-3902**, **2.2-3904**, **2.2-3905**, **8.01-49.1**, **18.2-57**, and **18.2-121** of the Code of Virginia are amended and reenacted as follows:

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

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

B. It is the policy of the Commonwealth to:

1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, *ethnic or* national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, or disability in places of public accommodation, including educational institutions and in real estate transactions;

2. Safeguard all individuals within the Commonwealth from unlawful discrimination in employment because of race, color, religion, *ethnic or* national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, disability, or military status;

3. Preserve the public safety, health, and general welfare;

4. Further the interests, rights, and privileges of individuals within the Commonwealth; and

5. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

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

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

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

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

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

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

§ **2.2-3904**. Nondiscrimination in places of public accommodation; definitions.

A. As used in this section:

"Age" means being an individual who is at least 18 years of age.

"Place of public accommodation" means all places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages, or accommodations.

B. It is an unlawful discriminatory practice for any person, including the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, to refuse, withhold from, or deny any individual, or to attempt to refuse, withhold from, or deny any individual, directly or indirectly, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, or to segregate or discriminate against any such person in the use thereof, or to publish, circulate, issue, display, post, or mail, either directly or indirectly, any communication, notice, or advertisement to the effect that any of the accommodations, advantages, facilities, privileges, or services of any such place shall be refused, withheld from, or denied to any individual on the basis of race, color, religion, *ethnic or* national origin, sex, pregnancy, childbirth or related medical conditions, age, sexual orientation, gender identity, marital status, disability, or military status.

C. The provisions of this section shall not apply to a private club, a place of accommodation owned by or operated on behalf of a religious corporation, association, or society that is not in fact open to the public, or any other establishment that is not in fact open to the public.

D. The provisions of this section shall not prohibit (i) discrimination against individuals who are less than 18 years of age or (ii) the provision of special benefits, incentives, discounts, or promotions by public or private programs to assist persons who are 50 years of age or older.

E. The provisions of this section shall not supersede or interfere with any state law or local ordinance that prohibits a person under the age of 21 from entering a place of public accommodation.

§ **2.2-3905**. Nondiscrimination in employment; definitions; exceptions.

A. As used in this section:

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

"Domestic worker" means an individual who is compensated directly or indirectly for the performance of services of a household nature performed in or about a private home, including services performed by individuals such as companions, babysitters, cooks, waiters, butlers, valets, maids, housekeepers, nannies, nurses, janitors, laundresses, caretakers, handymen, gardeners, home health aides, personal care aides, and chauffeurs of automobiles for family use. "Domestic worker" does not include (i) a family member, friend, or neighbor of a child, or a parent of a child, who provides child care in the child's home; (ii) any child day program as defined in § **22.1-289.02** or an individual who is an employee of a child day program; or (iii) any employee employed on a casual basis in domestic service employment to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves.

"Employee" means an individual employed by an employer.

"Employer" means a person employing (i) 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person or (ii) one or more domestic workers. However, (a) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, *ethnic or* national origin, military status, sex, sexual orientation, gender identity, marital status, disability, pregnancy, or childbirth or related medical conditions including lactation, "employer" means any person employing more than five persons or one or more domestic workers and (b) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

"Employment agency" means any person, or an agent of such person, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

"Joint apprenticeship committee" means the same as that term is defined in § **2.2-2043**.

"Labor organization" means an organization engaged in an industry, or an agent of such organization, that exists for the purpose, in whole or in part, of dealing with employers on behalf of employees concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment. "Labor organization" includes employee representation committees, groups, or associations in which employees participate.

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

B. It is an unlawful discriminatory practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or *ethnic or* national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, military status, disability, or *ethnic or* national origin.

2. An employment agency to:

a. Fail or refuse to refer for employment, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin; or

b. Classify or refer for employment any individual on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin.

3. A labor organization to:

a. Exclude or expel from its membership, or otherwise discriminate against, any individual because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin;

b. Limit, segregate, or classify its membership or applicants for membership, or classify or fail to or refuse to refer for employment any individual, in any way that would deprive or tend to deprive such individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect an individual's status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin; or

c. Cause or attempt to cause an employer to discriminate against an individual in violation of subdivisions a or b.

4. An employer, labor organization, or joint apprenticeship committee to discriminate against any individual in any program to provide apprenticeship or other training program on the basis of such individual's race, color, religion, sex, sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin.

5. An employer, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of employment-

related tests on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin.

6. Except as otherwise provided in this chapter, an employer to use race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin as a motivating factor for any employment practice, even though other factors also motivate the practice.

7. (i) An employer to discriminate against any employees or applicants for employment, (ii) an employment agency or a joint apprenticeship committee controlling an apprenticeship or other training program to discriminate against any individual, or (iii) a labor organization to discriminate against any member thereof or applicant for membership because such individual has opposed any practice made an unlawful discriminatory practice by this chapter or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

8. An employer, labor organization, employment agency, or joint apprenticeship committee controlling an apprenticeship or other training program to print or publish, or cause to be printed or published, any notice or advertisement relating to (i) employment by such an employer, (ii) membership in or any classification or referral for employment by such a labor organization, (iii) any classification or referral for employment by such an employment agency, or (iv) admission to, or employment in, any program established to provide apprenticeship or other training by such a joint apprenticeship committee that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, or *ethnic or* national origin when religion, sex, age, or *ethnic or* national origin is a bona fide occupational qualification for employment.

C. Notwithstanding any other provision of this chapter, it is not an unlawful discriminatory practice:

1. For (i) an employer to hire and employ employees; (ii) an employment agency to classify, or refer for employment, any individual; (iii) a labor organization to classify its membership or to classify or refer for employment any individual; or (iv) an employer, labor organization, or joint apprenticeship committee to admit or employ any individual in any apprenticeship or other training program on the basis of such individual's religion, sex, or age in those certain instances where religion, sex, or age is a bona fide occupational qualification reasonably necessary to the normal operation of that particular employer, employment agency, labor organization, or joint apprenticeship committee;

2. For an elementary or secondary school or institution of higher education to hire and employ employees of a particular religion if such elementary or secondary school or institution of higher education is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society or if the curriculum of such elementary or secondary school or institution of higher education is directed toward the propagation of a particular religion;

3. For an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment, pursuant to a bona fide seniority or merit system, or a system that measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity,

marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin;

4. For an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or an action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin;

5. For an employer to provide reasonable accommodations related to disability, pregnancy, childbirth or related medical conditions, and lactation, when such accommodations are requested by the employee; or

6. For an employer to condition employment or premises access based upon citizenship where the employer is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute or regulation of the federal government or any executive order of the President of the United States.

D. Nothing in this chapter shall be construed to require any employer, employment agency, labor organization, or joint apprenticeship committee to grant preferential treatment to any individual or to any group because of such individual's or group's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin on account of an imbalance that may exist with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions, age, military status, disability, or *ethnic or* national origin in any community.

E. The provisions of this section shall not apply to the employment of individuals of a particular religion by a religious corporation, association, educational institution, or society to perform work associated with its activities.

§ **8.01-49.1**. Liability for defamatory material on the Internet.

A. No provider or user of an interactive computer service on the Internet shall be treated as the publisher or speaker of any information provided to it by another information content provider. No provider or user of an interactive computer service shall be liable for (i) any action voluntarily taken by it in good faith to restrict access to, or availability of, material that the provider or user considers to be obscene, lewd, lascivious, excessively violent, harassing, or intended to incite hatred on the basis of race, religious conviction, gender, disability, gender identity, sexual orientation, color, or *ethnic or* national origin, whether or not such material is constitutionally protected, or (ii) any action taken to enable, or make available to information content providers or others, the technical means to restrict access to information provided by another information content provider.

B. As used in this section:

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities.

"Information content provider" means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.

"Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

"Internet" means the international computer network of interoperable packet-switched data networks.

§ **18.2-57**. Assault and battery; penalty.

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or *ethnic or* national origin, the penalty upon conviction shall include a term of confinement of at least six months.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or *ethnic or* national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection G, a correctional officer as defined in § **53.1-1**, a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § **65.2-102**, or a volunteer firefighter or any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is

engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § **18.2-308.1**, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § **8.01-581.1** who is engaged in the performance of his duties in a hospital or in an emergency room on the premises of any clinic or other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. In addition, any person who commits an assault or an assault and battery against another knowing or having reason to know that such individual is an operator of a vehicle operated by a public transportation service as defined in § **18.2-160.2** who is engaged in the performance of his duties is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall also prohibit such person from entering or riding in any vehicle operated by the public transportation service that employed such operator for a period of not less than six months as a term and condition of such sentence.

G. As used in this section:

"Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities.

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ **32.1-123** et seq.) of Title 32.1 or Article 2 (§ **37.2-403** et seq.) of Chapter 4 of Title 37.2.

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § **17.1-105**, a judge under temporary recall under § **17.1-106**, or a judge pro tempore under § **17.1-109**, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § **10.1-115**, any special agent of the Virginia Alcoholic Beverage Control Authority, conservation police officers appointed pursuant to § **29.1-200**, full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § **46.2-217**, and any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § **53.1-10**, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ **15.2-1731** and **15.2-1733**, auxiliary deputy sheriffs appointed pursuant to § **15.2-1603**, police officers of the Metropolitan Washington Airports Authority pursuant to § **5.1-158**, and fire marshals appointed pursuant to § **27-30** when such fire marshals have police powers as set out in §§ **27-34.2** and **27-34.2:1**.

"School security officer" means the same as that term is defined in § **9.1-101**.

H. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a school security officer or full-time or part-time employee of any public or private elementary or secondary school at the time of the event.

§ **18.2-121**. Entering property of another for purpose of damaging it, etc.; penalties.

A. As used in this section, "disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities.

B. It is unlawful for any person to enter the land, dwelling, outhouse, or any other building of another for the purpose of damaging such property or any of the contents thereof or in any manner to interfere with the rights of the owner, user, or occupant thereof to use such property free from interference.

Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. However, if a person intentionally selects the property entered because of the race, religious conviction, color, gender, disability, gender identity, sexual orientation, or *ethnic or* national origin of the owner, user, or occupant of the property, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the provisions of this act shall not be construed to diminish or infringe upon any right protected under the First Amendment to the Constitution of the United States or under the Constitution of Virginia.

CRIMINAL – SUMMARY ONLY

HB292 and SB725 – §§18.2-251.02, and 18.2-254.1 – Drug Treatment Court Act; name change. Renames the Drug Treatment Court Act as the Recovery Court Act. The bill also directs the Supreme Court of Virginia to rename the state Drug Treatment Court Advisory Committee as the Recovery Court Advisory Committee. This bill is identical to **SB 725.**

HB1333 and SB111 – §§54.1-3446, 54.1-3448, 54.1-3452, and 54.1-3454 – Drug Control Act; Schedule I; Schedule II; Schedule IV; Schedule V. Adds certain chemicals to Schedules I, II, IV, and V of the Drug Control Act. The Board of Pharmacy has added these substances 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. This bill incorporates **HB 1450** and is identical to **SB 111.**

HB223 and SB11 – §3.2-6570 – Cruelty to animals; possession and ownership of animals. Provides that any person convicted of felony cruelty to animals may be prohibited by the court from possession or ownership of companion or equine animals for life and any person convicted of misdemeanor cruelty to animals may be prohibited by the court from possession or ownership of such animals for a period of up to five years. Under current law, such prohibition is limited to companion animals and a period equal to the statutory maximum period of incarceration. The bill also specifies that a court may order that any animal possessed or owned by such person may be disposed of by a local governing body or delivered to another person with a right of property in the animal.

The bill further provides that any person who has his rights to possession or ownership of companion or equine animals prohibited pursuant to a felony conviction may petition the court where such conviction occurred for a restoration of his rights after five years from the date of conviction. This bill is identical to **SB 11.**

SB706 – §18.2-254.1 – Drug Treatment Court Act; eligibility. Replaces the restriction that renders persons convicted of certain violent felonies or acts of violence within the preceding 10 years ineligible to participate in a drug treatment court with a restriction on participation if any of the following conditions apply: (i) the offender is presently charged with a felony offense or is convicted of a felony offense while participating in any drug treatment court where (a) the offender carried, possessed, or used a firearm or any dangerous weapon during such offense; (b) the death or serious bodily injury of any person occurred during such offense; or (c) the use of force against any other person besides the offender occurred during such offense or (ii) the offender was previously convicted as an adult of any felony offense that involved the use of force or attempted use of force against any person with the intent to cause death or serious bodily injury. This bill is a recommendation of the Virginia Criminal Justice Conference.

HB991 and SB540 – §18.2-334.3 – Illegal gambling; exemptions. Exempts from the provisions of Code prohibiting illegal gambling the placement or operation of or communication to and from data center equipment in the Commonwealth associated with the hosting of lottery games duly authorized by another state or jurisdiction and regulated and operated consistent with and exclusively for the benefit of such state or jurisdiction, provided that wagering on such games is legally authorized in such other state or jurisdiction and the individuals wagering on such games are required by the laws or regulations of such other state or jurisdiction to be physically located within the geographic bounds of such other state or jurisdiction at the time the wager is initiated or placed. This bill is identical to **SB 540.**

HB581 – §§2.2-3703, 2.2-3705.7, 2.2-3711, 9.1-102, and 15.2-1627.6 – Human trafficking response teams. Requires attorneys for the Commonwealth to establish multidisciplinary human trafficking response teams. The bill provides that each team shall hold a meeting, at least annually, to (i) discuss implementation of protocols and policies; (ii) establish and review guidelines for the community's response to various forms of human trafficking, including sex trafficking and labor trafficking; and (iii) review protocols for the trauma-informed, victim-centered collection, preservation, and secure storage

of evidence from physical evidence recovery kit examinations. The bill also provides that the Virginia Freedom of Information Act shall not apply to human trafficking response teams, with certain exceptions.

HB100 – §40.1-113 – Child labor offenses; civil penalties. Increases from $10,000 to $25,000 the civil penalty for each violation of child labor laws that results in the employment of a child who is seriously injured or dies in the course of employment. The bill also increases from $1,000 to $2,500 the maximum civil penalty for each other violation of child labor laws and provides that such civil penalty shall not be less than $500. The bill directs the Department of Labor and Industry to convene a stakeholder work group to develop education and outreach plans to inform young workers and employers about child labor laws.

HB769 – §19.2-215.1 – Multi-jurisdiction grand jury; elder abuse crimes. Adds the following to the list of crimes that a multi-jurisdiction grand jury may investigate: (i) financial exploitation of a vulnerable adult, (ii) financial exploitation of a vulnerable adult by an agent, and (iii) abuse and neglect of a vulnerable adult. This bill is a recommendation of the Virginia Criminal Justice Conference.

HB342 – §§54.1-3408, and 2.2-2833 – Naloxone or other opioid antagonists; possession and administration by state agencies. Requires state agencies to possess naloxone or other opioid antagonists used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose and permits employees of any state agency to possess and administer naloxone or other opioid antagonists. The bill also directs the Department of Health to post on its website informational resources relating to the use of naloxone and other opioid antagonists for opioid overdose reversal and prevention in public places. Finally, the bill directs the Department of Health to develop a plan for the procurement and distribution of naloxone or other opioid antagonists to each state agency and for the possession of naloxone or other opioid antagonists by each state agency and to report its progress in developing such plan to the Governor and the Chairmen of the House Committee on Health and Human Services and the Senate Committee on Education and Health by November 1, 2024.

HB1427 – §19.2-303.1 – Fixing period of suspension of sentence; sexual battery; sexual abuse of a child under 15 years of age. Allows the court to fix the period of suspension of sentence for a period not to exceed three years for the offenses of sexual battery and sexual abuse of a child 13 years of age or older but under 15 years of age. Current law allows a court to fix the period of suspension for up to the maximum period for which the defendant might originally have been sentenced to be imprisoned.

HB78 and SB16 – §§19.2-53, and 19.2-60.2 – Search warrants, subpoenas, court orders, or other process; menstrual health data prohibited. Prohibits the issuance of a search warrant, subpoena, court order, or other process for the purpose of the search and seizure or production of menstrual health data, as defined in the bill, including data stored on a computer, computer network, or other device containing electronic or digital information. This bill incorporates **HB 1359** and is identical to **SB 16.**

HB1018 – §§2.2-509.1, and 4.1-105 – Powers of investigators; enforcement of certain tobacco laws. Authorizes investigators with the Office of the Attorney General to seize cigarettes that are unlawfully sold, possessed, distributed, transported, imported, or otherwise held and to accompany and participate with special agents of the Alcoholic Beverage Control Board or other law-enforcement officials engaging in an enforcement action involving counterfeit and unstamped cigarettes.

HB62 and SB93 – §3.2-6573.1 – Local animal cruelty registries. Allows any locality to establish an animal cruelty registry for public access on the website of such locality or its local police department. The bill provides that such registry may include the names and relevant information of persons convicted of certain felony offenses for animal cruelty and that a person on such registry may request removal of his name after 15 years, provided that he has no additional felony convictions of an animal cruelty offense. The bill directs that all costs relating to a locality's animal cruelty registry shall be borne by such locality. This bill is identical to **SB 93.**

SB367 – §9.1-116.9 – Task Force on Fentanyl and Heroin Enforcement established. Creates the Task Force on Fentanyl and Heroin Enforcement whose purpose is to study ways to enhance the ability of law-enforcement officers throughout the Commonwealth to combat the illegal manufacturing, importation, and distribution of fentanyl, heroin, and other similar controlled substances. The bill requires the Task Force to meet at least annually and to report to the Governor and General Assembly by December 1 of each year regarding its activities and any recommendations.

HB452 and SB362 – §18.2-251 – First offense drug program; previous misdemeanor marijuana conviction. Allows any person to participate in the first offender drug program even if such person was previously convicted of an offense related to misdemeanor possession of marijuana or who has had a previous dismissal of a misdemeanor offense for possession of marijuana pursuant to the program. Current law prohibits any person with a previous marijuana conviction from participating in the program. This bill is identical to **SB 362**

HB1069 and SB550 – §§59.1-200, 59.1-293.10, and 59.1-293.12 through 59.1-293.19 – Liquid nicotine and nicotine vapor products; certification and directory; penalties. Requires every manufacturer of liquid nicotine or nicotine vapor products that are sold for retail sale in the Commonwealth to certify to the Attorney General that (i) the manufacturer has received a marketing authorization or similar order for the liquid nicotine or nicotine vapor product from the U.S. Food and Drug Administration (FDA) or (ii) (a) the liquid nicotine or nicotine vapor product was marketed in the United States as of August 8, 2016, or (b) the manufacturer submitted a premarket tobacco product application for the liquid nicotine or nicotine vapor product to the FDA on or before September 9, 2020, and such application either remains under review by the FDA or a final decision on the application has not otherwise taken effect. The bill requires a manufacturer to submit such a form for each liquid nicotine or nicotine vapor product that such manufacturer sells for retail sale in the Commonwealth. Under the bill, any manufacturer that falsely represents any of the information required by the certification requirement is guilty of a Class 3 misdemeanor for each false representation.

The bill requires the Attorney General to establish and maintain a directory that lists all liquid nicotine or nicotine vapor product manufacturers and liquid nicotine and nicotine vapor products for which current and accurate certification forms have been submitted. The bill requires the Attorney General to remove or exclude from such directory any such product that is not in compliance and to notify the manufacturer of such noncompliance. The bill allows a 10-business-day period for a manufacturer to establish compliance. The bill requires that any such products that are removed from the list be sold or removed from retail sale within 30 days or become subject to seizure and requires a manufacturer, wholesaler, or retail dealer to notify each purchaser of a removed product that it has been removed from the directory at the time of delivery of such product. The bill entitles such a purchaser to a refund of the purchase price and creates a cause of action to recover such refund.

The bill prohibits the sale, distribution, importation, or offer for sale of any liquid nicotine or nicotine vapor product that is not listed in the directory. The bill provides for a civil penalty of $1,000 per day for each product offered for sale in violation of the bill's provisions until the offending product is removed from the market or until the offending product is properly listed on the directory.

The bill requires any person that receives, stores, sells, handles, or transports liquid nicotine or nicotine vapor products to preserve all records relating to the purchase, sale, exchange, receipt, or transportation of all liquid nicotine or nicotine vapor products for a period of three years. The bill provides that all such records are subject to audit or inspection at any time by any duly authorized representative of the Attorney General. Any person who violates the recordkeeping provisions of the bill is guilty of a Class 2 misdemeanor.

Additionally, the bill provides that the Department of Taxation, the Attorney General, any other law-enforcement agency of the Commonwealth, or any federal law-enforcement agency conducting a criminal investigation involving the trafficking of liquid nicotine or nicotine vapor products may access at any time such records. The bill requires the Department of Taxation to impose a penalty of $1,000 for

each day that a person fails or refuses to allow or cooperate with an audit, inspection, or investigation of such records.

The bill authorizes the Attorney General and, with the concurrence of the Attorney General, any attorney for the Commonwealth, or the attorney for any city, county, or town to cause an action to enjoin any violation of the provisions of the bill. The circuit courts are authorized by the bill to (a) issue temporary or permanent injunctions to restrain and prevent violations of the provisions of the bill and (b) order forfeiture of any property seized for such a violation. The bill authorizes the Attorney General to issue a civil investigative demand.

Under the bill, any retailer and wholesaler that sells or distributes any liquid nicotine or nicotine vapor product in the Commonwealth is subject to scheduled or unscheduled compliance checks carried out by the Attorney General, or an agent thereof, for enforcement purposes.

The bill requires the Attorney General to provide an annual report to the General Assembly regarding the status of the directory, manufacturers and products included in the directory, and revenues and expenditures related to and enforcement activities undertaken pursuant to the requirements of the bill. Finally, the bill makes a violation of its provisions a prohibited practice under the Virginia Consumer Protection Act. This bill is identical to **SB 550.**

HB1114 – §§18.2-456, and 19.2-128 – Penalties for failure to appear; exclusion. Excludes any person who is (i) incarcerated in any correctional facility or (ii) (a) detained in any state or federal facility or (b) in the custody of a law-enforcement officer at the time such person is required to appear before any court or judicial officer from the penalty for willful failure to appear before any such court or judicial officer as required after such person has been charged with any offense or convicted of any offense and execution of sentence is suspended.

HB268 – §§16.1-269.1, 16.1-269.2, and 16.1-272 – Juveniles; evidence of trafficking, sexual abuse, or rape by the alleged victim prior to or during the commission of the alleged offense; treatment and rehabilitation. Requires a juvenile and domestic relations district court, when determining whether to retain jurisdiction of a juvenile defendant during a transfer hearing, to consider any evidence that such juvenile was a victim of felonious sexual assault or trafficking by the alleged victim prior to or during the commission of the alleged offense and that such alleged offense was a direct result of the juvenile being a victim of such felonious sexual assault or trafficking. The bill also requires that a study and report prior to a transfer hearing include any relevant information supporting an allegation that such juvenile was a victim of felonious sexual assault or trafficking by the alleged victim. The bill also creates a procedure for a juvenile to present such evidence in mandatory transfer cases that under current law require the juvenile and domestic relations district court to transfer the case to the circuit court and provides that upon a finding that the alleged offense was a direct result of the juvenile being a victim of such felonious sexual assault or trafficking, the juvenile and domestic relations district court can instead conduct a transfer hearing to determine whether to keep the case in juvenile court. The bill also creates a similar procedure allowing a juvenile to present such evidence in certain cases where current law requires the juvenile and domestic relations district court to transfer the case to circuit court if the attorney for the Commonwealth gives notice of an intent to proceed with such transfer. Also, in juvenile cases that are tried in circuit court, the bill allows the court to set aside a guilty verdict and instead render the juvenile delinquent if prior to the final order or within 21 days of such order, the court receives evidence that the juvenile was a victim of such felonious sexual assault or trafficking. Lastly, the bill states that it is the intent of the General Assembly that these juveniles be viewed as victims and provided treatment and services in the juvenile system.

SB74 – §54.1-2523 – Prescription Monitoring Program; release of records to drug court administrators and behavioral health docket administrators. Requires the Director of the Department of Health Professions to release otherwise confidential information from the Prescription Monitoring Program when such information is relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice to drug court administrators and behavioral health docket administrators who have completed the Virginia State

Police Drug Diversion School designated by the Director of the Department of Corrections or his designee. The bill requires release of the information upon receiving a request for information in accordance with the Department of Health Profession's regulations and in compliance with applicable federal law and regulations.

FIREARMS – FULL TEXT

Abuse and neglect of children; causing or enabling child to gain possession of a firearm; penalty. Creates a Class 5 felony for any parent, guardian, or other person who is 18 years of age or older and is responsible for the care of a child under the age of 18 whose willful act or omission causes or enables that child to gain possession of a firearm (i) after having received notice of a preliminary determination, pursuant to relevant law, that such child poses a threat of violence or physical harm to self or others or (ii) when such parent, guardian, or other person responsible for the care of the child knows or reasonably should know that such child has been charged with, either by warrant or petition, convicted of, or adjudicated delinquent of a violent juvenile felony. The bill provides that no person shall be subject to arrest or prosecution regarding knowledge of a preliminary threat determination if such person received notice that the threat assessment team concluded that the child does not indicate a threat of violence or physical harm to self or others or that any case or review opened or conducted by that threat assessment team as a result of such preliminary determination has been closed. The bill also provides that no person shall be subject to arrest or prosecution if such person has received notice that any pending charge for a violent juvenile felony has been dismissed or a nolle prosequi has been entered. The bill provides an affirmative defense to prosecution if the parent, guardian, or other person responsible for the care of a child caused or enabled such child to gain possession of a firearm while in a dwelling because of a reasonable belief that he or such child was in imminent danger of bodily injury. Lastly, the bill provides that the new offense is eligible for the enhanced earned sentence credits. This bill is identical to **SB 44**.

CHAPTER 161

*An Act to amend and reenact §§ **18.2-371.1** and **53.1-202.3** of the Code of Virginia, relating to abuse and neglect of children; causing or enabling child to gain possession of a firearm; penalty.*

[H 36]

Approved March 26, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-371.1** and **53.1-202.3** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-371.1**. Abuse and neglect of children; penalties; abandoned infant.

A. Any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or willful omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child is guilty of a Class 4 felony. For purposes of this subsection, "serious injury" includes but is not limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, and (vii) life-threatening internal injuries. For purposes of this subsection, "willful act or willful omission" includes operating or engaging in the conduct of a child welfare agency as defined in § **63.2-100** or a child day program or family day system as defined in § **22.1-289.02** without first obtaining a license such person knows is required by Subtitle IV (§ **63.2-1700** et seq.) of Title 63.2 or Article 3 (§ **22.1-289.010** et seq.) of Chapter 14.1 of Title 22.1 or after such license has been revoked or has expired and not been renewed.

B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton, and culpable as to show a reckless disregard for human life is guilty of a Class 6 felony.

2. If a prosecution under this subsection is based solely on the accused parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense to prosecution of a parent under this subsection that such parent safely delivered the child within the first 30 days of the child's life to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services personnel, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

C. *1. Any parent, guardian, or other person who is 18 years of age or older and is responsible for the care of a child under the age of 18 whose willful act or omission causes or enables that child to gain possession of a firearm (i) after having received notice of a preliminary determination pursuant to § **22.1-79.4** that the child poses a threat of violence or physical harm to self or others or (ii) when such parent, guardian, or other person responsible for the care of the child knows or reasonably should know that such child has charges pending for or has been convicted or adjudicated delinquent of a violent juvenile felony as defined in § **16.1-228** is guilty of a Class 5 felony.*

2. No person shall be subject to arrest or prosecution for a violation of this subsection (i) related to clause (i) of subdivision 1 after such person has received notice that the threat assessment team that made such preliminary determination has concluded that the child does not indicate a threat of violence or physical harm to self or others or that any case or review opened or conducted by that threat assessment team as a result of such preliminary determination has been closed or (ii) related to clause (ii) of subdivision 1 after such person has received notice that any pending charge for a violent juvenile felony has been dismissed or a nolle prosequi has been entered.

3. It is an affirmative defense to prosecution for a violation of this subsection if the parent, guardian, or other person responsible for the care of a child caused or enabled such child to gain possession of a firearm while in a dwelling because of a reasonable belief that he or such child was in imminent danger of bodily injury.

D. Any parent, guardian, or other person having care, custody, or control of a minor 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 not, for that reason alone, be considered in violation of this section.

§ **53.1-202.3**. Rate at which sentence credits may be earned; prerequisites.

A. A maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence for a conviction for any offense of:

1. A Class 1 felony;

2. Solicitation to commit murder under § **18.2-29** or any violation of § **18.2-32**, **18.2-32.1**, **18.2-32.2**, or **18.2-33**;

3. Any violation of § **18.2-40** or **18.2-45**;

4. Any violation of subsection A of § **18.2-46.5**, of subsection D of § **18.2-46.5** if the death of any person results from providing any material support, or of subsection A of § **18.2-46.6**;

5. Any kidnapping or abduction felony under Article 3 (§ **18.2-47** et seq.) of Chapter 4 of Title 18.2;

6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ **18.2-51** et seq.) of Chapter 4 of Title 18.2, any violation of § **18.2-51.6** or **18.2-51.7**, or any felony violation of § **18.2-57.2**;

7. Any felony violation of § **18.2-60.3**;

8. Any felony violation of § **16.1-253.2** or **18.2-60.4**;

9. Robbery under § **18.2-58** or carjacking under § **18.2-58.1**;

10. Criminal sexual assault punishable as a felony under Article 7 (§ **18.2-61** et seq.) of Chapter 4 of Title 18.2;

11. Any violation of § **18.2-90**;

12. Any violation of § **18.2-289** or subsection A of § **18.2-300**;

13. Any felony offense in Article 3 (§ **18.2-346** et seq.) of Chapter 8 of Title 18.2;

14. Any felony offense in Article 4 (§ **18.2-362** et seq.) of Chapter 8 of Title 18.2, except for a violation of § **18.2-362** or subsection B *or C* of § **18.2-371.1**;

15. Any felony offense in Article 5 (§ **18.2-372** et seq.) of Chapter 8 of Title 18.2, except for a violation of subsection A of § **18.2-374.1:1**;

16. Any violation of subsection F of § **3.2-6570**, any felony violation of § **18.2-128**, or any violation of § **18.2-481**, **37.2-917**, **37.2-918**, **40.1-100.2**, or **40.1-103**; or

17. A second or subsequent violation of the following offenses, in any combination, when such offenses were not part of a common act, transaction, or scheme and such person has been at liberty as defined in § **53.1-151** between each conviction:

a. Any felony violation of § **3.2-6571**;

b. Voluntary manslaughter under Article 1 (§ **18.2-30** et seq.) of Chapter 4 of Title 18.2;

c. Any violation of § **18.2-41** or felony violation of § **18.2-42.1**;

d. Any violation of subsection B, C, or D of § **18.2-46.5** or § **18.2-46.7**;

e. Any violation of § **18.2-51** when done unlawfully but not maliciously, § **18.2-51.1** when done unlawfully but not maliciously, or § **18.2-54.1** or **18.2-54.2**;

f. Arson in violation of § **18.2-77** when the structure burned was occupied or a Class 3 felony violation of § **18.2-79**;

g. Any violation of § **18.2-89** or **18.2-92**;

h. Any violation of subsection A of § **18.2-374.1:1**;

i. Any violation of § **18.2-423**, **18.2-423.01**, **18.2-423.1**, **18.2-423.2**, or **18.2-433.2**; or

j. Any violation of subdivision E 2 of § **40.1-29**.

The earning of sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs to which a person is assigned pursuant to § **53.1-32.1**.

B. For any offense other than those enumerated in subsection A for which sentence credits may be earned, earned sentence credits shall be awarded and calculated using the following four-level classification system:

1. Level I. For persons receiving Level I sentence credits, 15 days shall be deducted from the person's sentence for every 30 days served. Level I sentence credits shall be awarded to persons who participate in and cooperate with all programs to which the person is assigned pursuant to § **53.1-32.1** and who have no more than one minor correctional infraction and no serious correctional infractions as established by the Department's policies or procedures.

2. Level II. For persons receiving Level II sentence credits, 7.5 days shall be deducted from the person's sentence for every 30 days served. Level II sentence credits shall be awarded to persons who participate in and cooperate with all programs, job assignments, and educational curriculums to which the person is assigned pursuant to § **53.1-32.1**, but who require improvement in not more than one area as established by the Department's policies or procedures.

3. Level III. For persons receiving Level III sentence credits, 3.5 days shall be deducted from the person's sentence for every 30 days served. Level III sentence credits shall be awarded to persons who participate in and cooperate with all programs, job assignments, and educational curriculums to which the person is assigned pursuant to § **53.1-32.1**, but who require significant improvement in two or more areas as established by the Department's policies or procedures.

4. Level IV. No sentence credits shall be awarded to persons classified in Level IV. A person will be classified in Level IV if that person willfully fails to participate in or cooperate with all programs, job assignments, and educational curriculums to which the person is assigned pursuant to § **53.1-32.1** or that person causes substantial security or operational problems at the correctional facility as established by the Department's policies or procedures.

C. A person's classification level under subsection B shall be reviewed at least once annually, and the classification level may be adjusted based upon that person's participation in and cooperation with programs, job assignments, and educational curriculums assigned pursuant to § **53.1-32.1**. A person's classification and calculation of earned sentence credits shall not be lowered or withheld due to a lack of programming, educational, or employment opportunities at the correctional facility at which the person is confined. Records from this review, including an explanation of the reasons why a person's classification level was or was not adjusted, shall be maintained in the person's correctional file.

D. A person's classification level under subsection B may be immediately reviewed and adjusted following removal from a program, job assignment, or educational curriculum that was assigned pursuant to § **53.1-32.1** for disciplinary or noncompliance reasons.

E. A person may appeal a reclassification determination under subsection C or D in the manner set forth in the grievance procedure established by the Director pursuant to his powers and duties as set forth in § **53.1-10**.

F. For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under § **16.1-285.1**, consideration for earning sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs afforded to the juvenile during that portion of the sentence. The Department of Juvenile Justice shall provide a report that describes the juvenile's adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § **16.1-285.1**.

G. Notwithstanding any other provision of law, no portion of any sentence credits earned shall be applied to reduce the period of time a person must serve before becoming eligible for parole upon any sentence.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Manufacture, importation, sale, etc., of auto sears; prohibition; penalty. Prohibits the manufacture, importation, sale or offer to sell, possession, transfer, or transportation of an auto sear, defined in the bill as a device, other than a trigger activator, for use in converting a semi-automatic firearm to shoot automatically more than one shot, without manual reloading, by a single function of the trigger. A violation is punishable as a Class 6 felony. The bill also provides for the forfeiture of any auto sear concealed, possessed, transported, or carried in violation of the prohibition. This bill is identical to **SB 210.**

CHAPTER 163

*An Act to amend and reenact §§ **18.2-308.5:1** and **19.2-386.28** of the Code of Virginia, relating to manufacture, importation, sale, etc., of auto sears; prohibition; penalty.*

[H 22]

Approved March 26, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-308.5:1** and **19.2-386.28** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-308.5:1**. Manufacture, importation, sale, possession, transfer, or transportation of auto sears and trigger activators prohibited; penalty.

A. As used in this section~~, "trigger~~:

"Auto sear" means a device, other than a trigger activator, designed for use in converting a semi-automatic firearm to shoot automatically more than one shot, without manual reloading, by a single function of the trigger.

"Trigger activator" means a device designed to allow a semi-automatic firearm to shoot more than one shot with a single pull of the trigger by harnessing the recoil energy of any semi-automatic firearm to which it is affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger by the shooter.

B. It is unlawful for any person to manufacture, import, sell, offer for sale, possess, transfer, or transport ~~a~~ *an auto sear or a* trigger activator in the Commonwealth.

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

D. Nothing in this section shall be construed to prohibit a person from manufacturing, importing, selling, offering for sale, possessing, receiving, transferring, or transporting any item for which such person is in compliance with the National Firearms Act (26 U.S.C. § 5801 et seq.).

§ **19.2-386.28**. Forfeiture of weapons, etc., that are concealed, possessed, transported, or carried in violation of law.

~~Any~~ *If any* firearm, stun weapon as defined by § **18.2-308.1**~~, or any~~ weapon*, auto sear, or trigger activator is* concealed, possessed, transported*,* or carried in violation of § **18.2-283.1**, **18.2-287.01**, **18.2-287.4**, **18.2-308.1:2**, **18.2-308.1:3**, **18.2-308.1:4**, **18.2-308.1:8**, **18.2-308.2**, **18.2-308.2:01**, **18.2-308.2:1**, **18.2-308.4**, **18.2-308.5**, ***18.2-308.5:1,*** **18.2-308.7**, or **18.2-308.8***, it* shall be forfeited to the Commonwealth and disposed of as provided in § **19.2-386.29**.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Removing, altering, etc., serial number on firearm; selling, giving, etc., or possessing firearm with removed, altered, etc., serial number; penalties. Makes it a Class 1 misdemeanor for any person, firm, association, or corporation to knowingly possess any pistol, shotgun, rifle, machine gun, or any other firearm, except for an antique firearm, that has a serial number that has been removed, altered, changed, destroyed, or obliterated in any manner. The bill also makes it a Class 6 felony for any person, firm, association, or corporation to knowingly sell, give, or distribute any pistol, shotgun, rifle, machine gun, or any other firearm, except for an antique firearm, that has a serial number that has been removed, altered, changed, destroyed, or obliterated in any manner.

CHAPTER 786

*An Act to amend and reenact § **18.2-311.1** of the Code of Virginia, relating to removing, altering, etc., serial number on firearm; selling, giving, etc., or possessing firearm with removed, altered, etc., serial number; penalty.*

[S 363]
Approved April 17, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-311.1** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-311.1**. Removing, altering, etc., serial number or other identification on firearm; selling, giving, etc., or possessing firearm without serial number; penalties.

~~Any~~ *A. It is unlawful for any* person, firm, association, or corporation ~~who or which~~ *to* intentionally ~~removes, defaces, alters, changes, destroys or obliterates~~ *remove, alter, change, destroy, or obliterate* in any manner or way or ~~who or which causes~~ *cause* to be removed, ~~defaced,~~ altered, changed, destroyed, or obliterated in any manner or way the name of the maker, model, manufacturer's or serial number, or any other ~~mark or~~ identification *required by federal law* on any pistol, shotgun, rifle, machine gun, or any other firearm ~~shall be guilty of~~. *A violation of this subsection is* a Class 1 misdemeanor.

B. It is unlawful for any person, firm, association, or corporation to knowingly possess any pistol, shotgun, rifle, machine gun, or any other firearm that has a serial number that has been removed, altered, changed, destroyed, or obliterated in any manner. A violation of this subsection is a Class 1 misdemeanor.

C. It is unlawful for any person, firm, association, or corporation to knowingly sell, give, or distribute any pistol, shotgun, rifle, machine gun, or any other firearm that has a serial number that has been removed, altered, changed, destroyed, or obliterated in any manner. A violation of this subsection is a Class 6 felony.

*D. The provisions of this section shall not apply to antique firearms as defined in § **18.2-308.2:2**.*

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

MISCELLANEOUS – FULL TEXT

Written complaints; felony offenses. Provides that a written complaint is required for a felony offense, regardless of whether the complainant is a law-enforcement officer. Current law only requires a written complaint for any offense if the complainant is not a law-enforcement officer. The bill also provides that if no arrest warrant is issued in response to a written complaint made by a complainant, whether the complainant is a law-enforcement officer or not, the written complaint shall be returned to the complainant.

CHAPTER 809

*An Act to amend and reenact § **19.2-72** of the Code of Virginia, relating to written complaints; felony offenses.*

[H 438]

Approved April 17, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-72** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-72**. When it may issue; what to recite and require.

On complaint of a criminal offense to any officer authorized to issue criminal warrants he shall examine on oath the complainant and any other witnesses, or when such officer shall suspect that an offense punishable otherwise than by a fine has been committed he may, without formal complaint, issue a summons for witnesses and shall examine such witnesses. A written complaint shall be required if the complainant is not a law-enforcement officer; however *a written complaint is required for a felony offense, regardless of whether the complainant is a law-enforcement officer. If no arrest warrant is issued in response to a written complaint made by such complainant, the written complaint shall be returned to the complainant.* If upon such examination such officer finds that there is probable cause to believe the accused has committed an offense, such officer shall issue a warrant for his arrest, except that no magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person other than a law-enforcement officer or an animal control officer without prior authorization by the attorney for the Commonwealth or by a law-enforcement agency having jurisdiction over the alleged offense. The warrant shall (i) be directed to an appropriate officer or officers, (ii) name the accused or, if his name is unknown, set forth a description by which he can be identified with reasonable certainty, (iii) describe the offense charged with reasonable certainty, (iv) command that the accused be arrested and brought before a court of appropriate jurisdiction in the county, city or town in which the offense was allegedly committed, and (v) be signed by the issuing officer. If a warrant is issued for an offense in violation of any county, city, or town ordinance that is similar to any provision of this Code, the warrant shall reference the offense using both the citation corresponding to the county, city, or town ordinance and the specific provision of this Code. The warrant shall require the officer to whom it is directed to summon such witnesses as shall be therein named to appear and give evidence on the examination. But in a city or town having a police force, the warrant shall be directed "To any policeman, sheriff or his deputy sheriff of such city (or town)," and shall be executed by the policeman, sheriff or his deputy sheriff into whose hands it shall come or be delivered. A sheriff or his deputy may execute an arrest warrant throughout the county in which he serves and in any city or town surrounded thereby and effect an arrest in any city or town surrounded thereby as a result of a criminal act committed during the execution of such warrant. A jail officer as defined in § **53.1-1** employed at a regional jail or jail farm is authorized to execute a warrant of arrest upon an accused in his jail. The venue for the prosecution of such criminal act shall be the jurisdiction in which the offense occurred.

Violation of protective orders; venue. Allows a person to be prosecuted for a violation of a protective order charge in the jurisdiction where the party protected by the protective order resided at the time of such violation. This bill is identical to SB 211.

CHAPTER 108

*An Act to amend and reenact §§ **16.1-253.2** and **18.2-60.4** of the Code of Virginia, relating to violation of protective orders; venue.*

[H 895]
Approved March 20, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **16.1-253.2** and **18.2-60.4** of the Code of Virginia are amended and reenacted as follows:

§ **16.1-253.2**. Violation of provisions of protective orders; penalty.

A. In addition to any other penalty provided by law, any person who violates any provision of a protective order issued pursuant to § **16.1-253.1**, **16.1-253.4**, **16.1-278.14**, or **16.1-279.1** or subsection B of § **20-103**, when such violation involves a provision of the protective order that prohibits such person from (i) going or remaining upon land, buildings, or premises; (ii) further acts of family abuse; or (iii) committing a criminal offense, or which prohibits contacts by the respondent with the allegedly abused person or family or household members of the allegedly abused person as the court deems appropriate, is guilty of a Class 1 misdemeanor. The punishment for any person convicted of a second offense of violating a protective order, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective order, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act or threat of violence is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of confinement of six months. The mandatory minimum terms of confinement prescribed for violations of this section shall be served consecutively with any other sentence.

B. In addition to any other penalty provided by law, any person who, while knowingly armed with a firearm or other deadly weapon, violates any provision of a protective order with which he has been served issued pursuant to § **16.1-253.1**, **16.1-253.4**, **16.1-278.14**, or **16.1-279.1** or subsection B of § **20-103** is guilty of a Class 6 felony.

C. If the respondent commits an assault and battery upon any party protected by the protective order resulting in bodily injury to the party or stalks any party protected by the protective order in violation of § **18.2-60.3**, he is guilty of a Class 6 felony. Any person who violates such a protective order by furtively entering the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.

D. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § **16.1-279.1** for a specified period not exceeding two years from the date of conviction.

E. A violation of this section may be prosecuted in the jurisdiction where the protective order was issued ~~or~~, in any county ~~or~~, city, *or town* where any act constituting the violation of the protective order occurred, *or in the jurisdiction where the party protected by the protective order resided at the time of such violation*.

§ **18.2-60.4**. Violation of protective orders; penalty.

A. Any person who violates any provision of a protective order issued pursuant to § **19.2-152.8**, **19.2-152.9**, or **19.2-152.10** is guilty of a Class 1 misdemeanor. Conviction hereunder shall bar a finding of contempt for the same act. The punishment for any person convicted of a second offense of violating a protective order, other than a protective order issued pursuant to subsection C of § **19.2-152.10**, when the offense is committed within five years of the prior conviction and when either the instant or prior offense was based on an act or threat of violence, shall include a mandatory minimum term of confinement of 60 days. Any person convicted of a third or subsequent offense of violating a protective order, other than a protective order issued pursuant to subsection C of § **19.2-152.10**, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act or threat of violence, is guilty of a Class 6 felony and the punishment shall include a mandatory minimum term of confinement of six months. The mandatory minimum terms of confinement prescribed for violations of this section shall be served consecutively with any other sentence.

B. In addition to any other penalty provided by law, any person who, while knowingly armed with a firearm or other deadly weapon, violates any provision of a protective order with which he has been served issued pursuant to § **19.2-152.8**, **19.2-152.9**, or **19.2-152.10**, other than a protective order issued pursuant to subsection C of § **19.2-152.10**, is guilty of a Class 6 felony.

C. If the respondent commits an assault and battery upon any party protected by the protective order, other than a protective order issued pursuant to subsection C of § **19.2-152.10**, resulting in bodily injury to the party or stalks any party protected by the protective order in violation of § **18.2-60.3**, he is guilty of a Class 6 felony. Any person who violates such a protective order, other than a protective order issued pursuant to subsection C of § **19.2-152.10**, by furtively entering the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives, is guilty of a Class 6 felony, in addition to any other penalty provided by law.

D. Upon conviction of any offense hereunder for which a mandatory minimum term of confinement is not specified, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended.

E. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § **19.2-152.10** for a specified period not exceeding two years from the date of conviction.

F. A violation of this section may be prosecuted in the jurisdiction where the protective order was issued ~~or~~, in any county ~~or~~, city, *or town* where any act constituting the violation of the protective order occurred, *or in the jurisdiction where the party protected by the protective order resided at the time of such violation*.

Law-enforcement officers; exposure to bodily fluids; petition to the general district court by local attorney for the Commonwealth. Allows a local attorney for the Commonwealth in the county or city in which such exposure occurred to file a petition for an order requiring testing and disclosure of test results on behalf of a law-enforcement officer when a law-enforcement officer is directly exposed to the bodily fluid of a person in a manner that may, according to the then-current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses and such person refuses to submit to testing. Current law limits who may file a petition to the exposed law-enforcement officer or his employer.

CHAPTER 190

*An Act to amend and reenact § **32.1-45.1** of the Code of Virginia, relating to law-enforcement officers; exposure to bodily fluids; petition to the general district court by local attorney for the Commonwealth.*

[H 435]

Approved March 28, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **32.1-45.1** of the Code of Virginia is amended and reenacted as follows:

§ **32.1-45.1**. Deemed consent to testing and release of test results related to infection with human immunodeficiency virus or hepatitis B or C viruses.

A. Whenever any health care provider, or any person employed by or under the direction and control of a health care provider, is directly exposed to body fluids of a patient in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such test results to the person who was exposed. In other than emergency situations, it shall be the responsibility of the health care provider to inform patients of this provision prior to providing them with health care services which create a risk of such exposure.

B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any person employed by or under the direction and control of a health care provider, in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the patient who was exposed.

C. For the purposes of this section, "health care provider" means any person, facility or agency licensed or certified to provide care or treatment by the Department of Health, Department of Behavioral Health and Developmental Services, Department of Rehabilitative Services, or the Department of Social Services, any person licensed or certified by a health regulatory board within the Department of Health Professions except for the Boards of Funeral Directors and Embalmers and Veterinary Medicine or any personal care agency contracting with the Department of Medical Assistance Services.

D. "Health care provider," as defined in subsection C, shall be deemed to include any person who renders emergency care or assistance, without compensation and in good faith, at the scene of an accident, fire, or any life-threatening emergency, or while en route therefrom to any hospital, medical clinic or doctor's office during

the period while rendering such emergency care or assistance. The Department of Health shall provide appropriate counseling and opportunity for face-to-face disclosure of any test results to any such person.

E. Whenever any law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider is directly exposed to body fluids of a person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the person who was exposed. If the person whose body fluids were involved in the exposure is deceased, the decedent's next of kin shall be deemed to have consented to testing of the decedent's blood for infection with human immunodeficiency virus or hepatitis B or C viruses and release of such test results to the person who was exposed.

F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider shall also be deemed to have consented to the release of such test results to the person who was exposed.

G. For the purposes of this section, "law-enforcement officer" means a person who is both (i) engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or department under the direction and control of the Commonwealth or any local governing body that employs persons who have law-enforcement authority.

H. Whenever any school board employee is directly exposed to body fluids of any person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the school board employee who was exposed.

I. Whenever any person is directly exposed to the body fluids of a school board employee in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the school board employee whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The school board employee shall also be deemed to have consented to the release of such test results to the person.

J. For the purposes of this section, "school board employee" means a person who is both (i) acting in the course of employment at the time of such exposure and (ii) employed by any local school board in the Commonwealth.

K. For purposes of this section, if the person whose blood specimen is sought for testing is a minor, consent for obtaining such specimen shall be obtained from the parent, guardian, or person standing in loco parentis of such

minor prior to initiating such testing. If the parent or guardian or person standing in loco parentis withholds such consent, or is not reasonably available, the person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition the juvenile and domestic relations district court in the county or city where the minor resides or resided, or, in the case of a nonresident, the county or city where the health care provider, law-enforcement agency or school board has its principal office or, in the case of a health care provider rendering emergency care pursuant to subsection D, the county or city where the exposure occurred, for an order requiring the minor to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section.

L. Except as provided in subsection K, if the person whose blood specimen is sought for testing refuses to provide such specimen, any person identified by this section who was potentially exposed to the human immunodeficiency virus or the hepatitis B or C viruses in the manner described by this section, or the employer of such person, *or the local attorney for the Commonwealth in the county or city in which the exposure occurred if such exposed person is a law-enforcement officer,* may petition, on a form to be provided by the Office of the Executive Secretary of the Supreme Court of Virginia, the general district court of the county or city in which the person whose specimen is sought resides or resided, or, in the case of a nonresident, the county or city where the health care provider, law-enforcement agency or school board has its principal office or, in the case of a health care provider rendering emergency care pursuant to subsection D, the county or city where the exposure occurred, for an order requiring the person to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section. A hearing on such a petition shall be given precedence on the docket so as to be heard by the court within 48 hours of the filing of the petition, or, if the court is closed during such time period, such petition shall be heard on the next day that the court is in session. A copy of the petition, which shall specify the date and location of the hearing, shall be provided to the person whose specimen is sought. At any hearing before the court, the person whose specimen is sought or his counsel may appear. The court may be advised by the Commissioner or his designee prior to entering any testing order. If the general district court determines that there is probable cause to believe that a person identified by this section has been exposed in the manner prescribed by this section, the court shall issue an order requiring the person whose bodily fluids were involved in the exposure to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section. If a testing order is issued, both the petitioner and the person from whom the blood specimen is sought shall receive counseling and opportunity for face-to-face disclosure of any test results by a licensed practitioner or trained counselor.

M. Any person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of the order. Any hearing conducted pursuant to this subsection shall be held in camera as soon as practicable. The record shall be sealed. The order of the circuit court shall be final and nonappealable.

N. No specimen obtained pursuant to this section shall be tested for any purpose other than for the purpose provided for in this section, nor shall the specimen or the results of any testing pursuant to this section be used for any purpose in any criminal matter or investigation. Any violation of this subsection shall constitute reversible error in any criminal case in which the specimen or results were used.

Family or household member; definition; penalty. Adds to the definition of family or household member, for the purposes of definitions relating to juvenile and domestic relations district courts and multiple criminal and procedural statutes, an individual who is a legal custodian of a juvenile.

CHAPTER 273

*An Act to amend and reenact § **16.1-228** of the Code of Virginia, relating to family or household member; definition; penalty.*

[H 172]
Approved April 2, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **16.1-228** of the Code of Virginia is amended and reenacted as follows:

§ **16.1-228**. Definitions.

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

"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. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. No child whose parent or other person responsible for his care allows the child to engage in independent activities without adult supervision shall for that reason alone be considered to be an abused or neglected child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent as to endanger the health or safety of the child. Such independent activities include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of § **16.1-278.4**;

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

4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or 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 § **55.1-2000**, 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 Tier III 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 federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal 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 within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services personnel, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. 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 that constitutes a part of a common scheme or plan with, a delinquent act that would be a felony if committed by an adult.

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

"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)~~ *(a)* 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)~~; *(b)* the child or his family is in need of treatment, rehabilitation, or services not presently being received~~,~~; and ~~(iii)~~ *(c)* 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 does 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.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his ~~18th~~ *eighteenth* 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.

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

"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~~ *such spouse* resides in the same home with the person~~,~~; (ii) the person's former spouse, whether or not ~~he or she~~ *such person* 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*; or (vii) an individual who is a legal custodian of a juvenile*.

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

"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, (iv) has been placed under the supervisory responsibility of the local board pursuant to § **16.1-293**, or (v) is living with a relative participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § **63.2-1305** and developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance program set forth in § **63.2-1306**.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person 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 (i) was in foster care on his ~~18th~~ *eighteenth* birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person

between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. "Independent living services" includes 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.

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

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, ~~7~~ *seven* days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an

organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § **16.1-281**, **16.1-282**, **16.1-282.1**, or **16.1-282.2**.

"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.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Cell phone records; missing persons. Provides that a court shall issue an order for disclosure of records or other information pertaining to a subscriber to or customer of a provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, only if the investigative or law-enforcement officer shows that there is reason to believe the records or other information sought are relevant and material to the investigation of any critically missing person, as defined in relevant law.

CHAPTER 325

*An Act to amend and reenact § **19.2-70.3** of the Code of Virginia, relating to cell phone records; missing persons.*

[H 1217]
Approved April 2, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-70.3** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-70.3**. Obtaining records concerning electronic communication service or remote computing service.

A. A provider of electronic communication service or remote computing service, which, for purposes of subdivisions 2, 3, and 4, includes a foreign corporation that provides such services, shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications and real-time location data, to an investigative or law-enforcement officer only pursuant to:

1. A subpoena issued by a grand jury of a court of the Commonwealth;

2. A search warrant issued by a magistrate, general district court, or circuit court;

3. A court order issued by a circuit court for such disclosure issued as provided in subsection B; or

4. The consent of the subscriber or customer to such disclosure.

B. A court shall issue an order for disclosure under this section only if the investigative or law-enforcement officer shows that there is reason to believe the records or other information sought are relevant and material to an ongoing criminal investigation, or the investigation of any missing child as defined in § **52-32**, *any* missing senior adult as defined in § **52-34.4**, ~~or~~ an incapacitated person as defined in § **64.2-2000** who meets the definition of a missing senior adult except for the age requirement*, or any critically missing adult as defined in § **15.2-1718.2***. Upon issuance of an order for disclosure under this section, the order and any written application or statement of facts may be sealed by the court for 90 days for good cause shown upon application of the attorney for the Commonwealth in an ex parte proceeding. The order and any written application or statement of facts may be sealed for additional 90-day periods for good cause shown upon subsequent application of the attorney for the Commonwealth in an ex parte proceeding. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with such order would otherwise cause an undue burden on such provider.

C. Except as provided in subsection D or E, a provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, shall disclose the contents of electronic

communications or real-time location data to an investigative or law-enforcement officer only pursuant to a search warrant issued by a magistrate, a juvenile and domestic relations district court, a general district court, or a circuit court, based upon complaint on oath supported by an affidavit as required in § **19.2-54**, or judicial officer or court of any of the several states of the United States or its territories, or the District of Columbia when the warrant issued by such officer or such court complies with the provisions of subsection G. In the case of a search warrant directed to a foreign corporation, the affidavit shall state that the complainant believes that the records requested are actually or constructively possessed by a foreign corporation that provides electronic communication service or remote computing service within the Commonwealth of Virginia. If satisfied that probable cause has been established for such belief and as required by Chapter 5 (§ **19.2-52** et seq.), the magistrate, the juvenile and domestic relations district court, the general district court, or the circuit court shall issue a warrant identifying those records to be searched for and commanding the person seeking such warrant to properly serve the warrant upon the foreign corporation. A search warrant for real-time location data shall be issued if the magistrate, the juvenile and domestic relations district court, the general district court, or the circuit court is satisfied that probable cause has been established that the real-time location data sought is relevant to a crime that is being committed or has been committed or that an arrest warrant exists for the person whose real-time location data is sought.

D. A provider of electronic communication service or remote computing service, including a foreign corporation that provides such services, shall disclose a record or other information pertaining to a subscriber to or customer of such service, including real-time location data but excluding the contents of electronic communications, to an investigative or law-enforcement officer pursuant to an administrative subpoena issued pursuant to § **19.2-10.2** concerning a violation of § **18.2-374.1** or **18.2-374.1:1**, former § **18.2-374.1:2**, or § **18.2-374.3** when the information sought is relevant and material to an ongoing criminal investigation.

E. When disclosure of real-time location data is not prohibited by federal law, an investigative or law-enforcement officer may obtain real-time location data without a warrant in the following circumstances:

1. To respond to the user's call for emergency services;

2. With the informed, affirmative consent of the owner or user of the electronic device concerned if (i) the device is in his possession; (ii) the owner or user knows or believes that the device is in the possession of an employee or agent of the owner or user with the owner's or user's consent; or (iii) the owner or user knows or believes that the device has been taken by a third party without the consent of the owner or user;

3. With the informed, affirmative consent of the legal guardian or next of kin of the owner or user, if reasonably available, if the owner or user is reasonably believed to be deceased, is reported missing, or is unable to be contacted;

4. To locate a child who is reasonably believed to have been abducted or to be missing and endangered; or

5. If the investigative or law-enforcement officer reasonably believes that an emergency involving the immediate danger to a person requires the disclosure, without delay, of real-time location data concerning a specific person and that a warrant cannot be obtained in time to prevent the identified danger.

No later than three business days after seeking disclosure of real-time location data pursuant to this subsection, the investigative or law-enforcement officer seeking the information shall file with the appropriate court a

written statement setting forth the facts giving rise to the emergency and the facts as to why the person whose real-time location data was sought is believed to be important in addressing the emergency.

F. In order to comply with the requirements of § **19.2-54**, any search of the records of a foreign corporation shall be deemed to have been made in the same place wherein the search warrant was issued.

G. A Virginia corporation or other entity that provides electronic communication services or remote computing services to the general public, when properly served with a search warrant and affidavit in support of the warrant, issued by a judicial officer or court of any of the several states of the United States or its territories, or the District of Columbia with jurisdiction over the matter, to produce a record or other information pertaining to a subscriber to or customer of such service, including real-time location data, or the contents of electronic communications, or both, shall produce the record or other information, including real-time location data, or the contents of electronic communications as if that warrant had been issued by a Virginia court. The provisions of this subsection shall only apply to a record or other information, including real-time location data, or contents of electronic communications relating to the commission of a criminal offense that is substantially similar to (i) a violent felony as defined in § **17.1-805**, (ii) an act of violence as defined in § **19.2-297.1**, (iii) any offense for which registration is required pursuant to § **9.1-902**, (iv) computer fraud pursuant to § **18.2-152.3**, or (v) identity theft pursuant to § **18.2-186.3**. The search warrant shall be enforced and executed in the Commonwealth as if it were a search warrant described in subsection C.

H. The provider of electronic communication service or remote computing service may verify the authenticity of the written reports or records that it discloses pursuant to this section by providing an affidavit from the custodian of those written reports or records or from a person to whom said custodian reports certifying that they are true and complete copies of reports or records and that they are prepared in the regular course of business. When so authenticated, no other evidence of authenticity shall be necessary. The written reports and records, excluding the contents of electronic communications, shall be considered business records for purposes of the business records exception to the hearsay rule.

I. No cause of action shall lie in any court against a provider of a wire or electronic communication service or remote computing service or such provider's officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, administrative subpoena, or subpoena under this section or the provisions of subsection E.

J. A search warrant or administrative subpoena for the disclosure of real-time location data pursuant to this section shall require the provider to provide ongoing disclosure of such data for a reasonable period of time, not to exceed 30 days. A court may, for good cause shown, grant one or more extensions, not to exceed 30 days each.

K. An investigative or law-enforcement officer shall not use any device to obtain electronic communications or collect real-time location data from an electronic device without first obtaining a search warrant authorizing the use of the device if, in order to obtain the contents of such electronic communications or such real-time location data from the provider of electronic communication service or remote computing service, such officer would be required to obtain a search warrant pursuant to this section. However, an investigative or law-enforcement officer may use such a device without first obtaining a search warrant under the circumstances set forth in subsection E. For purposes of subdivision E 5, the investigative or law-enforcement officer using such a device shall be considered to be the possessor of the real-time location data.

L. Upon issuance of any subpoena, search warrant, or order for disclosure issued under this section, upon written certification by the attorney for the Commonwealth that there is a reason to believe that the victim is under the age of 18 and that notification or disclosure of the existence of the subpoena, search warrant, or order will endanger the life or physical safety of an individual, or lead to flight from prosecution, the destruction of or tampering with evidence, the intimidation of potential witnesses, or otherwise seriously jeopardize an investigation, the court may in an ex parte proceeding order a provider of electronic communication service or remote computing service not to disclose for a period of 90 days the existence of the subpoena, search warrant, or order and written application or statement of facts to another person, other than an attorney to obtain legal advice. The nondisclosure order may be renewed for additional 90-day periods for good cause shown upon subsequent application of the attorney for the Commonwealth in an ex parte proceeding. A court issuing an order for disclosure pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with such order would otherwise cause an undue burden on such provider.

M. For the purposes of this section:

"Electronic device" means a device that enables access to, or use of, an electronic communication service, remote computing service, or location information service, including a global positioning service or other mapping, locational, or directional information service.

"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**.

"Real-time location data" means any data or information concerning the current location of an electronic device that, in whole or in part, is generated, derived from, or obtained by the operation of the device.

Custodial interrogation of a child; failure to comply with section; inadmissibility of statement. Provides that if a law-enforcement officer knowingly fails to comply with existing law regarding parental notification and contact prior to a custodial interrogation of a child, any statements made by such child shall be inadmissible in any delinquency proceeding or criminal proceeding against such child, unless the attorney for the Commonwealth proves by a preponderance of the evidence that the statement was made knowingly, intelligently, and voluntarily.

CHAPTER 719

*An Act to amend and reenact § **16.1-247.1** of the Code of Virginia, relating to custodial interrogation of a child; failure to comply; inadmissibility of statement.*

[H 266]

Approved April 8, 2024

Be it enacted by the General Assembly of Virginia:

1. That § **16.1-247.1** of the Code of Virginia is amended and reenacted as follows:

§ **16.1-247.1**. Custodial interrogation of a child; parental notification and contact; inadmissibility of statement.

A. Prior to any custodial interrogation of a child by a law-enforcement officer who has arrested such child pursuant to subsection C, C1, or D of § **16.1-246**, the child's parent, guardian, or legal custodian shall be notified of his arrest and the child shall have contact with his parent, guardian, or legal custodian. The notification and contact required by this subsection may be in person, electronically, by telephone, or by video conference.

B. Notwithstanding the provisions of subsection A, a custodial interrogation may be conducted ~~if~~ (i) *if* the child's parent, guardian, or legal custodian is a codefendant in the alleged offense; (ii) *if* the child's parent, guardian, or legal custodian has been arrested for, has been charged with, or is being investigated for a crime against the child; (iii) if, after every reasonable effort has been made to comply with subsection A, the child's parent, guardian, or legal custodian cannot be located or refuses contact with the child; or (iv) if the law-enforcement officer conducting the custodial interrogation reasonably believes the information sought is necessary to protect life, limb, or property from an imminent danger and the law-enforcement officer's questions are limited to those that are reasonably necessary to obtain such information.

C. Except as provided in subsection B, if a law-enforcement officer knowingly violates the provisions of subsection A, any statements made by such child shall be inadmissible in any delinquency proceeding or criminal proceeding against such child, unless the attorney for the Commonwealth proves by a preponderance of the evidence that the statement was made knowingly, intelligently, and voluntarily.

2. That the provisions of § **16.1-247.1** of the Code of Virginia, as amended by this act, shall not apply to any statements made by a child prior to July 1, 2024.

Elections; protection of electors and election officials; penalties. Adds to the list of protected voters any current or former elector for President and Vice President of the United States and any person who is or has been a member of the State Board of Elections, the Commissioner of Elections, an employee of the Department of Elections, a member of a local electoral board, a general registrar, a deputy registrar, an employee in the office of the general registrar, or an officer of election. Protected voters are permitted by law to provide on the application for voter registration, in addition to the voter's residence street address, a post office box address located within the Commonwealth, which would be the address included on (i) lists of registered voters and persons who voted, (ii) voter registration records made available for public inspection, and (iii) lists of absentee voter applicants.

The bill makes it a Class 5 felony to, by bribery, intimidation, threats, coercion, or other means in violation of election laws, willfully and intentionally hinder or prevent an election official or employee of an election official from administering elections. Under current law, it is only a Class 5 felony to hinder or prevent an officer of election at a location being used for voting from holding an election. The bill also makes it a Class 5 felony to commit such acts against an elector for President and Vice President of the United States.

The bill creates a civil action for any election official, employee of an election official, or elector who is intimidated, threatened, or coerced by another person who thereby willfully and intentionally hinders or prevents, or attempts to hinder or prevent, such official, employee, or elector from fulfilling his duty.

CHAPTER 787

*An Act to amend and reenact §§ **24.2-418** and **24.2-1000** of the Code of Virginia, relating to elections; protection of electors and election officials; penalty.*

[S 364]

Approved April 17, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **24.2-418** and **24.2-1000** of the Code of Virginia are amended and reenacted as follows:

§ **24.2-418**. Application for registration.

A. Each applicant to register shall provide, subject to felony penalties for making false statements pursuant to § **24.2-1016**, the information necessary to complete the application to register. Unless physically disabled, he shall sign the application. The application to register shall be only on a form or forms prescribed by the State Board.

The form of the application to register shall require the applicant to provide the following information: full name; gender; date of birth; social security number, if any; whether the applicant is presently a United States citizen; address of residence in the precinct; place of last previous registration to vote; and whether the applicant has ever been adjudicated incapacitated and disqualified to vote or convicted of a felony, and if so, whether the applicant's right to vote has been restored. The form shall contain a statement that whoever votes more than once in any election in the same or different jurisdictions is guilty of a Class 6 felony. Unless directed by the applicant or as permitted in § **24.2-411.2** or **24.2-411.3**, the registration application shall not be pre-populated with information the applicant is required to provide.

The form of the application to register shall request that the applicant provide his telephone number and email address, but no application shall be denied for failure to provide such information.

B. The form shall permit any individual, as follows, or member of his household, to furnish, in addition to his residence street address, a post office box address located within the Commonwealth to be included in lieu of his

street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ **24.2-405** and **24.2-406**, on voter registration records made available for public inspection pursuant to § **24.2-444**, or on lists of absentee voter applicants furnished pursuant to § **24.2-706** or **24.2-710**. The voter shall comply with the provisions of § **24.2-424** for any change in the post office box address provided under this subsection.

1. Any active or retired law-enforcement officer, as defined in § **9.1-101** and in 5 U.S.C. § 8331(20), but excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20);

2. Any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia;

3. Any party who has furnished a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him;

4. Any party participating in the address confidentiality program pursuant to § **2.2-515.2**;

5. Any active or retired federal or Virginia justice, judge, or magistrate and any active or retired attorney employed by the United States Attorney General or Virginia Attorney General;~~ and~~

6. Any person who has been approved to be a foster parent pursuant to Chapter 9 (§ **63.2-900** et seq.) of Title 63.2*;*

7. Any person who is or has been one of the Commonwealth's electors for President and Vice President of the United States; and

8. Any person who is or has been a member of the State Board of Elections, the Commissioner of Elections, an employee of the Department of Elections, a member of a local electoral board, a general registrar, a deputy registrar, an employee in the office of the general registrar, or an officer of election.

C. If the applicant formerly resided in another state, the general registrar shall send the information contained in the applicant's registration application to the appropriate voter registration official or other authority of another state where the applicant formerly resided, as prescribed in subdivision 15 of § **24.2-114**.

§ **24.2-1000**. Intimidation and threats toward election officials; penalty.

A. Any person who, by bribery, intimidation, threats, coercion, or other means in violation of the election laws willfully *and intentionally* hinders or prevents, or attempts to hinder or prevent,~~ the officers of election at any polling place, voter satellite office, or other location being used by a locality for voting purposes from holding an election~~ *an election official or the employee of an election official from administering elections pursuant to this title* is guilty of a Class 5 felony.

B. For purposes of this section:

"Election official" includes members of the State Board of Elections, the Commissioner of Elections, members of local electoral boards, general registrars, deputy registrars, and officers of election.

"Employee of an election official" includes persons employed by the Department of Elections or in the office of a general registrar.

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** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § **30-19.1:4** of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Trial by jury; contact with jurors after trial prohibited; penalty. Creates a Class 1 misdemeanor for any defendant who knowingly and intentionally contacts, with the intent to harass, intimidate, or threaten, a juror regarding such juror's service as a juror after a jury trial.

CHAPTER 561

*An Act to amend the Code of Virginia by adding a section numbered **18.2-465.2**, relating to trial by jury; contact with jurors after trial prohibited; penalty.*

[H 1443]

Approved April 5, 2024

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **18.2-465.2** as follows:

*§ **18.2-465.2**. Contact with jurors after trial prohibited; penalty.*

No defendant shall knowingly and intentionally contact, with the intent to harass, intimidate, or threaten, a juror regarding such juror's service as a juror after a jury trial. A violation of this section is a Class 1 misdemeanor.

Alert for missing or endangered children; Virginia Critical Operation for a Disappeared Child Initiative (Codi) Alert Program. Creates a program for local, regional, or statewide notification of a missing or endangered child. The bill defines a missing or endangered child as a child (i) who is 17 years of age or younger or is currently enrolled in a secondary school in the Commonwealth, regardless of age; (ii) whose whereabouts are unknown; and (iii) whose disappearance is under suspicious circumstances or poses a credible threat as determined by law enforcement to the safety and health of the child and under such other circumstances as deemed appropriate by the Virginia State Police. The bill requires the Virginia State Police to develop, in consultation with representatives of local law-enforcement agencies, including representatives from the Virginia Sheriffs' Association and the Virginia Association of Chiefs of Police, policies for the establishment of uniform standards for the creation of Codi Alert Programs throughout the Commonwealth. This bill is identical to **SB 201.**.

CHAPTER 658

*An Act to amend the Code of Virginia by adding in Title 52 a chapter numbered 7.1:1, consisting of sections numbered **52-34.3:1**, **52-34.3:2**, and **52-34.3:3**, relating to alert for missing or endangered children; Virginia Critical Operation for a Disappeared Child Initiative (Codi) Alert Program.*

[H 1388]

Approved April 8, 2024

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 52 a chapter numbered 7.1:1, consisting of sections numbered **52-34.3:1**, **52-34.3:2**, and **52-34.3:3**, as follows:

CHAPTER 7.1:1.
VIRGINIA CRITICAL OPERATION FOR A DISAPPEARED CHILD INITIATIVE (CODI) ALERT PROGRAM.

*§ **52-34.3:1**. Definitions.*

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

"Critical Operation for a Disappeared Child Initiative Agreement" or "Codi Agreement" means the voluntary agreement between law-enforcement officials and members of the media whereby a child will be declared missing or endangered and the public will be notified, and includes all other incidental conditions of the partnership as found appropriate by the Virginia State Police.

"Critical Operation for a Disappeared Child Initiative Alert" or "Codi Alert" means the notice of a missing or endangered child provided to the public by the media or other methods under a Codi Agreement.

"Critical Operation for a Disappeared Child Initiative Alert Program" or "Codi Alert Program" or "Program" means the procedures and Codi Agreements to aid in the identification and location of missing or endangered children.

"Media" means print, radio, television, and Internet-based communication systems or other methods of communicating information to the public.

"Missing or endangered child" means a child (i) who is 17 years of age or younger or is currently enrolled in a secondary school in the Commonwealth, regardless of age; (ii) whose whereabouts are unknown; and (iii) whose disappearance is under suspicious circumstances or poses a credible threat as determined by law

enforcement to the safety and health of the child and under such other circumstances as deemed appropriate by the Virginia State Police.

*§ **52-34.3:2**. Establishment of the Virginia Critical Operation for a Disappeared Child Initiative (Codi) Alert Program.*

The Virginia State Police shall develop, in consultation with representatives of local law-enforcement agencies, including representatives from the Virginia Sheriffs' Association and the Virginia Association of Chiefs of Police, policies for the establishment of uniform standards for the creation of Codi Alert Programs throughout the Commonwealth. Codi Alert Programs may be local, regional, or statewide. They may include multiple localities or regions and may be expanded or compressed. The Virginia State Police may (i) inform local law-enforcement officials of the policies and procedures for the Codi Alert Programs set by the Virginia State Police, (ii) assist in determining the geographic scope of a particular Codi Alert, and (iii) establish procedures and standards by which a local law-enforcement agency may verify a child is missing or endangered and report such information to the Virginia State Police.

The establishment of a Codi Alert Program by a locality and the media is voluntary, and nothing in this chapter shall be construed to be a mandate that local officials or the media establish or participate in a Codi Alert Program. Existing Codi Agreements and Codi Alert Programs shall not be altered by the act of assembly creating this chapter.

*§ **52-34.3:3**. Activation of the Virginia Critical Operation for a Disappeared Child Initiative (Codi) Alert Program upon incident of a missing or endangered child.*

A. Upon receipt of a notice of a missing or endangered child from a law-enforcement agency, the Virginia State Police shall confirm the accuracy of the information and provide assistance in the implementation of the Codi Alert Program as the investigation dictates.

B. Codi Alerts may be local, regional, or statewide. The initial decision to make a local or regional Codi Alert shall be at the discretion of the local or regional law-enforcement officials. Prior to making a local or regional Codi Alert, the local or regional law-enforcement officials shall confer with the Virginia State Police and provide information regarding the missing or endangered child to the Virginia State Police. The initial decision to make a statewide Codi Alert shall be at the discretion of the Virginia State Police. The Missing Children Information Clearinghouse operated by the Virginia State Police shall serve as a central repository for information related to a missing or endangered child.

C. In those situations where appropriate, the Virginia State Police shall send the Codi Alert to Virginia's emergency alert system. Participating media are encouraged to issue the Codi Alert at designated intervals as specified by the Codi Alert Program.

D. In those situations where appropriate and an existing system is available, the Virginia State Police shall contact the operator of the existing automatic dialing-announcing device system to target residents in the geographic location where the missing or endangered child was most recently seen. For purposes of this section, "automatic dialing-announcing device system" means a device that (i) selects and dials telephone numbers and (ii) working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.

E. The Codi Alert shall include such information as the law-enforcement agency deems appropriate that will assist in the safe recovery of the missing or endangered child.

F. The Codi Alert shall be canceled under the terms of the Codi Agreement. Any local law-enforcement agency that locates a child who is the subject of a Codi Alert shall notify the Virginia State Police immediately that the child has been located.

2. That the Virginia State Police shall ensure the Virginia Critical Operation for a Disappeared Child Initiative Alert Program, or Codi Alert Program, as created by this act, is available and operational no later than July 1, 2025.

Alcoholic beverage control; public consumption; exemption. Provides that the prohibition on drinking or offering to another an alcoholic beverage in public shall not apply when such acts are conducted on the premises of a campground located on private property at which a majority of the campers use travel or tent trailers, pickup campers, or motor homes or similar recreational vehicles.

CHAPTER 492

*An Act to amend and reenact §§ **4.1-128** and **4.1-308** of the Code of Virginia, relating to alcoholic beverage control; public consumption; exemption.*

[S 26]

Approved April 4, 2024

Be it enacted by the General Assembly of Virginia:

1. That §§ **4.1-128** and **4.1-308** of the Code of Virginia are amended and reenacted as follows:

§ **4.1-128**. Local ordinances or resolutions regulating or taxing alcoholic beverages.

A. No county, city, or town shall, except as provided in § **4.1-205** or **4.1-129**, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § **58.1-605**, **58.1-3833** or **58.1-3840**. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance that (i) prohibits the acts described in subsection A of § **4.1-308** subject to the provisions of subsections B ~~and~~, E*, and F* of § **4.1-308**, or the acts described in § **4.1-309**, and may provide a penalty for violation thereof and (ii) subject to subsection C of § **4.1-308**, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this subtitle, are repealed to the extent of such inconsistency.

§ **4.1-308**. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.

A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he is guilty of a Class 4 misdemeanor.

B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license, mixed beverage special events license, or designated outdoor refreshment area license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the Board and which does not sell alcoholic beverages.

E. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any areas approved by the Board in a licensed commercial lifestyle center.

F. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any area upon the premises of a campground located on private property at which a majority of the campers use travel or tent trailers, pickup campers, or motor homes or similar recreational vehicles.

MISCELLANEOUS – SUMMARY ONLY

HB444 and SB169 – §52-46 – Virginia Rap Back Service; criminal history record monitoring. Changes the time frame for which a participating entity in the Virginia Record of Arrest and Prosecution (Rap) Back Service is required to disenroll any individual who is deceased or no longer qualifies as an individual for the purposes of the Virginia Rap Back Service from within 30 days to within five business days. The bill also removes the provision stating that an individual who moves from one participating entity in the Virginia Rap Back Service to another need not be refingerprinted. The bill contains technical amendments and is identical to **SB 169.**

HB586 – §9.1-102 – Training standards for law-enforcement officers; drug use. Requires the Department of Criminal Justice Services to establish training standards and publish and periodically update model policies for law-enforcement personnel on the use of naloxone or other opioid antagonists to prevent opioid overdose deaths, in coordination with statewide naloxone training programs developed by the Department of Behavioral Health and Developmental Services and the Virginia Department of Health.

HB155 and SB646 – §19.2-368.5 – Criminal Injuries Compensation Fund; claims. Provides that in claims for an award under the Criminal Injuries Compensation Fund involving claims of sexual abuse of a minor where the conduct constitutes a felony, the passage of time shall not be a barrier to when the victim can file a claim. Under current law, such claim involving sexual abuse of a minor shall be filed within 10 years after the minor's eighteenth birthday. This bill is identical to **SB 646.**

HB299 – §3.2-6528 – License tax; retired police or military dogs; exemption. Allows a locality by ordinance to exempt any dog that served as a police or law-enforcement dog or military working dog from the license tax on the ownership of dogs. Such ordinance must include a verification process for the vaccination records of such a dog.

SB424 – §19.2-120 – Admission to bail; act of violence. Provides that a judicial officer who admits a person to bail who is charged with an act of violence shall notify the attorney for the Commonwealth for the jurisdiction in which such person's case is filed contemporaneously with such person's grant of bail or release. The bill provides that such notice may be made by facsimile or other electronic means.

SB630 – §9.1-800 – Public safety officer; Commonwealth Public Safety Medal of Valor; dispatcher. Adds a dispatcher, including a dispatcher employed by the Department of State Police, to the definition of a public safety officer for purposes of possible selection by the Governor for the Commonwealth Public Safety Medal of Valor, presented for performance above and beyond the call of duty involving extraordinary valor in the face of grave danger, at great personal risk. A dispatcher is defined in relevant law as an individual employed by a public safety answering point, an emergency medical dispatch service provider, or both, who is qualified to answer incoming emergency telephone calls or provide for the appropriate emergency response either directly or through communication with the appropriate public safety answering point.

HB1014 – §19.2-163.04 – Public defender offices; City of Harrisonburg and County of Rockingham. Establishes a public defender office for the City of Harrisonburg and the County of Rockingham.

HB1053 – §29.1-733.25 – Destruction and disposal of abandoned watercraft by localities and state agencies. Allows localities and state agencies to apply, under certain conditions, to the Department of Wildlife Resources for an authorization to destroy and dispose of an abandoned watercraft.

HB321 and SB649 – §9.1-402 – Line of Duty Act; payment of benefits. Increases from $25,000 to $75,000 the death benefit payout under the Virginia Line of Duty Act for a death caused by occupational cancer, respiratory disease, or hypertension or heart disease for those deaths that will occur on or after January 1, 2025. This bill is identical to **SB 649.**

HB928 - §18.2-146.2 – Interference with commercial fishing vessels or activity; penalty. Creates a Class 1 misdemeanor for any person who knowingly and intentionally interferes with or impedes the operation or commercial fishing activity, defined in the bill, of a commercial fishing vessel within the territorial waters of the Commonwealth. The bill deems a person to be ineligible for any hunting or fishing license for a period of one year upon a first conviction of this offense and for a period of three years upon a second or subsequent conviction. The bill also requires any person convicted of a violation of this offense to complete boating safety education.

HB732 and SB726 – §§54.1-3408, 22.1-206.01, and 22.1-274.4:1 – Public schools; opioid antagonist procurement, possession, and administration; school board employee training and certification; opioid overdose prevention and reversal instruction; guidelines and requirements. Requires each local school board to develop, in accordance with the guidelines developed by the Department of Health in collaboration with the Department of Education, plans, policies, and procedures for (i) providing at each public secondary school that includes grades nine through 12 a program of instruction on opioid overdose prevention and reversal and for encouraging each student to complete such program of instruction prior to graduation; (ii) the procurement, placement, and maintenance in each public elementary and secondary school of a supply of opioid antagonists in an amount equivalent to at least two unexpired doses for the purposes of opioid overdose reversal; and (iii) the possession and administration of an opioid antagonist by any employee of the school board who is authorized by a prescriber and trained in the administration of an opioid antagonist, including policies (a) requiring each public elementary and secondary school to ensure that at least one employee is authorized by a prescriber and trained and certified in the administration of an opioid antagonist, (b) for partnering with a program administered or approved by the Department of Health to provide such training and certification, and (c) for maintaining records of each such trained and certified employee.

The bill provides for the disciplinary, civil, and criminal immunity of any employee of a public school, school board, or local health department, regardless of whether such employee was trained or certified in opioid antagonist administration, for any act or omission made in connection with the good faith administration of an opioid antagonist for the purposes of opioid overdose reversal during regular school hours, on school premises, or during a school-sponsored activity, unless such act or omission was the result of gross neglect or willful misconduct. The bill requires each school board to adopt and each public elementary and secondary school to implement policies and procedures in accordance with the provisions of the bill and, in doing so, to utilize to the fullest extent possible programs offered by the Department of Health for the provision of opioid antagonist administration training and certification and opioid antagonist procurement.

In addition, the bill modifies the school board employees who are authorized to administer opioid antagonists to include any school board employee who has completed training and is certified in the administration of an opioid antagonist by a program administered or authorized by the Department of Health.

Finally, the bill directs the Department of Health and the Department of Education to collaborate to develop guidelines and policies for the implementation of the provisions of the bill and requires each school board to implement the provisions of the bill by the beginning of the 2025–2026 school year. This bill is identical to **SB 726.**

HB1035 – §§8.01-225, 54.1-3408, and 54.1-3408.5 – Places of public accommodation; possession and administration of epinephrine. Permits every place of public accommodation, defined in relevant law as all places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages, or accommodations, to make epinephrine available for administration and permits any employee of such place of public accommodation who is authorized by a prescriber and trained in the administration of epinephrine to possess and administer epinephrine to a person present in such place of public accommodation believed in good faith to be having an anaphylactic reaction. Current law limits such permission to every public place, defined in relevant law as any enclosed, indoor area used by the general public, and any employee of such public place.

HB1039 – §§22.1-274.2, and 54.1-3408 – Public elementary and secondary schools; possession and administration of undesignated glucagon; school board policies; donations. Permits any local school board to adopt and implement policies for the possession and administration of undesignated nasal or injectable glucagon in each public elementary or secondary school in the local school division, provided that such policies are consistent with the guidance outlined in the most recent revision of the *Diabetes Management In School: Manual for Unlicensed Personnel* published by the Department of Education and include guidance on several items enumerated in the bill. The bill also permits any public elementary or secondary school to maintain a supply of nasal or injectable glucagon in any secure location that is immediately accessible to any school nurse or other employee trained in the administration of nasal and injectable glucagon prescribed to the school by a prescriber. The bill requires any such school to ensure that such a supply consists of at least two doses. The bill permits any school nurse or other authorized employee who is trained in the administration of nasal and injectable glucagon consistent with the guidance outlined in the most recent revision of the *Diabetes Management In School: Manual for Unlicensed Personnel* published by the Department to administer nasal or injectable glucagon from undesignated inventory with parental consent and if the student's prescribed glucagon is not available on school grounds or has expired. The bill permits any school board to accept donations of nasal or injectable glucagon from a wholesale distributor of glucagon or donations of money from any individual to purchase nasal or injectable glucagon for the purpose of maintenance and administration in a public school in the local school division as permitted pursuant to the aforementioned provisions of the bill.

HB1396 and SB736 – §17.1-207 – Days of operation of clerks' offices; clerks' authority to close office. Allows the clerk of the circuit court of any county or city to close the clerk's office on (i) Christmas Eve; (ii) any day or portion of a day that the Governor declares as a holiday for state employees; and (iii) any day or portion of a day on which the Governor, Supreme Court, or Judicial Council authorizes state offices to be closed. Under current law, the clerk may only close the clerk's office once a judge authorizes such clerk to do so in these circumstances. This bill is identical to **SB 736.**

SB88 – §§2.2-3711, 9.1-102, 15.2-1707, 15.2-1708, and 19.2-83.7 – Decertification of law-enforcement officers and jail officers. Makes various changes to the provisions related to decertification of law-enforcement officers and jail officers. The bill provides that the Department of Criminal Justice Services may conduct decertification review hearings in accordance with the provisions of the Administrative Process Act. The bill provides that the findings and decision of the Department may be appealed to the Board and that the final administrative decision of the Board may be then appealed and reviewed by a court. The bill also provides that records provided to the Board or Department for the purposes of decertification of an identifiable law-enforcement officer or jail officer may be withheld from the public in accordance with the Virginia Freedom of Information Act and those meetings concerning the decertification of an identifiable law-enforcement or jail officer may be closed. The bill also allows the Department to grant a continuance of any informal fact-finding conference or formal hearing upon motion by the decertified officer or his counsel or the Attorney General for good cause shown. The bill requires an officer to remain decertified during a period of continuance of any informal fact-finding conference or formal hearing for a pending criminal charge unless the Department finds the officer's continued decertification may cause circumstances that constitute a manifest injustice to the officer, in which case the officer's certification may be reinstated during the period of continuance until the conviction becomes final. Current law allows the Board, when an officer's conviction has not become final, to decline to decertify such officer after considering the likelihood of irreparable damage to the officer if such officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or damage to the public if the officer is not decertified, and the seriousness of the offense. Additionally, the bill allows for the decertification of an officer who is terminated or resigns for an act committed while in the performance of his duties that compromises an officer's credibility, integrity, or honesty or that constitutes exculpatory or impeachment evidence in a criminal case. The bill also provides that persons who are currently in a recruit or field training status and have committed an act that would be any basis for decertification are ineligible for certification. The bill also specifies that the required notification to the Department related to an officer being terminated or resigning (i) for engaging in serious misconduct; (ii) while such officer is the subject of a pending internal investigation involving serious misconduct; or (iii) for an act committed while in the performance of his

duties that compromises an officer's credibility, integrity, or honesty or constitutes exculpatory or impeachment evidence in a criminal case shall be within 48 hours of completion of an internal investigation. Under current law, such notification is required to be within 48 hours of the termination or resignation. The bill also requires the Department to establish standards and procedures for when the Department may grant a petition for reinstatement of certification of a decertified officer. The bill directs the Department to adopt emergency regulations to implement the provisions of the bill.

HB361 – §19.2-389 – Dissemination of criminal history record information; Department of Social Services. Authorizes the Department of Social Services to obtain criminal history record information for the purpose of screening individuals as a condition of licensure, employment, volunteering, or providing services on a regular basis in a licensed child welfare agency or foster or adoptive home approved by a child-placing agency.

HB1022 and SB207 – §9.1-116.01 – Universal certification for certain law-enforcement officers. Provides that any sworn law-enforcement officer with at least one year of experience (i) whose training qualifications meet or exceed current training standards established by the Board of Criminal Justice Services and who is in compliance with the minimum qualifications, (ii) who has not had a break in service of more than 24 months, and (iii) who is leaving the transferring agency in good standing with no pending investigations or disciplinary actions shall be eligible for employment at any law-enforcement agency within the Commonwealth or its political subdivisions. Prior to any conditional offer of employment, the bill requires the hiring law-enforcement agency to request certain specified information from all prior law-enforcement agencies and to employ all reasonable means to obtain personnel records for law-enforcement officers transferring from an out-of-state or federal law-enforcement agency. The bill requires that upon the receipt of all requested information by the hiring law-enforcement agency, the applicant law-enforcement officer shall complete a sworn declaration that the provided information or records are, to the best of the applicant's knowledge, a true, correct, and complete response to such request. This bill is identical to **SB 207.**

HB1369 – §§9.1-102, and 9.1-112.1 – Criminal justice training academies; curriculum. Provides that an approved criminal justice training academy may utilize an alternative curriculum and lesson plans that meet or exceed the compulsory minimum training standards without seeking a waiver from the Department of Criminal Justice Services. Under current law, the Department is required to develop a uniform curriculum to be used at all criminal justice training academies unless a waiver to the uniform curriculum is granted by the Department.

HB888 and SB176 – §§37.2-809, 37.2-809.1, 37.2-815, 37.2-816, and 37.2-817 – Civil commitments and temporary detention orders; definition of mental illness; neurocognitive disorders and neurodevelopmental disabilities; Secretary of Health and Human Resources to evaluate placements for certain individuals; report. Specifies that for the purpose of civil commitments and temporary detention orders, behaviors and symptoms that manifest from a neurocognitive disorder or neurodevelopmental disability are excluded from the definition of mental illness and are, therefore, not a basis for placing an individual under a temporary detention order or committing an individual involuntarily to an inpatient psychiatric hospital. The bill provides that if a state facility has reason to believe that an individual's behaviors or symptoms are solely a manifestation of a neurocognitive disorder or neurodevelopmental disability, the state facility may require that a licensed psychiatrist or other licensed mental health professional reevaluate the individual's eligibility for a temporary detention order before the individual is admitted and shall promptly authorize the release of an individual held under a temporary detention order if the licensed psychiatrist or other licensed mental health professional determines the individual's behaviors or symptoms are solely a manifestation of a neurocognitive disorder or neurodevelopmental disability. The foregoing provisions of the bill do not become effective unless reenacted by the 2025 Session of the General Assembly. The bill also directs the Secretary of Health and Human Resources to convene a work group to evaluate, identify, and develop placements for individuals with neurocognitive disorders and neurodevelopmental disabilities, as well as any statutory or funding changes needed to prevent inappropriate placements for such individuals, and to report his findings and recommendations by November 1, 2024. As introduced, this bill is a recommendation of the Joint Legislative Audit and Review Commission and the Behavioral Health Commission. This bill is identical to **SB 176.**

SB204 – §2.2-3706.1 – Virginia Freedom of Information Act; release of criminal investigative files exception. Exempts a victim's insurance company and attorney from the prohibition on releasing photographic, audio, video, or other records depicting such victim. The bill also permits a victim, a victim's immediate family members if the victim is deceased, a victim's parent or guardian, the victim's insurance company, or the victim's attorney to waive the 14-day period for a public body to respond to a request for criminal investigative files.

SB215 – §§2.2-3706.1, and 8.01-622.2 – Virginia Freedom of Information Act; removal of Virginia residency requirement for access to certain criminal investigation files. Removes the requirement that persons to whom non-ongoing criminal investigation files shall otherwise be disclosed be citizens of the Commonwealth. Current law limits disclosure of public records to individuals who are citizens of the Commonwealth unless a clear exception applies.

SB398 – §§16.1-253.1. 16.1-279.1, 19.2-152.9, and 19.2-152.10 – Protective orders; respondent to notify court of change of address. Requires the respondent against whom a protective order has been issued to notify the court in writing within seven days of any change of residence while such order is in effect, provided that such order has been properly served upon the respondent. In a proceeding involving a preliminary protective order, the bill provides that the court may require the respondent to notify the court in writing within seven days of any change of residence while such preliminary protective order is in effect. The bill also provides that any failure of a respondent to make such required notification shall be punishable by contempt.

HB1040 and SB85 – §§2.2-3701, and 2.2-3708.3 – Virginia Freedom of Information Act; definition of "caregiver"; remote participation in meetings by persons with disabilities and caregivers; remote voting. Provides that for purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a person with a disability or a caregiver, defined in the bill, and uses remote participation counts toward the quorum as if the individual was physically present. The bill also provides that the participation policy adopted by a public body, as required by the Virginia Freedom of Information Act, shall not prohibit or restrict any individual member of a public body who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the public body. As introduced, the bill was a recommendation of the Virginia Freedom of Information Advisory Council. This bill is identical to **SB 85.**

HB1496 – §9.1-116.9 – Surveillance technology reporting by state and local law-enforcement agencies and sheriff's departments. Requires all state and local law-enforcement agencies and sheriff's departments to provide to the Department of Criminal Justice Services (the Department) a list of surveillance technologies, defined in the bill, procured by such agencies and departments on an annual basis by November 1 of each year. The bill requires the Department to provide such information to the Virginia State Crime Commission and the Joint Commission on Technology and Science.

HB823 and SB497 – §37.2-810 – Temporary detention order; alternative transportation. Provides that when a magistrate is determining whether an alternative transportation provider is available for the purposes of designating a transportation provider for the transportation of a person who is the subject of a temporary detention order, an alternative transportation provider shall be deemed available if the provider states that it is available to take custody of the person from law enforcement within six hours of issuance of the temporary detention order or an order changing the transportation provider.

The bill also provides that if (i) no alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner or (ii) the law-enforcement agency elects to provide transportation, the magistrate shall designate the primary law-enforcement agency and jurisdiction designated to execute the temporary detention order to provide transportation of the person. This bill is identical to **SB 497.**

HB242 and SB242 – §2.2-4302.2 – Virginia Public Procurement Act; competitive negotiation; exceptions to contractual terms and conditions of the Request for Proposal. Removes the prohibition on a public body

from requiring an offeror to state in a proposal any exception to any liability provisions contained in a Request for Proposal for information technology. The bill also requires an offeror to state any exception to any contractual terms or conditions in writing at the time of responding to such Request for Proposal, if so requested by the public body, which exception shall be considered during negotiations, but prohibits the public body from basing the scoring or evaluation on such exceptions when selecting offerors for negotiations. Current law only prohibits a public body from requiring an offeror to state in a proposal any exception to the liability provisions of the Request for Proposal. As introduced, the bill was a recommendation of the Public Body Procurement Work Group. This bill is identical to **SB 242.**

HB815 – §§2.2-3705.3, 4.1-1602, 4.1-1603, and 4.1-1606 – Medical cannabis program; product expiration; confidentiality; penalty. Increases from six months to 12 months the maximum expiration date allowable for a cannabis product after registration absent stability testing. The bill allows pharmaceutical processors to employ as pharmacy technician trainees individuals who have less than one year of experience and allows pharmaceutical processors to employ persons with less than one year of experience to perform certain other supervised duties for which current law requires two years of experience. The bill also provides for the confidentiality of certain records and other information of the Board of Directors of the Virginia Cannabis Control Authority, including the exemption of certain information from the mandatory disclosure provisions of the Virginia Freedom of Information Act.

HB994 – §§16.1-241, 16.1-331. 16.1-333, 16.1-334. 20-45.1, 20-48, 20-89.1, and 20-90 – Legal age for marriage. Establishes the legal age of marriage to be 18 years of age and eliminates the ability for a minor to be declared emancipated on the basis of the intent to marry.

HB1246 and SB547 – §9.1-102 – Law-enforcement training; individuals with autism spectrum disorder. Requires the Department of Criminal Justice Services to establish compulsory minimum and in-service training standards for law-enforcement officers on communicating with individuals with an intellectual disability or a developmental disability, such as autism spectrum disorder, which shall include (i) an overview and behavioral recognition of autism spectrum disorder, (ii) best practices for crisis prevention and de-escalation techniques, (iii) an objective review of any relevant tools and technology available to assist in communication, and (iv) education on law-enforcement agency and community resources for the autism community on future crisis prevention. The bill requires that such training standards be established in consultation with at least one individual with autism spectrum disorder, one family member of an individual with autism spectrum disorder, one specialist who works with individuals with autism spectrum disorder, one representative from the Department of Behavioral Health and Developmental Services, and one representative from a state or local law-enforcement agency. The bill requires the Department to establish such training standards by January 1, 2027, and requires any person employed as a law-enforcement officer prior to July 1, 2024, to complete the compulsory in-service training by July 1, 2028. This bill is identical to **SB 547.**

HB1354 – §54.1-3814 – Declawing cats; prohibition. Makes unlawful the practice of declawing cats for any person engaged in the practice of veterinary medicine except as necessary for a therapeutic purpose, as defined in the bill.

HB1361 – §2.2-4324 – Virginia Public Procurement Act; Virginia resident preference. Provides preference as it relates to procurement for a bidder who is a resident of Virginia and then a bidder whose goods are produced in the United States. For the procurement of goods by manufacturers, when the lowest responsive and responsible bidder is not a resident of Virginia and the bid of any Virginia resident is within 10 percent of such bid, the bill gives the lowest responsive and responsible bidder that is a Virginia resident the option to match the price of the lowest responsive and responsible bidder. Furthermore, if the lowest responsive and responsible bidder is a resident of another state and such state allows a resident a percentage preference or price-matching preference for the procurement of goods, the bill grants a like preference to responsive and responsible bidders who are residents of Virginia. Under the bill, an eligible bidder that is a Virginia resident shall be granted the greater of either preference. The bill exempts a public body from the provisions of the bill if such public body is

rendered ineligible to receive federal funding due to the provisions of the bill. The bill has an expiration date of July 1, 2027.

Finally, the bill directs the Department of General Services to report to the General Assembly regarding the bill's efficacy, including any retaliatory action taken by other states, no later than the first day of the 2025 Regular Session. This bill incorporates **HB 164,** **HB 341,** and **HB 1154.**

SB20 – §19.2-298.02 – Deferred dispositions; expungement. Clarifies that a charged dismissed after a deferred disposition that may be eligible for expungement upon agreement of all parties includes an original charge that was reduced or a charge that is dismissed after a plea or stipulation of the facts that would justify a finding of guilt.

HB1469 – §46.2-105.2 – Venue; obtaining documents from the Department of Motor Vehicles when not entitled thereto; penalty. Provides that the venue for a violation of the offense of obtaining documents from the Department of Motor Vehicles (the Department) when not entitled thereto may be in the jurisdiction (i) from which any person obtained any document issued by the Department, (ii) where any person received or created any counterfeit, forged, or altered document used to obtain a document issued by the Department, or (iii) where any counterfeit, forged, or altered document has been filed with the Department.

HB1146 – §2.2-515.2 – Department of Law; Address Confidentiality Program; victims of child abduction. Expands to victims of child abduction eligibility for the Address Confidentiality Program established by the Statewide Facilitator for Victims of Domestic Violence.

SB324 – §2.2-3704 – Virginia Freedom of Information Act; charges for production of public records; report. Prohibits a public body from charging a requester for any costs incurred during the first hour spent accessing, duplicating, supplying, or searching for records requested in conjunction with the requester's first request. The bill provides that for any additional time spent accessing, duplicating, supplying, or searching for such records, or for any additional record requests, the public body shall not charge an hourly rate for accessing, duplicating, supplying, or searching for the records exceeding the lesser of the hourly rate of pay of the lowest-paid individual capable of fulfilling the request or $40 per hour. The bill allows a public body to petition the appropriate court for relief from the $40-per-hour fee cap upon showing by a preponderance of the evidence that there is no qualified individual capable of fulfilling the request for $40 per hour or less and requires such petition to be heard within seven days of when the petition is made, provided that the public body has sent and the requester has received a copy of the petition at least three working days prior to filing. The bill also provides that in certain instances a hearing on any petition shall be given precedence on a circuit court's docket over all cases that are not otherwise given precedence by law and that the time period the public body has to respond to a record request shall be tolled between the requester's receipt of the petition and the final disposition of the court. The bill prohibits a public body from charging a requester for any court costs or fees resulting from a petition. The bill directs the Virginia Freedom of Information Advisory Council to study whether public bodies should charge requesters pursuant to the bill and report on its findings by December 2024. The provisions of the bill amending the Code of Virginia do not become effective unless reenacted by the 2025 Session of the General Assembly.

HB1435 – §8.01-407 – Subpoenas; release of witness. Makes the provisions governing a release of a witness from a subpoena applicable to a subpoena issued at the request of a party or by or at the request of an attorney representing a party. Under current law, these provisions apply to the release of a witness from an attorney-issued subpoena only. This bill is a recommendation of the Boyd-Graves Conference.

SB546 and HB1242 – §§37.2-808, and 37.2-809 – Emergency custody and temporary detention orders; evaluations; presence of others. Requires (i) the evaluator conducting the evaluation of an individual to determine whether such individual meets the criteria for temporary detention or (ii) the hospital emergency department and treating physician or other health care provider designated by the physician, when providing

services to an individual who is being evaluated to determine whether the individual meets the criteria for temporary detention, to allow the individual's family member or legal guardian who is present and who may provide support and supportive decision making to be present with the individual unless the individual objects or the evaluator or treating physician determines that their presence would create a medical, clinical, or safety risk to the patient or health care provider or interferes with patient care. This bill is identical to **HB 1242.**

HB611 – §§9.1-192, and 9.1-192.1 – Civilian deaths in custody; report. Requires every law-enforcement agency and state or juvenile correctional facility to report to the Department of Criminal Justice Services and every local or regional adult correctional facility to report to the State Board of Local and Regional Jails certain information regarding the death of any person who is detained, under arrest or in the process of being arrested, en route to be incarcerated, incarcerated, or otherwise in the custody of such law-enforcement agency or correctional facility. The bill provides that any law-enforcement agency or state or juvenile correctional facility that fails to comply may, at the discretion of the Department, be declared ineligible for state grants or funds. The bill also requires the Department and the Board to analyze the submitted data to determine the means by which such information can be used to reduce the number of such deaths. The bill requires the Director of the Department and the Board to each annually report the findings and recommendations resulting from the analysis and interpretation of the data to the Governor, the General Assembly, and the Attorney General beginning on or before July 1, 2025, and each July 1 thereafter. The bill also provides that upon request, the Board shall provide the submitted data to the Department to meet federal reporting requirements. This bill incorporates **HB 423.**

HB772 and SB460 – §§16.1-338, and 16.1-339 – Parental admission of minors for inpatient treatment. Clarifies that for the purposes of admission of a minor to a willing mental health facility for inpatient treatment, the finding required to be made by a qualified evaluator that the minor appears to have a mental illness serious enough to warrant inpatient treatment may include a finding of substance abuse and such inpatient treatment may be related to such mental illness, which may include substance abuse. The bill also specifies that a temporary detention order shall not be required for a minor 14 years of age or older who objects to admission to be admitted to a willing facility upon the application of a parent. As introduced, this bill was a recommendation of the Virginia Commission on Youth. This bill is identical to **SB 460.**