Selected Acts of the 2022 Virginia General Assembly

Compiled by
The Virginia Department of State Police

This volume of Selected Acts contains legislation passed by the 2022 Session of the Virginia General Assembly that is relevant to criminal law and highway safety. Additional copies of this reference guide may be found on the Virginia State Police website at: https://vsp.virginia.gov/news-and-alerts/publications/.

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, 2022. 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/.

TABLE OF CONTENTS

TRAFFIC – FULL TEXT

TRAFFIC – SUMMARY ONLY

CRIMINAL – FULL TEXT

CRIMINAL – SUMMARY ONLY

CRIMINAL – SUMMARY (cont'd)

FIREARMS – FULL TEXT

FIREARMS – SUMMARY ONLY

CODE SECTION	BILL	DESCRIPTION	PAGE
§ 59.1-148.3.	HB1130 and SB207	Law-enforcement officers, retired sworn; purchase of service handguns or other weapons.	62

MISCELLANEOUS – FULL TEXT

MISCELLANEOUS – SUMMARY ONLY

CODE SECTION	BILL	DESCRIPTION	PAGE
§ 22.1-279.8.	HB1129 and SB600	School safety audits; law-enforcement officers.	107
§§ 9.1-176.1, 9.1-903, 16.1-237, 19.2-303, 19.2-303.3, 19.2-310.2, 19.2-310.3, 19.2-310.3:1, and 53.1-145.	HB748 and SB150	DNA data bank sample tracking system; replaces certain references in Code.	107
§ 9.1-102.	HB283 and SB467	Human trafficking; training for law-enforcement personnel.	107
§ 19.2-121.	HB756 and SB614	Bail for a person accused of a crime that is an act of violence; notice to attorney.	107
§§ 52-12 through 52-20.	HB342	Police, Virginia State; removes obsolete language relating to the teletype system formerly used.	107
§§ 63.2-104, 63.2-105 and adding 66-10.3.	HB733 and SB316	Juvenile records; identification of children receiving coordinated services.	107
§ 28.2-302.2.	HB1112	Fishing licenses; resident may purchase a license that is valid for multiple years.	108
2.2-5516, and adding 15.2-1609.11, 15.2-1710.1, and 52-11.6.	HB750 and SB327	Arrest and summons quotas; prohibition.	108
§ 19.2-386.14.	HB1282	Sharing of forfeited assets; promoting law enforcement.	108
§§ 2.2-3701 and 30-179.	SB152	FOIA and FOIA Advisory Council; definition of official public government website.	108
§ 19.2-152.10:1.	HB671	Permanent protective orders; Hope Card Program created.	108
§§ 2.2-5515, 15.2-1721.1, and 52-11.3.	HB813 and SB328	Law-enforcement agencies; acquisition of military property.	108
§§ 54.1-114 and 54.1-204.	HB282 and SB409	Criminal records; effect of criminal convictions on licensure, data to be included in report.	108
§§ 64.2-1608 and 64.2-1621 and adding 18.2-178.2.	HB497 and SB124	Misuse of power of attorney; financial exploitation of incapacitated adults by an agent, penalty.	108
§§ 19.2-11.8 and 19.2-11.11.	HB719 and SB658	Physical evidence recovery kits; victim's right to notification, storage.	109
§ 16.1-301.	HB731 and SB149	Juvenile law-enforcement records; inspection of records.	109
§§ 9.1-404 and 9.1-405.	SB468	Line of Duty Act; Virginia licensed health practitioners required to conduct medical reviews.	109
§§ 9.1-1000 and 52-9.1:1.	SB743	Law-enforcement officers, former; retention of identification and badge.	109

MISCELLANEOUS – SUMMARY (cont'd)

CODE SECTION	BILL	DESCRIPTION	PAGE
§ 2.2-3101.	HB216 and SB57	Conflict of Interests Act, State and Local Government; definition of gift, certain tickets, etc.	110
§§ 2.2-2455, 2.2-3701, 2.2-3707, 2.2-3707.01, 2.2-3708.2, 2.2-3714, 10.1-1322.01, 15.2-1627.4, 23.1-1301, 23.1-2425, 30-179, and 62.1-44.15:02 and adding 2.2-3708.3.	HB444	Va. Freedom of Information Act; meetings conducted through electronic meetings, states of emergency. (DELAYED September 1, 2022)	110
§§ 15.2-1731, 15.2-1734, 15.2-1735, 15.2-1736, 37.2-808, and 37.2-810.	SB593	Emergency custody or temporary detention order; custody and transportation of persons, etc.	110
§ 37.2-408.1.	SB577	Children's residential facilities; criminal history background checks.	110
§ 9.1-116.	SB17	Law-enforcement officers; exemption from certain training requirements.	110
§§ 2.2-3704 and 2.2-3704.1.	HB307	Virginia Freedom of Information Act; estimated charges for records.	110
§ 18.2-473.2.	HB1332 and SB700	Correctional facility; intentionally covering, removing, etc., a security camera, penalty.	111
§ 29.1-516.2.	HB1273	Hunting with dogs; dogs to wear tags.	111
§ 46.2-1239.1.	HB386 and SB131	Arland D. Williams, Jr. Memorial Bridge; added to Potomac River Bridge Towing Compact.	111
§§ 2.2-603, 2.2-2009, and 2.2-5514.	HB1290 and SB764	Public bodies; security of government databases and data communications, report.	111
§§ 9.1-193 and 37.2-311.1.	HB1191 and SB361	Marcus alert system; participation in the system is optional for localities, etc.	111
§16.1-301.	SB649	Juvenile law-enforcement records; disclosures to school principals.	112

TRAFFIC – FULL TEXT

Front and rear bumper height limits; emergency. Provides that no passenger car or pickup or panel truck shall be operated on a public highway if the suspension, frame, or chassis has been modified by any means so as to cause the height of the front bumper to be four or more inches greater than the height of the rear bumper. The bill contains an emergency clause.

CHAPTER 31

*An Act to amend and reenact § **46.2-1063** of the Code of Virginia, relating to front and rear bumper height limits; emergency.*

[S 777]
Approved March 22, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1063** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1063**. Alteration of suspension system; bumper height limits; raising body above frame rail.

No person shall drive on a public highway any motor vehicle registered as a passenger motor vehicle if it has been modified by alteration of its altitude from the ground to the extent that its bumpers, measured to any point on the lower edge of the main horizontal bumper bar, exclusive of any bumper guards, are not within the range of fourteen inches to twenty-two inches above the ground.

No vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation. No part of the original suspension system of a motor vehicle shall be disconnected to defeat the safe operation of its suspension system. However, nothing contained in this section shall prevent the installation of heavy duty equipment, including shock absorbers and overload springs. Nothing contained in this section shall prohibit the driving on a public highway of a motor vehicle with normal wear to the suspension system if such normal wear does not adversely affect the control of the vehicle.

No person shall drive on a public highway any motor vehicle registered as a truck if it has been modified by alteration of its altitude from the ground to the extent that its bumpers, measured to any point on the lower edge of the main horizontal bumper bar, exclusive of any bumper guards, do not fall within the limits specified herein for its gross vehicle weight rating category. The front bumper height of trucks whose gross vehicle weight ratings are 4,500 pounds or less shall be no less than 14 inches and no more than 28 inches, and their rear bumper height shall be no less than 14 inches and no more than 28 inches. The front bumper height of trucks whose gross vehicle weight ratings are 4,501 pounds to 7,500 pounds shall be no less than 14 inches and no more than 29 inches, and their rear bumper height shall be no less than 14 inches and no more than 30 inches. The front bumper height of trucks whose gross vehicle weight ratings are 7,501 pounds to 15,000 pounds shall be no less than 14 inches and no more than 30 inches, and their rear bumper height shall be no less than 14 inches and no more than 31 inches. Bumper height limitations contained in this ~~section~~ *paragraph* shall not apply to trucks with gross vehicle weight ratings in excess of 15,000 pounds. For the purpose of this section, "truck" includes pickup and panel trucks, and "gross vehicle weight ratings" means manufacturer's gross vehicle weight ratings established for that vehicle as indicated by a number, plate, sticker, decal, or other device affixed to the vehicle by its manufacturer.

In the absence of bumpers, and in cases where bumper heights have been lowered, height measurements under the foregoing provisions of this section shall be made to the bottom of the frame rail. However, if bumper heights have been raised, height measurements under the foregoing provisions of this section shall be made to the bottom of the main horizontal bumper bar.

No vehicle shall be operated on a public highway if it has been modified by any means so as to raise its body more than three inches, in addition to any manufacturer's spacers and bushings, above the vehicle's frame rail or manufacturer's attachment points on the frame rail.

No passenger car or pickup or panel truck shall be operated on a public highway if the suspension, frame, or chassis has been modified by any means so as to cause the height of the front bumper to be four or more inches greater than the height of the rear bumper.

This section shall not apply to specially designed or modified motor vehicles when driven off the public highways in races and similar events. Such motor vehicles may be lawfully towed on the highways of the Commonwealth.

2. That an emergency exists and this act is in force from its passage.

Careless driving; vulnerable road users. Provides that a person is guilty of a Class 1 misdemeanor if he operates a vehicle in a careless or distracted manner and causes the death or serious bodily injury of a vulnerable road user. Current law only imposes the penalty if such careless or distracted operation causes serious bodily injury to the vulnerable road user. The bill also allows a court to suspend the driver's license or restrict the driver's license of a person convicted of careless driving for up to six months. This bill is identical to **SB 247.**

CHAPTER 506

*An Act to amend and reenact §§ **46.2-392** and **46.2-816.1** of the Code of Virginia, relating to careless driving; vulnerable road users.*

[H 920]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-392** and **46.2-816.1** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-392**. Suspension of license or issuance of a restricted license on conviction of certain offenses; probationary conditions required; generally.

In addition to the penalties for *careless driving and infliction of injury or death on vulnerable road users prescribed in § **46.2-816.1**, the penalties for* reckless driving prescribed in § **46.2-868**, and the penalties for aggressive driving prescribed in § **46.2-868.1**, the court may suspend the driver's license issued to a person convicted of *careless driving and infliction of injury or death on vulnerable road users,* reckless driving, or aggressive driving for a period of not less than 10 days nor more than six months and the court shall require the convicted person to surrender his license so suspended to the court where it will be disposed of in accordance with § **46.2-398**.

Additionally, any person convicted of a reckless driving offense which the court has reason to believe is alcohol-related or drug-related may be required as a condition of probation or otherwise to enter into and successfully complete an alcohol safety action program. If the court suspends a person's driver's license for reckless driving and requires the person to enter into and successfully complete an alcohol safety action program, the Commissioner shall not reinstate the driver's license of the person until receipt of certification that the person has enrolled in an alcohol safety action program.

If a person so convicted has not obtained the license required by this chapter, or is a nonresident, the court may direct in the judgment of conviction that he shall not, for a period of not less than 10 days or more than six months as may be prescribed in the judgment, drive any motor vehicle in the Commonwealth. The court or the clerk of court shall transmit the license to the Commissioner along with the report of the conviction required to be sent to the Department.

The court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle during the period of suspension for any of the purposes set forth in subsection E of § **18.2-271.1**. The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § **46.2-398** and shall forward to the Commissioner a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person who may operate a motor vehicle on the order until receipt from the Commissioner of a restricted license. A copy of such order and, after receipt

thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be punished as provided in subsection C of § **46.2-301**. No restricted license issued pursuant to this section shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ **46.2-341.1** et seq.).

§ **46.2-816.1**. Careless driving and infliction of injury or death on vulnerable road users; penalty.

A. As used in this section, "vulnerable road user" means a pedestrian; the operator of or passenger on a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, wheel chair or wheel chair conveyance, skateboard, roller skates, motorized skateboard or scooter, or animal-drawn vehicle or any attached device; or any person riding an animal.

B. It is a Class 1 misdemeanor to operate a motor vehicle in a careless or distracted manner such that the careless or distracted operation is the proximate cause of serious bodily injury as defined in § **18.2-51.4** to *or the death of* a vulnerable road user who is lawfully present on the highway at the time of injury *or death*.

C. A prosecution or proceeding under § **46.2-852** 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 § **46.2-852** for the same act.

Exhaust systems; excessive noise. Makes certain secondary offenses related to loud exhaust systems that are not in good working order primary offenses and exempts local ordinances related to such exhaust systems from the prohibition on law-enforcement officers stopping a vehicle for a violation of a local ordinance unless it is a jailable offense.

CHAPTER 490

*An Act to amend and reenact §§ **46.2-113**, **46.2-1049**, and **46.2-1051** of the Code of Virginia and to repeal § **15.2-919** of the Code of Virginia, relating to exhaust systems; excessive noise.*

[H 632]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-113**, **46.2-1049**, and **46.2-1051** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-113**. Violations of this title; penalties.

It ~~shall be~~ *is* unlawful for any person to violate any of the provisions of this title, or any regulation adopted pursuant to this title, or local ordinances adopted pursuant to the authority granted in ~~§~~ **46.2-1300** *this title*. Unless otherwise stated, these violations shall constitute traffic infractions punishable by a fine of not more than that provided for a Class 4 misdemeanor under § **18.2-11**.

If it is found by the judge of a court of proper jurisdiction that the violation of any provision of this title ~~(i)~~ was a serious traffic violation as defined in § **46.2-341.20** and ~~(ii)~~ that such violation was committed while operating a vehicle or combination of vehicles used to transport property that either ~~: (a)~~ *(i)* has a gross vehicle weight rating of 26,001 or more pounds or ~~(b)~~ *(ii)* has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds, the judge may assess, in addition to any other penalty assessed, a further monetary penalty not exceeding $500.

§ **46.2-1049**. Exhaust system in good working order.

~~A.~~ No person shall drive and no owner of a vehicle shall permit or allow the operation of any such vehicle on a highway unless it is equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise, provided, however, that for motor vehicles, such exhaust system shall be of a type installed as standard factory equipment, or comparable to that designed for use on the particular vehicle as standard factory equipment or other equipment that has been submitted to and approved by the Superintendent or meets or exceeds the standards and specifications of the Society of Automotive Engineers, the American National Standards Institute, or the federal Department of Transportation.

As used in this section, "exhaust system" means all the parts of a vehicle through which the exhaust passes after leaving the engine block, including mufflers and other sound dissipative devices.

Chambered pipes are not an effective muffling device to prevent excessive or unusual noise, and any vehicle equipped with chambered pipes shall be deemed in violation of this section.

The provisions of this section shall not apply to (i) any antique motor vehicle licensed pursuant to § **46.2-730**, provided that the engine is comparable to that designed as standard factory equipment for use on that particular vehicle, and the exhaust system is in good working order, or (ii) converted electric vehicles.

~~B. No law enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.~~

§ **46.2-1051**. Local ordinances; vehicle exhaust.

A. The governing body of any county, city, or town ~~which is located within the Northern Virginia Planning District~~ may ~~provide~~, by ordinance ~~that no person shall operate and no owner shall permit the operation of, either on a highway or on public or private property within 500 feet of any residential district, any motorcycle, moped, all-terrain vehicle as defined in § **46.2-100**, not being used for agriculture or silviculture production as defined in § **3.2-300**, electric power-assisted bicycle, motorcycle-like device commonly known as a trail bike or mini bike, off-road motorcycle, or motorized cart commonly known as a go-cart unless it is equipped with an exhaust system of a type installed as standard equipment, or comparable to that designed for use on that particular vehicle or device as standard factory equipment, in good working order and in constant operation to prevent excessive noise~~, *regulate noise from a vehicle operated on a highway that is not equipped with a muffler and exhaust system conforming to §§ **46.2-1047** and **46.2-1049***.

*B. The provisions of subsection E of § **46.2-1300** shall not apply to ordinances adopted pursuant to this section.*

2. That § **15.2-919** of the Code of Virginia is repealed.

Projecting vehicle loads; flagging. Requires any commercial motor vehicle transporting a load that extends beyond the sides of the vehicle by more than four inches or beyond the rear of a vehicle by more than four feet to have the extremities of the load marked by one or more red or orange fluorescent warning flags, located as specified in the bill, at least 18 inches both in length and width. The bill has a delayed effective date of July 1, 2023.

CHAPTER 50

*An Act to amend and reenact § **46.2-1121** of the Code of Virginia, relating to projecting vehicle loads; flagging.*

[H 67]

Approved April 1, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-1121** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-1121**. Flag or light at end of load.

A. Whenever the load on any vehicle *other than a commercial motor vehicle* extends more than four feet beyond the rear of the bed or body thereof, there shall be displayed at the end of the load, in such a position as to be clearly visible at all times from the rear of the load, a red flag, not less than ~~twelve~~ *12* inches, both in length and width.

B. Any commercial motor vehicle transporting a load that extends beyond the sides of the vehicle by more than four inches or more than four feet beyond the rear of the vehicle shall have the extremities of the load marked with a red or orange fluorescent warning flag. Any such warning flag shall be at least 18 inches, both in length and width. If the projecting load is two feet wide or less, there shall be at least one flag at the extreme rear. If the projecting load is wider than two feet, there shall be at least two warning flags at the extreme rear. Any such flag shall be located to indicate the maximum widths of any load that extends beyond the sides or rear of the commercial motor vehicle.

~~Between~~ *C. On any vehicle subject to the provisions of subsection A or B, between* sunset and sunrise, ~~however,~~ there shall be displayed at the end of the load a red light plainly visible in clear weather at least 500 feet to the sides and rear of the vehicle.

2. That the provisions of this act shall become effective on July 1, 2023.

Department of Motor Vehicles; permanent farm use placard. Requires an owner or lessee of a vehicle claiming a farm use exemption from the registration, licensing, and decal requirements for a motor vehicle, trailer, or semitrailer to obtain a nontransferable permanent farm use placard from the Department of Motor Vehicles and to display the farm use placard on the vehicle at all times. The bill requires the applicant to provide specified information about the vehicle and its usage, pay a $15 fee, and certify that the vehicle is insured. The provisions of the bill requiring the owner or lessee of a farm vehicle to obtain and display a farm use placard have a delayed effective date of July 1, 2023. This bill incorporates **HB 33** and is identical to **SB 186.**

CHAPTER 52

*An Act to amend and reenact §§ **46.2-665**, **46.2-666**, **46.2-670**, **46.2-672**, and **46.2-673** of the Code of Virginia and to amend the Code of Virginia by adding in Article 6 of Chapter 6 of Title 46.2 a section numbered **46.2-684.2**, relating to Department of Motor Vehicles; permanent farm use placard.*

[H 179]
Approved April 1, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-665**, **46.2-666**, **46.2-670**, **46.2-672**, and **46.2-673** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 6 of Chapter 6 of Title 46.2 a section numbered **46.2-684.2** as follows:

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

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

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

1. Crossing a highway;

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

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

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

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

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

7. Transporting the vehicle's owner between his residence and the lands being used for agricultural or horticultural purposes.

C. ~~Any law enforcement officer may require any person operating~~ *The owner or lessee of* a vehicle, trailer, or semitrailer ~~and~~ claiming the exemption provided pursuant to this section ~~to provide, upon request, the address of the lands owned or leased by the vehicle's owner for agricultural or horticultural purposes and the address of the residence address of the vehicle's owner. If such address is unavailable or unknown, the law enforcement officer may require such person to provide the real property parcel identification number of such lands~~ *shall be required to obtain a permanent farm use placard pursuant to § **46.2-684.2***.

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

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee prescribed for any motor vehicle, trailer, or semitrailer owned by the owner or lessee of a farm and used by him on a seasonal basis in transporting farm produce and livestock along public highways for a distance of no more than 75 miles including the distance to the nearest storage house, packing plant, or market. The provisions of this section shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers. ~~Any law enforcement officer may require any person operating~~ *The owner or lessee of* a vehicle, trailer, or semitrailer ~~and~~ claiming the exemption provided pursuant to this section ~~to provide, upon request, the address of the farm owned or leased by the vehicle's owner. If such address is unavailable or unknown, the law enforcement officer may require such person to provide the real property parcel identification number of such lands~~ *shall be required to obtain a permanent farm use placard pursuant to § **46.2-684.2***.

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

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer owned by a farm owner when the vehicle is operated or moved along a highway for no more than 75 miles between a sawmill or sawmill site and his farm to transport sawdust, wood shavings, slab wood, and other wood wastes. The provisions of this section shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers. ~~Any law enforcement officer may require any person operating~~ *The owner or lessee of* a vehicle, trailer, or semitrailer ~~and~~ claiming the exemption provided pursuant to this section ~~to provide, upon request, the address of the farm owned by the vehicle's owner. If such address is unavailable or unknown, the law enforcement officer may require such person to provide the real property parcel identification number of such lands~~ *shall be required to obtain a permanent farm use placard pursuant to § **46.2-684.2***.

§ **46.2-672**. Certain vehicles transporting fertilizer, cotton, or peanuts.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle or trailer, semitrailer, or fertilizer spreader drawn by a farm tractor used by a farmer, his tenant, agent or employee or a cotton ginner, peanut buyer, or fertilizer distributor to transport unginned cotton, peanuts, or fertilizer owned by the farmer, cotton ginner, peanut buyer, or fertilizer distributor from one farm to another, from farm to gin, from farm to dryer, from farm to market, or from fertilizer distributor to farm and on return to the distributor. *The owner or lessee of a vehicle, trailer, or semitrailer claiming the exemption*

*provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § **46.2-684.2**.*

The provisions of this section shall not apply to vehicles operated on a for-hire basis.

§ **46.2-673**. Return trips of exempted farm vehicles.

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any farm vehicle exempted from registration under the provisions of this article when that vehicle is:

1. Making a return trip from any marketplace;

2. Transporting back to a farm ordinary and essential food and other products for home and farm use; or

3. Transporting supplies to the farm.

*The owner or lessee of a vehicle, trailer, or semitrailer claiming the exemption provided pursuant to this section shall be required to obtain a permanent farm use placard pursuant to § **46.2-684.2**.*

*§ **46.2-684.2**. Permanent farm use placards.*

*A. For the purposes of this section, "farm use placard" means a device containing letters, numerals, or a combination of both attached to a vehicle that is used for one of the exempt purposes set forth in § **46.2-665**, **46.2-666**, **46.2-670**, **46.2-672**, or **46.2-673**.*

*B. An owner or lessee of a farm vehicle claiming an exemption for a farm vehicle provided pursuant to § **46.2-665**, **46.2-666**, **46.2-670**, **46.2-672**, or **46.2-673** shall obtain a farm use placard from the Department and display such placard on the vehicle at all times. Such farm use placard shall be permanent and valid for so long as the owner or lessee uses the vehicle for an exempt purpose and shall not require renewal.*

C. Application for a permanent farm use placard shall be made on a form provided by the Department and shall include:

1. The name of the owner or lessee of the vehicle for which the exemption is claimed;

2. The location and acreage of each farm on which the vehicle is to be used;

3. The type of agricultural commodities, poultry, dairy products, or livestock produced on such farms and the approximate amounts produced annually;

*4. A statement, signed by the owner or lessee, that the vehicle shall only be used for one or more of the exempt purposes set forth in § **46.2-665**, **46.2-666**, **46.2-670**, **46.2-672**, or **46.2-673**; and*

*5. A statement, signed by the owner or lessee, that the vehicle is an insured motor vehicle as defined in § **46.2-705** or is insured by a policy authorized pursuant to § **46.2-684.1**.*

D. The Department may charge a fee of $15 for a farm use placard. All fees collected by the Commissioner pursuant to this section shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

E. Farm use placards are nontransferable.

*F. An owner or lessee of a farm use vehicle shall return the farm use placard to the Department within 30 days of the vehicle ceasing to be used for one or more of the exempt purposes set forth in § **46.2-665**, **46.2-666**, **46.2-670**, **46.2-672**, or **46.2-673**.*

2. That the provisions of this act requiring the owner or lessee of a farm vehicle claiming an exemption for a farm vehicle provided pursuant to § **46.2-665**, **46.2-666**, **46.2-670**, **46.2-672**, or **46.2-673** of the Code of Virginia, as amended by this act, to obtain a farm use placard from the Department of Motor Vehicles and to display such placard on the vehicle at all times shall become effective on July 1, 2023.

Traffic incident management vehicles. Authorizes traffic incident management vehicles, defined in the bill, operated by persons who complete certain training and recertification requirements to be equipped with flashing red or red and white secondary warning lights. This bill is identical to **SB 450.**

CHAPTER 457

*An Act to amend and reenact §§ **46.2-1029.2** and **46.2-1030** of the Code of Virginia, relating to traffic incident management vehicles.*

[H 793]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **46.2-1029.2** and **46.2-1030** of the Code of Virginia are amended and reenacted as follows:

§ **46.2-1029.2**. Certain vehicles may be equipped with secondary warning lights.

*A. For purposes of this section, "traffic incident management vehicle" means any vehicle operating en route to or at the scene of a traffic accident or similar emergency that affects the travel lanes of a highway, provided that such vehicle is a (i) Department of Transportation vehicle operated by an incident management coordinator or (ii) vehicle operated pursuant to the Department of Transportation safety service patrol program or a contract with the Department of Transportation that includes traffic incident management services as defined in § **46.2-920.1**. The provisions of § **46.2-920** shall not apply to the operation of such traffic incident management vehicle.*

B. In addition to other lights authorized by this article, any (i) fire apparatus, (ii) government-owned vehicle operated on official business by a local fire chief or other local fire official, ~~and~~ (iii) emergency medical services vehicle*, or (iv) traffic incident management vehicle* may be equipped with alternating, blinking, or flashing red or red and white secondary warning lights mounted inside the vehicle's taillights*, headlights,* or marker lights of a type approved by the Superintendent of State Police.

C. In order to operate a traffic incident management vehicle with lighted warning lights pursuant to this section, a traffic incident management vehicle operator shall be required to (i) complete an initial emergency vehicle operators course from an approved course list prepared by the Department of Fire Programs, the Office of Emergency Medical Services, or an equivalent agency and (ii) recertify as an emergency vehicle operator every two years.

§ **46.2-1030**. When lights to be lighted; number of lights to be lighted at any time; use of warning lights.

A. Every vehicle in operation on a highway in the Commonwealth shall display lighted headlights and illuminating devices as required by this article (i) from sunset to sunrise; (ii) during any other time when, because of rain, smoke, fog, snow, sleet, insufficient light, or other unfavorable atmospheric conditions, visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly discernible at a distance of 500 feet; and (iii) whenever windshield wipers are in use as a result of fog, rain, sleet, or snow. The provisions of this subsection, however, shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow.

B. Not more than four lights used to provide general illumination ahead of the vehicle, including at least two headlights and any other combination of fog lights or other auxiliary lights approved by the Superintendent, shall

be lighted at any time. However, motorcycles may be equipped with and use not more than five approved lights in order to provide general illumination ahead of the motorcycle. These limitations shall not preclude the display of warning lights authorized in §§ **46.2-1020** through **46.2-1027**, or other lights as may be authorized by the Superintendent.

C. Vehicles equipped with warning lights authorized in §§ **46.2-1020** through **46.2-1027** shall display lighted warning lights as authorized in such sections at all times when responding to emergency calls, *responding to traffic incidents,* towing disabled vehicles, or constructing, repairing, and maintaining public highways or utilities on or along public highways, except that amber lights on vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks," need not be lit while the vehicle is in motion unless it is actually towing a vehicle.

D. The failure to display lighted headlights and illuminating devices under the conditions set forth in clause (iii) of subsection A shall not constitute negligence per se, nor shall violation of clause (iii) of subsection A constitute a defense to any claim for personal injury or recovery of medical expenses for injuries sustained in a motor vehicle accident.

E. No demerit points shall be assessed for failure to display lighted headlights and illuminating devices during periods of fog, rain, sleet, or snow in violation of clause (iii) of subsection A.

F. No citation for a violation of clause (iii) of subsection A shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute. No law-enforcement officer shall stop a motor vehicle for a violation of this section, except that a law-enforcement officer may stop a vehicle if it displays no lighted headlights during the time periods set forth in subsection A. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

Bicycles and certain other vehicles; riding two abreast. Prohibits persons riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, or motorized skateboards or scooters two abreast from impeding the normal and reasonable movement of traffic and requires such persons to move into a single-file formation as quickly as is practicable when being overtaken from the rear by a faster-moving vehicle.

CHAPTER 341

*An Act to amend and reenact § **46.2-905** of the Code of Virginia, relating to bicycles and certain other vehicles; riding two abreast.*

[S 362]
Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-905** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-905**. Riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds on roadways and bicycle paths.

Any person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, or moped on a roadway at less than the normal speed of traffic at the time and place under conditions then existing shall ride as close as safely practicable to the right curb or edge of the roadway, except under any of the following circumstances:

1. When overtaking and passing another vehicle proceeding in the same direction;

2. When preparing for a left turn at an intersection or into a private road or driveway;

3. When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right curb or edge;

4. When avoiding riding in a lane that must turn or diverge to the right; and

5. When riding upon a one-way road or highway, a person may also ride as near the left-hand curb or edge of such roadway as safely practicable.

For purposes of this section, a "substandard width lane" is a lane too narrow for a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, or moped and another vehicle to pass safely side by side within the lane.

Persons riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, or motorized skateboards or scooters on a highway shall not ride more than two abreast. *Persons riding two abreast shall not impede the normal and reasonable movement of traffic and shall move into a single-file formation as quickly as is practicable when being overtaken from the rear by a faster-moving vehicle. However, the failure to move into a single-file formation shall not constitute negligence per se in any civil action. This section shall not change any existing law, rule, or procedure pertaining to any such civil action, nor shall this section bar any claim that otherwise exists.*

Notwithstanding any other provision of law to the contrary, the Department of Conservation and Recreation shall permit the operation of electric personal assistive mobility devices on any bicycle path or trail designated by the Department for such use.

Driver's license; extension of validity. Extends (i) from three years to six years the period for which a driver's license extension may be granted to certain persons in service to the United States government and (ii) from one year to two years the period for which a driver's license extension may be granted for good cause shown..

CHAPTER 39

*An Act to amend and reenact § **46.2-221.2** of the Code of Virginia, relating to driver's license; extension of validity.*

[H 540]
Approved April 1, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-221.2** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-221.2**. Extension of expiration of driver's licenses issued to certain persons in service to the United States government or for good cause shown.

A. Notwithstanding § **46.2-330**, any driver's license that is issued by the Department under Chapter 3 (§ **46.2-300** et seq.) to (i) a person serving outside the Commonwealth in the armed services of the United States, (ii) a person serving outside the Commonwealth as a member of the diplomatic service of the United States appointed under the Foreign Service Act of 1946, (iii) a civilian employee of the United States government or any agency or contractor thereof serving outside the United States on behalf of the United States government, or (iv) a spouse or dependent accompanying any such member of the armed services or diplomatic service serving outside the Commonwealth or civilian employee of the United States government or any agency or contractor thereof serving outside the United States on behalf of the United States government shall be held not to have expired during the period of the licensee's service outside the Commonwealth in the armed services of the United States or as a member of the diplomatic service of the United States appointed under the Foreign Service Act of 1946 or as a civilian employee of the United States government or any agency or contractor thereof serving outside the United States on behalf of the United States government and 180 days thereafter. However, no extension granted under this section shall exceed ~~three~~ *six* years from the date of expiration shown on the individual's driver's license.

For the purposes of this subsection, "service in the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

B. Notwithstanding § **46.2-330**, the Commissioner may, for good cause shown, extend the validity period of a driver's license issued by the Department pursuant to Chapter 3 (§ **46.2-300** et seq.), provided that the license holder requesting the extension (i) contacts the Department prior to expiration of his license, (ii) is temporarily absent from the Commonwealth at the time his driver's license is due for renewal, (iii) provides the Commissioner with verifiable evidence documenting the need for an extension, (iv) provides the Commissioner with the earliest date of return, and (v) is not eligible to renew his license online. No extension granted under this subsection shall exceed ~~one year~~ *two years* from the date of expiration shown on the individual's driver's license.

C. The Department shall furnish to any person whose driver's license is extended under this section documentary or other proof that he is entitled to the benefits of this section when operating any motor vehicle.

.

TRAFFIC – SUMMARY

HB1050 and SB139 – § 46.2-336 – Issuance of original driver's licenses to minors. Authorizes the chief juvenile and domestic relations district court judge to waive the ceremonial requirements for the issuance within the district of original driver's licenses to minors or order that the licensing ceremony be conducted in an alternative manner. This bill incorporates **HB 852** and is identical to **SB 139.**

HB1146 – §§ 46.2-341.14:1 and 46.2-341.14:9 – Commercial driver's license examinations. Authorizes governmental entities, including comprehensive community colleges in the Virginia Community College System, certified as third party testers to test and train drivers employed by another governmental entity or enrolled in a commercial driver training course offered by a community college. The bill extends the validity of a skills test certification from 60 days to six months. This bill incorporates **HB 628.**

SB212 – § 46.2-743 – Special license plates; United States Navy; Navy-Marine Corps Relief Society Fund. Authorizes the issuance of revenue-sharing special license plates with a design that incorporates the emblem of the United States Navy to active members and certain veterans of the United States Navy. The bill provides that unremarried surviving spouses of such service members may also be issued such special license plates. The bill creates the Navy-Marine Corps Relief Society Fund to utilize funds from the license plate fees to support the Navy-Marine Corps Relief Society in Virginia.

SB749 – § 46.2-730 – Antique motor vehicles and antique trailers; license plates. Requires the Department of Motor Vehicles to accept multiple requests for the same license plate number for antique motor vehicles and antique trailers if the number combination is not currently registered on license plates embossed with the year matching the plate being requested and only one license plate with the same number combination has been issued for use after 1973 or, if the plate requested is for a motorcycle, 1976.

HB1092 – The second enactment of Chapter 342 and the third enactment of Chapter 362 of the Acts of Assembly of 2017 are repealed – Nonrepairable and rebuilt vehicles; sunset. Repeals the sunset clause for certain amendments related to definitions of nonrepairable and rebuilt vehicles. As enacted in 2017, the amendments would have expired on July 1, 2021. However, language in Item 436 of Chapter 552 of the Acts of Assembly of 2021, Special Session I (the Appropriation Act), provided that, notwithstanding any other law, the amendments would remain in place until July 1, 2022. The bill makes the amendments permanent.

SB774 – § 22.1-182 – School buses; commercial use. Permits the school board of any school division to enter into agreements with any third-party logistics company to allow for the use of the school buses of such school division by such third-party logistics company but provides that such third-party logistics company shall not use the school buses to provide transportation of passengers for compensation or for residential delivery of products for compensation.

HB88 – § 46.2-916.2 – Golf carts and utility vehicles; Town of Ivor. Adds the Town of Ivor to the list of towns that may authorize the operation of golf carts and utility vehicles on designated public highways despite not having established their own police departments.

SB705 – § 46.2-1217.1 – Towing; civil penalty. Requires a towing and recovery operator to include the contact information of the Division of Consumer Counsel within the Office of the Attorney General on any invoice charging $10,000 or more for towing and recovery services rendered pursuant to a lawful request for towing by a law-enforcement officer for the towing and recovery of a vehicle with a gross vehicle weight rating of greater than 26,000 pounds. The bill subjects towing and recovery operators in violation of the bill's provisions to a civil penalty of $1,000 per violation.

HB450 – §§ 46.2-1219.3 – Parking of vehicles; electric vehicle charging spots; civil penalties. Prohibits a person from parking a vehicle not capable of receiving an electric charge or not in the process of charging in a space clearly marked as reserved for charging electric vehicles. A violation is subject to a civil penalty of no more than $25.

SB753 – Uncodified Act – Special license plates; THE RICHMOND PLANET. Authorizes the issuance of special license plates commemorating the Richmond Planet newspaper bearing the legend THE RICHMOND PLANET.

CRIMINAL – FULL TEXT

Selling or possessing switchblade. Eliminates the prohibition for selling, bartering, giving, furnishing, or possessing with the intent of selling, bartering, giving, or furnishing a switchblade.

CHAPTER 27

*An Act to amend and reenact § **18.2-311** of the Code of Virginia, relating to selling or possessing switchblade.*

[S 758]
Approved March 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-311** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-311**. Prohibiting the selling or having in possession blackjacks, etc.

If any person sells or barters, or exhibits for sale or for barter, or gives or furnishes, or causes to be sold, bartered, given, or furnished, or has in his possession, or under his control, with the intent of selling, bartering, giving, or furnishing, any blackjack, brass or metal knucks, any disc of whatever configuration having at least two points or pointed blades ~~which~~ *that* is designed to be thrown or propelled and ~~which~~ *that* may be known as a throwing star or oriental dart, ~~switchblade knife,~~ ballistic knife as defined in § **18.2-307.1**, or like weapons, such person is guilty of a Class 4 misdemeanor. The having in one's possession of any such weapon shall be prima facie evidence, except in the case of a conservator of the peace, of his intent to sell, barter, give, or furnish the same.

Catalytic converters; penalties. Makes it a Class 6 felony for a person to willfully break, injure, tamper with, or remove any part or parts of any vehicle, aircraft, boat, or vessel for the purpose of injuring, defacing, or destroying said vehicle, aircraft, boat, or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner, or to in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat, or vessel, when such violation involves the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof. The bill also provides that prosecution for such felony is a bar to a prosecution or proceeding under the Code section prohibiting the injuring, etc., of any property, monument, etc., for the same act. Current law makes such violation a Class 1 misdemeanor.

Additionally, the bill requires that the copies of the documentation that scrap metal purchasers are required to maintain for purchases of catalytic converters or the parts thereof (i) establish that the person from whom they purchased the catalytic converter or the parts thereof had lawful possession of it at the time of sale or delivery and (ii) detail the scrap metal purchaser's diligent inquiry into whether the person selling had a legal right to do so. The bill also requires that such documentation be maintained for at least two years after the purchase and that copies be made available upon request to any law-enforcement officer, conservator of the peace, or special conservator of the peace in the performance of his duties who presents his credentials at the scrap metal purchaser's normal business location during normal business hours. This bill is identical to **SB 729.**

CHAPTER 664

*An Act to amend and reenact §§ **18.2-146** and **59.1-136.3** of the Code of Virginia, relating to catalytic converters; penalty.*

[H 740]
Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-146** and **59.1-136.3** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-146**. Breaking, injuring, defacing, destroying, or preventing the operation of vehicle, aircraft, boat, or vessel; penalties.

Any person who shall individually or in association with one or more others willfully break, injure, tamper with, or remove any part or parts of any vehicle, aircraft, boat, or vessel for the purpose of injuring, defacing, or destroying said vehicle, aircraft, boat, or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat, or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat, or vessel, ~~shall be~~ *is* guilty of a Class 1 misdemeanor*, unless such violation of this section involves the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof, then he is guilty of a Class 6 felony. A prosecution or proceeding for a felony under this section is a bar to a prosecution or proceeding under § **18.2-137** for the same act.*

§ **59.1-136.3**. Purchases of nonferrous scrap, metal articles, and proprietary articles.

A. Except as provided in § **59.1-136.4**, scrap metal purchasers may purchase nonferrous scrap, metal articles, and proprietary articles from any person who is not an authorized scrap seller or the authorized agent and employee of an authorized scrap seller only in accordance with the following requirements and procedures:

1. At the time of sale, the seller of any nonferrous scrap, metal article, or proprietary article shall provide a driver's license or other government-issued current photographic identification including the seller's full name, current address, date of birth, and social security or other recognized identification number; and

2. The scrap metal purchaser shall record the seller's identification information, as well as the time and date of the transaction, the license number of the seller's vehicle, and a description of the items received from the seller, in a permanent ledger maintained at the scrap metal purchaser's place of business. The ledger shall be made available upon request to any law-enforcement official, conservator of the peace, or special conservator of the peace appointed pursuant to § **19.2-13**, in the performance of his duties who presents his credentials at the scrap metal purchaser's normal business location during regular business hours. Records required by this subdivision shall be maintained by the scrap metal dealer at its normal place of business or at another readily accessible and secure location for at least five years.

B. Upon compliance with the other requirements of this section and § **59.1-136.4**, a scrap metal purchaser may purchase proprietary articles from a person who is not an authorized scrap seller or the authorized agent and employee of an authorized scrap seller if the scrap metal purchaser complies with one of the following:

1. The scrap metal purchaser receives from the person seeking to sell the proprietary articles documentation, such as a bill of sale, receipt, letter of authorization, or similar evidence, establishing that the person lawfully possesses the proprietary articles to be sold; or

2. The scrap metal purchaser shall document a diligent inquiry into whether the person selling or delivering the same has a legal right to do so, and, after purchasing a proprietary article from a person without obtaining the documentation described in subdivision 1, shall submit a report to the local sheriff's department or the chief of police of the locality, by the close of the following business day, describing the proprietary article and including a copy of the seller's identifying information, and hold the proprietary article for not less than 15 days following purchase.

C. The scrap metal purchaser shall take a photographic or video image of all proprietary articles purchased from anyone other than an authorized scrap seller. Such image shall be of sufficient quality so as to reasonably identify the subject of the image and shall be maintained by the scrap metal purchaser no less than 30 days from the date the image is taken. Any image taken and maintained in accordance with this subdivision shall be made available upon the request of any law-enforcement officer conducting official law-enforcement business.

D. The scrap metal purchaser may purchase nonferrous scrap, metal articles, and proprietary articles directly from an authorized scrap seller and from the authorized agent or employee of an authorized scrap seller.

E. For purchases of a catalytic converter or the parts thereof, a scrap metal purchaser shall adhere to the compliance provisions of subdivisions B 1 and 2. Copies of the documentation required under subdivisions B 1 and 2 shall (i) establish that the person from whom the scrap metal purchaser purchased the catalytic converter or the parts thereof had the lawful possession of such catalytic converter or the parts thereof at the time of sale or delivery and (ii) detail the scrap metal purchaser's diligent inquiry into whether such person selling or delivering the catalytic converter or the parts thereof had a legal right to do so. Such documentation shall be maintained by the scrap metal purchaser at his normal place of business or at another readily accessible and secure location for at least two years after the purchase. Such copies shall be made available upon request to any law-enforcement officer, conservator of the peace, or special conservator of the peace appointed pursuant to

*§ **19.2-13** in the performance of his duties who presents his credentials at the scrap metal purchaser's normal business location during normal business hours.*

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 552 of the Acts of Assembly of 2021, 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.

Misdemeanor sexual offenses where the victim is a minor; statute of limitations; penalty. Provides that the prosecution of the misdemeanor offense of causing or encouraging acts rendering children delinquent where the alleged adult offender has consensual sexual intercourse with a minor who is 15 years of age or older at the time of the offense shall be commenced no later than five years after the victim reaches majority provided that the alleged adult offender was more than three years older than the victim at the time of the offense. Under current law, the prosecution of such offense shall be commenced within one year after commission of the offense.

CHAPTER 110

*An Act to amend and reenact § **19.2-8** of the Code of Virginia, relating to misdemeanor sexual offenses where the victim is a minor; statute of limitations; penalty.*

[S 227]

Approved April 6, 2022

Be it enacted by the General Assembly of Virginia:

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

§ **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 violation of § **18.2-386.1** shall be commenced within five years of the commission of the offense.

A prosecution for any violation of the Campaign Finance Disclosure Act, Chapter 9.3 (§ **24.2-945** et seq.) of Title 24.2, shall commence within one year of the discovery of the offense but in no case more than three years after the date of the commission of the offense.

A prosecution of a crime that is punishable as a misdemeanor pursuant to the Virginia Computer Crimes Act (§ **18.2-152.1** et seq.) or pursuant to § **18.2-186.3** for identity theft shall be commenced before the earlier of (i) five years after the commission of the last act in the course of conduct constituting a violation of the article or (ii) one year after the existence of the illegal act and the identity of the offender are discovered by the Commonwealth, by the owner, or by anyone else who is damaged by such violation.

A prosecution of a misdemeanor under § **18.2-64.2**, **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.

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 552 of the Acts of Assembly of 2021, 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 is cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Abuse and neglect; financial exploitation; incapacitated adults; penalties. Changes the term "incapacitated adult" to "vulnerable adult" for the purposes of the crime of abuse and neglect of such adults and defines "vulnerable adult" as any person 18 years of age or older who is impaired by reason of mental illness, intellectual or developmental disability, physical illness or disability, or other causes, including age, to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry out reasonable decisions concerning his well-being or has one or more limitations that substantially impair the adult's ability to independently provide for his daily needs or safeguard his person, property, or legal interests. The bill also changes the term "person with mental incapacity" to the same meaning of "vulnerable adult" for the purposes of the crime of financial exploitation. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference. This bill is identical to **SB 687.**

CHAPTER 259

*An Act to amend and reenact §§ **18.2-60.5**, **18.2-178.1**, **18.2-369**, **46.2-341.20:7**, **54.1-3408.3**, **54.1-3442.5**, **54.1-3442.6**, and **54.1-3442.7** of the Code of Virginia, relating to abuse and neglect; financial exploitation; incapacitated adults; penalties.*

[H 496]
Approved April 8, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-60.5**, **18.2-178.1**, **18.2-369**, **46.2-341.20:7**, **54.1-3408.3**, **54.1-3442.5**, **54.1-3442.6**, and **54.1-3442.7** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-60.5**. Unauthorized use of electronic tracking device; penalty.

A. Any person who installs or places an electronic tracking device through intentionally deceptive means and without consent, or causes an electronic tracking device to be installed or placed through intentionally deceptive means and without consent, and uses such device to track the location of any person is guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to the installation, placement, or use of an electronic tracking device by:

1. A law-enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Corrections when any such person is engaged in the lawful performance of official duties and in accordance with other state or federal law;

2. The parent or legal guardian of a minor when tracking (i) the minor or (ii) any person authorized by the parent or legal guardian as a caretaker of the minor at any time when the minor is under the person's sole care;

3. A legally authorized representative of ~~an incapacitated~~ *a vulnerable* adult, as defined in § **18.2-369**;

4. The owner of fleet vehicles, when tracking such vehicles;

5. An electronic communications provider to the extent that such installation, placement, or use is disclosed in the provider's terms of use, privacy policy, or similar document made available to the customer; or

6. A registered private investigator, as defined in § **9.1-138**, who is regulated in accordance with § **9.1-139** and is acting in the normal course of his business and with the consent of the owner of the property upon which the

electronic tracking device is installed and placed. However, such exception shall not apply if the private investigator is working on behalf of a client who is subject to a protective order under § **16.1-253**, **16.1-253.1**, **16.1-253.4**, **16.1-279.1**, **19.2-152.8**, **19.2-152.9**, or **19.2-152.10** or subsection B of § **20-103**, or if the private investigator knows or should reasonably know that the client seeks the private investigator's services to aid in the commission of a crime.

C. For the purposes of this section:

"Electronic tracking device" means an electronic or mechanical device that permits a person to remotely determine or track the position and movement of another person.

"Fleet vehicle" means (i) one or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes, (ii) motor vehicles held for lease or rental to the general public, or (iii) motor vehicles held for sale by motor vehicle dealers.

§ **18.2-178.1**. Financial exploitation of vulnerable adults; penalty.

A. *As used in this section, "vulnerable adult" means the same as that term is defined in § **18.2-369**.*

B. It is unlawful for any person who knows or should know that another person ~~suffers from mental incapacity~~ *is a vulnerable adult* to, through the use of that other person's ~~mental incapacity~~ *impairment*, take, obtain, or convert money or other thing of value belonging to that other person with the intent to permanently deprive him thereof. Any person who violates this section shall be deemed guilty of larceny.

~~B.~~ *C.* Venue for the trial of an accused charged with a violation of this section shall be in any county or city in which (i) any act was performed in furtherance of the offense or (ii) the accused resided at the time of the offense.

~~C.~~ *D.* This section shall not apply to a transaction or disposition of money or other thing of value in which the accused acted for the benefit of the ~~person with mental incapacity~~ *vulnerable adult* or made a good faith effort to assist such person with the management of his money or other thing of value.

~~D. As used in this section, "mental incapacity" means that condition of a person existing at the time of the offense described in subsection A that prevents him from understanding the nature or consequences of the transaction or disposition of money or other thing of value involved in such offense.~~

§ **18.2-369**. Abuse and neglect of vulnerable adults; penalties.

A. It is unlawful for any responsible person to abuse or neglect any ~~incapacitated~~ *vulnerable* adult ~~as defined in this section~~. Any responsible person who abuses or neglects ~~an incapacitated~~ *a vulnerable* adult in violation of this section and the abuse or neglect does not result in serious bodily injury or disease to the ~~incapacitated~~ *vulnerable* adult is guilty of a Class 1 misdemeanor. Any responsible person who is convicted of a second or subsequent offense under this subsection is guilty of a Class 6 felony.

B. Any responsible person who abuses or neglects ~~an incapacitated~~ *a vulnerable* adult in violation of this section and the abuse or neglect results in serious bodily injury or disease to the ~~incapacitated~~ *vulnerable* adult is guilty of a Class 4 felony. Any responsible person who abuses or neglects ~~an incapacitated~~ *a vulnerable* adult in

violation of this section and the abuse or neglect results in the death of the ~~incapacitated~~ *vulnerable* adult is guilty of a Class 3 felony.

C. For purposes of this section:

"Abuse" means (i) knowing and willful conduct that causes physical injury or pain or (ii) knowing and willful use of physical restraint, including confinement, as punishment, for convenience or as a substitute for treatment, except where such conduct or physical restraint, including confinement, is a part of care or treatment and is in furtherance of the health and safety of the ~~incapacitated person~~ *vulnerable adult*.

~~"Incapacitated adult" means any person 18 years of age or older who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent the adult lacks sufficient understanding or capacity to make, communicate or carry out reasonable decisions concerning his well-being.~~

"Neglect" means the knowing and willful failure by a responsible person to provide treatment, care, goods, or services which results in injury to the health or endangers the safety of ~~an incapacitated~~ *a vulnerable* adult.

"Responsible person" means a person who has responsibility for the care, custody, or control of ~~an incapacitated person~~ *a vulnerable adult* by operation of law or who has assumed such responsibility voluntarily~~,~~ by contract or in fact.

"Serious bodily injury or disease" ~~shall include~~ *includes* but *is* not ~~be~~ limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, or (vi) life-threatening internal injuries or conditions, whether or not caused by trauma.

"Vulnerable adult" means any person 18 years of age or older who is impaired by reason of mental illness, intellectual or developmental disability, physical illness or disability, or other causes, including age, to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry out reasonable decisions concerning his well-being or has one or more limitations that substantially impair the adult's ability to independently provide for his daily needs or safeguard his person, property, or legal interests.

D. No responsible person shall be in violation of this section whose conduct was (i) in accordance with the informed consent of the ~~incapacitated person~~ *vulnerable adult* that was given when he was not ~~incapacitated~~ *vulnerable* or a person authorized to consent on his behalf; (ii) in accordance with a declaration by the ~~incapacitated person~~ *vulnerable adult* under the Health Care Decisions Act (§ **54.1-2981** et seq.) that was given when he was not ~~incapacitated~~ *vulnerable* or with the provisions of a valid medical power of attorney; (iii) in accordance with the wishes of the ~~incapacitated person~~ *vulnerable adult* that were made known when he was not ~~incapacitated~~ *vulnerable* or a person authorized to consent on behalf of the ~~incapacitated person~~ *vulnerable adult* and in accord with the tenets and practices of a church or religious denomination; (iv) incident to necessary movement of, placement of, or protection from harm to the ~~incapacitated person~~ *vulnerable adult*; or (v) a bona fide, recognized, or approved practice to provide medical care.

§ **46.2-341.20:7**. Possession of marijuana in commercial motor vehicle unlawful; civil penalty.

A. It is unlawful for any person to knowingly or intentionally possess marijuana in a commercial motor vehicle as defined in § **46.2-341.4**. The attorney for the Commonwealth or the county, city, or town attorney may prosecute such a case.

Upon the prosecution of a person for a violation of this section, ownership or occupancy of the vehicle in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

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

B. Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § **46.2-388**. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § **9.1-101** shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange; however, such violation shall be reported to the Department of Motor Vehicles and shall be included on such individual's driving record.

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

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

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

§ **54.1-3408.3**. Certification for use of cannabis oil for treatment.

A. As used in this section:

"Botanical cannabis" means cannabis that is composed wholly of usable cannabis from the same parts of the same chemovar of cannabis plant.

"Cannabis oil" means any formulation of processed Cannabis plant extract, which may include oil from industrial hemp extract acquired by a pharmaceutical processor pursuant to § **54.1-3442.6**, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol (CBD) or tetrahydrocannabinolic acid (THC-A) and no more than 10 milligrams of delta-9-tetrahydrocannabinol per dose. "Cannabis oil" does not include industrial hemp, as defined in § **3.2-4112**, that is grown, dealt, or processed in compliance with state or federal law, unless it has been acquired and formulated with cannabis plant extract by a pharmaceutical processor.

"Cannabis product" means a product that is (i) produced by a pharmaceutical processor, registered with the Board, and compliant with testing requirements and (ii) composed of cannabis oil or botanical cannabis.

"Designated caregiver facility" means any hospice or hospice facility licensed pursuant to § **32.1-162.3**, or home care organization as defined in § **32.1-162.7** that provides pharmaceutical services or home health services, private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ **37.2-403** et seq.) of Chapter 4 of Title 37.2, assisted living facility licensed pursuant to § **63.2-1701**, or adult day care center licensed pursuant to § **63.2-1701**.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"Usable cannabis" means any cannabis plant material, including seeds, but not (i) resin that has been extracted from any part of the cannabis plant, its seeds, or its resin; (ii) the mature stalks, fiber produced from the stalks, or any other compound, manufacture, salt, or derivative, mixture, or preparation of the mature stalks; or (iii) oil or cake made from the seeds of the plant.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabis products for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. The practitioner shall use his professional judgment to determine the manner and frequency of patient care and evaluation and may employ the use of telemedicine, provided that the use of telemedicine includes the delivery of patient care through real-time interactive audio-visual technology. If a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature or authentic electronic

signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § **18.2-248** or **18.2-248.1** for the issuance of a certification for the use of cannabis products for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board and shall hold sufficient education and training to exercise appropriate professional judgment in the certification of patients. The Board shall not limit the number of patients to whom a practitioner may issue a written certification. The Board may report information to the applicable licensing board on unusual patterns of certifications issued by a practitioner.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, a patient's parent or legal guardian shall register and shall register such patient with the Board. No patient shall be required to physically present the written certification after the initial dispensing by any pharmaceutical processor or cannabis dispensing facility under each written certification, provided that the pharmaceutical processor or cannabis dispensing facility maintains an electronic copy of the written certification.

G. A patient, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabis products pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number of patients for whom any individual is authorized to act as a registered agent.

H. Upon delivery of cannabis oil by a pharmaceutical processor or cannabis dispensing facility to a designated caregiver facility, any employee or contractor of a designated caregiver facility, who is licensed or registered by a health regulatory board and who is authorized to possess, distribute, or administer medications, may accept delivery of the cannabis oil on behalf of a patient or resident for subsequent delivery to the patient or resident and may assist in the administration of the cannabis oil to the patient or resident as necessary.

I. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

J. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ **2.2-3700** et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House Committee for Courts of Justice and the Senate Committee on the Judiciary, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed practitioners or pharmacists, or their agents, for the purpose of providing patient care and drug therapy

management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor or cannabis dispensing facility involved in the treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

§ **54.1-3442.5**. Definitions.

As used in this article:

"Botanical cannabis," "cannabis oil," "cannabis product," and "usable cannabis" have the same meanings as specified in § **54.1-3408.3**.

"Cannabis dispensing facility" means a facility that (i) has obtained a permit from the Board pursuant to § **54.1-3442.6**; (ii) is owned, at least in part, by a pharmaceutical processor; and (iii) dispenses cannabis products produced by a pharmaceutical processor to a registered patient, his registered agent, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, such patient's parent or legal guardian.

"Designated caregiver facility" has the same meaning as defined in § **54.1-3408.3**.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § **54.1-3408.3** and (ii) cultivates Cannabis plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a registered patient, his registered agent, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, such patient's parent or legal guardian.

"Practitioner" has the same meaning as specified in § **54.1-3408.3**.

"Registered agent" has the same meaning as specified in § **54.1-3408.3**.

§ **54.1-3442.6**. Permit to operate pharmaceutical processor or cannabis dispensing facility.

A. No person shall operate a pharmaceutical processor or a cannabis dispensing facility without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor's dispensing area or cannabis dispensing facility. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one pharmaceutical processor and up to five cannabis dispensing facilities for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor and cannabis dispensing facility.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors and cannabis dispensing facilities. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling, including the potency of each botanical cannabis product and the amounts recommended by the practitioner or dispensing pharmacist, and packaging; (vii) routine inspections no more

frequently than once annually; (viii) processes for safely and securely dispensing and delivering in person cannabis products to a registered patient, his registered agent, or, if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, such patient's parent or legal guardian; (ix) dosage limitations for cannabis oil that provide that each dispensed dose of cannabis oil not exceed 10 milligrams of delta-9-tetrahydrocannabinol; (x) a process for the wholesale distribution of and the transfer of usable cannabis, botanical cannabis, cannabis oil, and cannabis products between pharmaceutical processors, between a pharmaceutical processors and a cannabis dispensing facility, and between cannabis dispensing facilities; (xi) an allowance for the sale of devices for administration of dispensed cannabis products and hemp-based CBD products that meet the applicable standards set forth in state and federal law, including the laboratory testing standards set forth in subsection M; (xii) an allowance for the use and distribution of inert product samples containing no cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility, and not for further distribution or sale, without the need for a written certification; (xiii) a process for acquiring oil from industrial hemp extract and formulating such oil extract with Cannabis plant extract into allowable dosages of cannabis oil; and (xiv) an allowance for the advertising and promotion of the pharmaceutical processor's products and operations, which shall not limit the pharmaceutical processor from the provision of educational material to practitioners who issue written certifications and registered patients. The Board shall also adopt regulations for pharmaceutical processors that include requirements for (a) processes for safely and securely cultivating Cannabis plants intended for producing cannabis products, (b) the secure disposal of agricultural waste, and (c) a process for registering cannabis oil products.

D. The Board shall require that, after processing and before dispensing any cannabis products, a pharmaceutical processor shall make a sample available from each batch of cannabis product for testing by an independent laboratory located in Virginia meeting Board requirements. A valid sample size for testing shall be determined by each laboratory and may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5 percent of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative cannabis oil sample for analysis. A minimum sample size, to be determined by the certified testing laboratory, from each batch of botanical cannabis is required to achieve a representative botanical cannabis sample for analysis. Botanical cannabis products shall only be tested for the following: total cannabidiol (CBD); total tetrahydrocannabinol (THC); terpenes; pesticide chemical residue; heavy metals; mycotoxins; moisture; and microbiological contaminants. Testing thresholds shall be consistent with generally accepted cannabis industry thresholds. The pharmaceutical processor may remediate cannabis oil that fails any quality testing standard. Following remediation, all remediated cannabis oil shall be subject to laboratory testing and approved upon satisfaction of testing standards applied to cannabis oil generally. If the batch fails retesting, it shall be considered usable cannabis and may be processed into cannabis oil, unless the failure is related to pesticide requirements, in which case the batch shall not be considered usable cannabis and shall not be processed into cannabis oil. Stability testing shall not be required for any cannabis oil product with an expiration date assigned by the pharmaceutical processor of six months or less from the date of packaging.

E. A laboratory testing samples for a pharmaceutical processor shall obtain a controlled substances registration certificate pursuant to § **54.1-3423** and shall comply with quality standards established by the Board in regulation.

F. Every pharmaceutical processor's dispensing area or cannabis dispensing facility shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor or cannabis dispensing facility. The pharmaceutical processor shall ensure that security measures are adequate to protect the cannabis

from diversion at all times, and the pharmacist-in-charge shall have concurrent responsibility for preventing diversion from the dispensing area.

Every pharmaceutical processor shall designate a person who shall have oversight of the cultivation and production areas of the pharmaceutical processor and shall provide such information to the Board. The Board shall direct all communications related to enforcement of requirements related to cultivation and production of cannabis oil products by the pharmaceutical processor to such designated person.

G. The Board shall require the material owners of an applicant for a pharmaceutical processor or cannabis dispensing facility permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant's material owners. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity. A pharmaceutical processor shall maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. Criminal background checks of employees and delivery agents may be conducted by any service sufficient to disclose any federal and state criminal convictions.

H. In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the Board or who has at least two years of experience cultivating plants, (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants, and (iii) to perform duties at the pharmaceutical processor and cannabis dispensing facility upon certification as a pharmacy technician.

I. A pharmaceutical processor to whom a permit has been issued by the Board may establish up to five cannabis dispensing facilities for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor permitted by the Board. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

J. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

K. Every pharmaceutical processor or cannabis dispensing facility shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.

L. A pharmacist at the pharmaceutical processor's dispensing area and the cannabis dispensing facility shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees who can be safely and competently supervised at one time; however, no pharmacist shall supervise more than six persons performing the duties of a pharmacy technician at one time in the pharmaceutical processor's dispensing area or cannabis dispensing facility.

M. A pharmaceutical processor may acquire industrial hemp extract processed in Virginia, and in compliance with state or federal law, from a registered industrial hemp dealer or processor. A pharmaceutical processor may

process and formulate such oil extract with cannabis plant extract into an allowable dosage of cannabis oil. Industrial hemp acquired by a pharmaceutical processor is subject to the same third-party testing requirements that may apply to cannabis plant extract. Testing shall be performed by a laboratory located in Virginia and in compliance with state law. The industrial hemp dealer or processor shall provide such third-party testing results to the pharmaceutical processor before industrial hemp may be acquired.

N. With the exception of § **2.2-4031**, neither the provisions of the Administrative Process Act (§ **2.2-4000** et seq.) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this section. Prior to adopting any regulation pursuant to this section, the Board of Pharmacy shall publish a notice of opportunity to comment in the Virginia Register of Regulations and post the action on the Virginia Regulatory Town Hall. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments. Such notice shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The legislative review provisions of subsections A and B of § **2.2-4014** shall apply to the promulgation or final adoption process for regulations pursuant to this section. The Board of Pharmacy shall consider and keep on file all public comments received for any regulation adopted pursuant to this section.

O. The Board shall register all cannabis products that meet testing, labeling, and packaging standards.

§ **54.1-3442.7**. Dispensing cannabis products; report.

A. A pharmaceutical processor or cannabis dispensing facility shall dispense or deliver cannabis products only in person to (i) a patient who is a Virginia resident or temporarily resides in Virginia as made evident to the Board, has been issued a valid written certification, and is registered with the Board pursuant to § **54.1-3408.3**; (ii) such patient's registered agent; or (iii) if such patient is a minor or ~~an incapacitated~~ *a vulnerable* adult as defined in § **18.2-369**, such patient's parent or legal guardian who is a Virginia resident or temporarily resides in Virginia as made evident to the Board and is registered with the Board pursuant to § **54.1-3408.3**. A companion may accompany a registered patient into a pharmaceutical processor's dispensing area or cannabis dispensing facility. Prior to the initial dispensing of cannabis products pursuant to each written certification, a pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make and maintain, on site or remotely by electronic means, for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view, in person or by audiovisual means, a current photo identification of the patient, registered agent, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding patient, registered agent, parent, or legal guardian. Thereafter, an initial dispensing may be delivered to the patient, registered agent, parent, legal guardian, or designated caregiver facility. Prior to any subsequent dispensing of cannabis products pursuant to each written certification, an employee or delivery agent shall view a current photo identification of the patient, registered agent, parent, or legal guardian and the current board registration issued to the patient, registered agent, parent, or legal guardian. No pharmaceutical processor or cannabis dispensing facility shall dispense more than a 90-day supply, as determined by the dispensing pharmacist or certifying practitioner, for any patient during any 90-day period. A pharmaceutical processor or cannabis dispensing facility may dispense less than a 90-day supply of a cannabis product for any patient during any 90-day period; however, a pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. No more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. The Board shall establish in regulation an amount of cannabis oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease. In determining the

appropriate amount of a cannabis product to be dispensed to a patient, a pharmaceutical processor or cannabis dispensing facility shall consider all cannabis products dispensed to the patient and adjust the amount dispensed accordingly.

B. A pharmaceutical processor or cannabis dispensing facility shall dispense only cannabis products produced on the premises of a pharmaceutical processor permitted by the Board or cannabis oil that has been formulated with oil from industrial hemp acquired by a pharmaceutical processor from a registered industrial hemp dealer or processor pursuant to § **54.1-3442.6**. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.

C. The Board shall report annually by December 1 to the Chairmen of the House Committee for Health, Welfare and Institutions and the Senate Committee on Education and Health on the operation of pharmaceutical processors and cannabis dispensing facilities issued a permit by the Board, including the number of practitioners, patients, registered agents, and parents or legal guardians of patients who have registered with the Board and the number of written certifications issued pursuant to § **54.1-3408.3**.

D. The concentration of delta-9-tetrahydrocannabinol in any cannabis product on site may be up to 10 percent greater than or less than the level of delta-9-tetrahydrocannabinol measured for labeling. A pharmaceutical processor and cannabis dispensing facility shall ensure that such concentration in any cannabis product on site is within such range. A pharmaceutical processor producing cannabis products shall establish a stability testing schedule of cannabis products.

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 552 of the Acts of Assembly of 2021, 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.

Stalking; venue; penalty. Allows a person to be prosecuted for a stalking charge in the jurisdiction where the person resided at the time of such stalking. The bill also provides that evidence of any conduct that occurred outside the Commonwealth may be admissible, if relevant, in any prosecution for stalking. Currently, such evidence is admissible as long as the prosecution is based upon conduct occurring within the Commonwealth.

CHAPTER 276

*An Act to amend and reenact § **18.2-60.3** of the Code of Virginia, relating to stalking; venue; penalty.*

[H 451]

Approved April 8, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-60.3** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-60.3**. Stalking; penalty.

A. Any person, except a law-enforcement officer, as defined in § **9.1-101**, and acting in the performance of his official duties, and a registered private investigator, as defined in § **9.1-138**, who is regulated in accordance with § **9.1-139** and acting in the course of his legitimate business, who on more than one occasion engages in conduct, *either in person or through any other means, including by mail, telephone, or an electronically transmitted communication,* directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor. If the person contacts or follows or attempts to contact or follow the person at whom the conduct is directed after being given actual notice that the person does not want to be contacted or followed, such actions shall be prima facie evidence that the person intended to place that other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member.

B. Any person who is convicted of a second offense of subsection A occurring within five years of a prior conviction of such an offense under this section or for a substantially similar offense under the law of any other jurisdiction is guilty of a Class 6 felony.

C. A person may be convicted under this section ~~irrespective of the~~ *in any* jurisdiction ~~or jurisdictions~~ within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried *or in the jurisdiction where the person at whom the conduct is directed resided at the time of such conduct*. Evidence of any such conduct that occurred outside the Commonwealth may be admissible, if relevant, in any prosecution under this section ~~provided that the prosecution is based upon conduct occurring within the Commonwealth~~.

D. Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family or household member.

E. The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least 15 days prior to release of a person sentenced to a term of

incarceration of more than 30 days or, if the person was sentenced to a term of incarceration of at least 48 hours but no more than 30 days, 24 hours prior to release. If the person escapes, notice shall be given as soon as practicable following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail director or their deputies or employees for a failure to comply with the requirements of this subsection.

F. For purposes of this section:

"Family or household member" has the same meaning as provided in § **16.1-228**.

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 552 of the Acts of Assembly of 2021, 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.

Child abuse and neglect; valid complaint. Amends the definition of "abused or neglected child" to include a child who is sexually exploited or abused by an intimate partner of the child's parent or caretaker and allows a complaint of child abuse or neglect to be deemed valid by a local department of social services (local department) in such instances. The bill allows a complaint of child abuse or neglect that alleges child trafficking to be deemed valid regardless of who the alleged abuser is or whether the alleged abuser has been identified. The bill requires a local department that receives a complaint or report of child abuse or neglect over which it does not have jurisdiction to forward such complaint or report to the appropriate local department, if the local department that does have jurisdiction is located in the Commonwealth.

CHAPTER 366

*An Act to amend and reenact §§ **16.1-228**, **63.2-100**, and **63.2-1508** of the Code of Virginia, relating to child abuse and neglect; valid complaint.*

[H 1334]
Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **16.1-228**, **63.2-100**, and **63.2-1508** of the Code of Virginia are 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. 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 to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § **16.1-283** and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

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

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

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

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

"Child," "juvenile," or "minor" means a person 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) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

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

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

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

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

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § **18.2-308.7**, or (iii) a violation of a court order as provided for in § **16.1-292**, but 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 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 resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"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 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 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.

§ **63.2-100**. Definitions.

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

"Abused or neglected child" means any child less than 18 years of age:

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. 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 Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

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

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § **63.2-1603**.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § **63.2-1603** or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. "Adult foster care" does not include services or support provided to individuals through the Fostering Futures program set forth in Article 2 (§ **63.2-917** et seq.) of Chapter 9.

"Adult neglect" means that an adult as defined in § **63.2-1603** is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § **63.2-1603** from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § **22.1-214**, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ **63.2-1700** et seq.), but including any

portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person who is (i) under 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, under 21 years of age and meets the eligibility criteria set forth in § **63.2-919**.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § **63.2-1819**, (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ **63.2-900**, **63.2-903**, and **63.2-1221**, or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ **20-166** et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ **20-166** et seq.) of Title 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child-placing agency, children's residential facility, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and

21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by § **35.1-18**; and

3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § **63.2-805**, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law **97-35**), as amended.

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § **16.1-281**.

"Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § **63.2-1305**, payments to eligible individuals who have received custody of a child of whom they had been the foster parents.

"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 placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ **20-166** et seq.) of Title 20.

"Foster home" means a residence approved by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ **20-166** et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § **63.2-802** in accordance with the regulations of the Board and reimbursable in accordance with § **63.2-401**.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § **16.1-278.2**, subdivision 6 of § **16.1-278.4**, or subdivision A 13 of § **16.1-278.8**; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ **20-166** et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"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 who was 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 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. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § **63.2-1305** or **63.2-1306** who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § **63.2-1305** or **63.2-1306** between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"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 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**.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ **51.5-144** et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ **51.5-148**) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § **2.2-4001**.

"State-Funded Kinship Guardianship Assistance program" means a program that provides payments to eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance agreement developed in accordance with § **63.2-1306**.

"Supervised independent living setting" means the residence of a person 18 years of age or older who is participating in the Fostering Futures program set forth in Article 2 (§ **63.2-917** et seq.) of Chapter 9 where

supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision. "Supervised independent living setting" does not include residential facilities or group homes.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § **63.2-609**.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

§ **63.2-1508**. Valid report or complaint.

A. A valid report or complaint means the local department has evaluated the information and allegations of the report or complaint and determined that the local department shall conduct an investigation ~~or~~, family assessment*, or human trafficking assessment* because the following elements are present:

1. The alleged victim child or children are under 18 years of age at the time of the complaint or report;

2. The alleged abuser is the alleged victim child's parent or other caretaker *or, for purposes of abuse or neglect described in subdivision 4 of the definition of "abused or neglected child" in § **63.2-100**, an intimate partner of such parent or caretaker*;

3. The local department receiving the complaint or report has jurisdiction; and

4. The circumstances described allege suspected child abuse or neglect.

B. A valid report or complaint regarding a child 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 (P.L. **114-22**) may be established ~~if the~~ *regardless of who the* alleged abuser is ~~the alleged victim child's parent, other caretaker, or any other person suspected to have caused such abuse or neglect~~ *or whether the alleged abuser has been identified*.

C. Nothing in this section shall relieve any person specified in § **63.2-1509** from making a report required by that section, regardless of the identity of the person suspected to have caused such abuse or neglect.

D. If the local department receiving the complaint or report does not have jurisdiction, and the local department that has jurisdiction to investigate such complaint or report is located in the Commonwealth, the local department that received the report or complaint shall forward the complaint or report to the appropriate local department.

Criminal sexual assault; definition of intimate parts; penalty. Includes in the definition of "intimate parts," for the purposes of criminal sexual assault, the chest of a child under the age of 15.

CHAPTER 645

*An Act to amend and reenact § **18.2-67.10** of the Code of Virginia, relating to criminal sexual assault; definition of intimate parts; penalty.*

[H 434]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-67.10** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-67.10**. General definitions.

As used in this article:

1. "Complaining witness" means the person alleged to have been subjected to rape, forcible sodomy, inanimate or animate object sexual penetration, marital sexual assault, aggravated sexual battery, or sexual battery.

2. "Intimate parts" means the genitalia, anus, groin, breast, or buttocks of any person*, or the chest of a child under the age of 15*.

3. "Mental incapacity" means that condition of the complaining witness existing at the time of an offense under this article which prevents the complaining witness from understanding the nature or consequences of the sexual act involved in such offense and about which the accused knew or should have known.

4. "Physical helplessness" means unconsciousness or any other condition existing at the time of an offense under this article which otherwise rendered the complaining witness physically unable to communicate an unwillingness to act and about which the accused knew or should have known.

5. The complaining witness's "prior sexual conduct" means any sexual conduct on the part of the complaining witness which took place before the conclusion of the trial, excluding the conduct involved in the offense alleged under this article.

6. "Sexual abuse" means an act committed with the intent to sexually molest, arouse, or gratify any person, where:

a. The accused intentionally touches the complaining witness's intimate parts or material directly covering such intimate parts;

b. The accused forces the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts;

c. If the complaining witness is under the age of 13, the accused causes or assists the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts; or

d. The accused forces another person to touch the complaining witness's intimate parts or material directly covering such intimate parts.

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 552 of the Acts of Assembly of 2021, 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.

Sexual abuse of animals; penalty. Provides that any person who knowingly (i) engages in sexual contact with an animal; (ii) causes another person by force, threat, or intimidation to engage in sexual contact with an animal; (iii) advertises, solicits, offers, sells, purchases, or possesses an animal with the intent that the animal be subject to sexual contact; (iv) permits sexual contact with an animal to be conducted on any premises under his ownership or control; or (v) produces, distributes, publishes, sells, transmits, finances, possesses, or possesses with the intent to distribute, publish, sell, or transmit an obscene item depicting a person engaged in sexual contact with an animal is guilty of a Class 6 felony. The bill also provides that any person convicted of sexual abuse of an animal shall be prohibited from possessing, owning, or exercising control over any animal and may be ordered to attend an appropriate treatment program or obtain psychiatric or psychological counseling.

CHAPTER 594

*An Act to amend the Code of Virginia by adding a section numbered **18.2-361.01**, relating to sexual abuse of animals; penalty.*

[S 249]
Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **18.2-361.01** as follows:

*§ **18.2-361.01**. Sexual abuse of animals; penalties.*

A. As used in this section:

"Animal" means any nonhuman vertebrate species.

*"Obscene" means the same as that term is defined in § **18.2-372**.*

*"Obscene item" means the same as that term is defined in § **18.2-373**.*

"Sexual contact" means any act committed between a person and an animal for the purpose of sexual arousal, sexual gratification, abuse, or financial gain involving (i) contact between the sex organs or anus of one and the mouth, sex organs, or anus of another; (ii) the insertion of any part of the animal's body into the vaginal or anal opening of the person; or (iii) the insertion of any part of the body of a person or any object into the vaginal or anal opening of an animal or touching or fondling by a person of the sex organs or anus of an animal without a bona fide veterinary or animal husbandry purpose.

B. Any person who knowingly (i) engages in sexual contact with an animal; (ii) causes another person by force, threat, or intimidation to engage in sexual contact with an animal; (iii) advertises, solicits, offers, sells, purchases, or possesses an animal with the intent that the animal be subject to sexual contact; (iv) permits sexual contact with an animal to be conducted on any premises under his ownership or control; or (v) produces, distributes, publishes, sells, transmits, finances, possesses, or possesses with the intent to distribute, publish, sell, or transmit an obscene item depicting a person engaged in sexual contact with an animal is guilty of a Class 6 felony.

C. Any person convicted of violating this section shall be prohibited by the court from possessing, owning, or exercising control over any animal. Additionally, the court may order such person to attend an appropriate

treatment program or obtain psychiatric or psychological counseling and may impose the costs of such a program or counseling upon the person convicted.

D. Nothing in this section shall apply to an accepted veterinary practice; the artificial insemination of an animal for reproductive purposes; an accepted animal husbandry practice, including grooming, raising, breeding, or assisting with the birthing process of animals; or generally accepted practices related to the judging of breed conformation.

E. For the purpose of enforcing this section, the provisions of §§ ***3.2-6502****,* ***3.2-6564****, and* ***3.2-6568*** *shall apply mutatis mutandis.*

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 552 of the Acts of Assembly of 2021, 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.

CRIMINAL – SUMMARY ONLY

HB17 and SB 618 – § 18.2-433.2 – Military honor guards and veterans service organizations; paramilitary activities; exception. Exempts members of a lawfully recognized military color guard, honor guard, or similar organization, and members of a veterans service organization that is congressionally chartered or officially recognized by the U.S. Department of Veterans Affairs, when such member is participating in a training or educational exercise, funeral, or public ceremony on behalf of such military color guard, honor guard, or similar organization or veterans service organization, from the crime of unlawful paramilitary activity unless such member engages in such activity with malicious intent. This bill is identical to **SB 618.**

HB426 and SB254 – §§ 4.1-204, 4.1-206.3, and 4.1-212.1, 4.1-230, 4.1-231.1, 18.2-323.1 and adding 4.1-212.2 – Alcoholic beverage control; delivery of alcoholic beverages; third-party delivery license; container. Creates a third-party delivery license that authorizes the licensee to deliver alcoholic beverages purchased by consumers from other retail licensees. The bill establishes conditions for the issuance of third-party delivery licenses, imposes eligibility requirements for delivery personnel, and sets forth requirements for a delivery to be made by such delivery personnel. The bill imposes a $2,500 fine for first-time violations of the delivery requirements and a $5,000 fine for second and subsequent violations. The bill also establishes container requirements for certain alcoholic beverages sold for off-premises consumption or delivery. The bill requires that such alcoholic beverages, if not contained in the manufacturer's original sealed container, (i) be enclosed in a container that has no straw holes or other openings and is sealed in a manner that allows a person to readily discern whether the container has been opened or tampered with; (ii) display the name of the licensee from which the alcoholic beverages were purchased; (iii) be clearly marked with the phrase "contains alcoholic beverages"; (iv) have a maximum volume of 16 ounces per beverage for certain beverages; and (v) be stored in the trunk of the vehicle, in an area that is rear of the driver's seat, in a locked container or compartment, or, in the case of delivery by bicycle, in a compartment behind the bicyclist during delivery. The bill also excludes from the rebuttable presumption in current law that a person is consuming alcohol while driving any person who is delivering an alcoholic beverage in accordance with the provisions of the bill. The bill directs the Virginia Alcoholic Beverage Control Authority to collect data regarding the compliance of third-party delivery licensees with the provisions of the bill and report such data to the Chairmen of the House Committee on General Laws and the Senate Committee on Rehabilitation and Social Services by November 1, 2023. The bill extends from July 1, 2022, to July 1, 2024, the sunset on prior legislation that allowed certain licensees to sell mixed beverages for off-premises consumption. This bill is identical to **SB 254.**

SB604 – § 3.2-6500 – Animal cruelty; companion animals; penalty. Clarifies that animals are not considered companion animals only when actively involved in bona fide medical or scientific experimentation. Current law exempts animals from the definition of companion animal if they are regulated under federal law as research animals.

HB1350 – § 3.2-6511.2 – Dealers; sale of dogs or cats for experimental purposes. Prohibits a dealer, commercial dog breeder, or cat breeder, including an entity that breeds dogs or cats regulated under federal law as research animals, from importing for sale, selling, or offering for sale a dog or cat bred by a person who has received certain citations on or after July 1, 2023, pursuant to the federal Animal Welfare Act. This bill is identical to
SB 87.

HB193 and SB759 – §§ 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 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 is identical to **SB 759.**

HB404 – § 19.2-188.4 – Admission into evidence of certain forensic medical examination reports by sexual assault nurse examiners and sexual assault forensic examiners; testimony by two-way video conferencing. Allows testimony offered by either party in a preliminary hearing or sentencing hearing, or

offered by the accused in any hearing other than a trial, by a sexual assault nurse examiner or sexual assault forensic examiner who performed a forensic medical examination to be presented by two-way video conferencing. The bill also allows such testimony to be presented by two-way video conferencing when offered by either party in a trial or by the attorney for the Commonwealth in a hearing other than a preliminary hearing or sentencing hearing, with the consent of the court and all parties.

HB933 and SB671 – §§ 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 – Pharmaceutical processors. Amends the definition of "cannabis oil" by removing the requirement that only oil from industrial hemp be used in the formulation of cannabis oil. The bill removes the Board of Pharmacy patient registration requirement for medical cannabis but maintains the requirement that patients obtain written certification from a health care provider for medical cannabis. The bill directs the Board to promulgate numerous regulations related to pharmaceutical processors by September 15, 2022. This bill is identical to **SB 671.**

HB571 and SB366 – § 59.1-403 – Historical horse racing; electronic gaming terminals; age requirement; penalty. Prohibits any person under 21 years of age from using any electronic gaming terminal or other electronic device in a satellite facility to wager on or conduct any wagering on historical horse racing. This bill is identical to **SB 366.**

SB530 – §§ 8.01-216.3, 8.01-534, 18.2-331.1, 18.2-340.15, 18.2-340.20, 18.2-340.30, 18.2-340.33, 18.2-340.34, and 18.2-340.35 – Illegal gaming devices; Virginia Fraud Against Taxpayers Act; civil penalty. Adds the manufacturing for sale, selling, or distributing of an illegal gaming device while knowing that it is or is intended to be operated in the Commonwealth in violation of the law to the list of violations for which a civil penalty may be assessed against a person who is found to have committed such violation. The bill also adds a knowledge requirement to the existing violation of possessing or controlling an illegal gambling device. The bill also provides for a civil penalty of up to $25,000 per gambling device for any person who sells a gambling device that is located in an unregulated location. The bill provides that it shall be sufficient ground for an action for pretrial levy or seizure or an attachment that a principal defendant has conducted, financed, managed, supervised, directed, sold, or owned a gambling device that is located in an unregulated location. This bill incorporates **SB 566.**

HB767 and SB399 – § 18.2-340.36:1 – Charitable gaming; violations; civil penalty. Provides for a civil penalty of not less than $25,000 and not more than $50,000 for any person or organization, whether permitted or qualified pursuant to applicable charitable gaming laws or not, that (i) conducts charitable gaming without first obtaining a permit to do so, (ii) continues to conduct such games after revocation or suspension of such permit, or (iii) otherwise violates any charitable gaming provisions. The bill provides that any such civil penalties collected shall be payable to the State Treasurer for remittance to the Department of Agriculture and Consumer Services. This bill is identical to **SB 399.**

HB192 – The second enactment of Chapter 113 and the second enactment of Chapter 406 of the Acts of Assembly of 2016, as amended by the second enactment of Chapter 249 of the Acts of Assembly of 2017, are amended – Prescription of opioids; sunset. Repeals sunset provisions for the requirement that a prescriber registered with the Prescription Monitoring Program request information about a patient from the Program upon initiating a new course of treatment that includes the prescribing of opioids anticipated, at the onset of treatment, to last more than seven consecutive days.

HB751 – §§ 63.2-1509 and 63.2-1606 – Mandated reporters of suspected abuse. Adds practitioners of behavior analysis to the list of individuals required to report suspected adult or child abuse or neglect.

HB763 and SB403 – §§ 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.20, 18.2-340.22, 18.2-340.23, 18.2-340.26:1, 18.2-340.27, 18.2-340.28, 18.2-340.28:1, 18.2-340.30, 18.2-340.31, 18.2-340.33, 18.2-340.34, 18.2-340.25:1, 18.2-340.26:3, 18.2-340.30:2, and 18.2-340.36:1 – Charitable gaming; social organizations and social quarters; electronic gaming. Provides that the conduct of electronic gaming, defined in the bill, is restricted to qualified social organizations on their premises or other qualified organizations that lease the

premises of a qualified social organization pursuant to the guidelines set out in the bill. The bill eliminates the exceptions related to the sale of instant bingo, pull tabs, or seal cards or the conduct of bingo games in current law for veterans and fraternal organizations. The bill provides that such qualified organizations shall be subject to two prohibitions that, under current law, apply to all other organizations, as defined in relevant law: (i) they are prohibited from selling instant bingo, pull tabs, or seal cards or conducting bingo games outside of their home locality and (ii) they are prohibited from offering such games at an establishment that has been granted a license by the Alcoholic Beverage Control Authority unless they hold such license. The bill provides that all adjusted gross receipts attributable to electronic gaming shall be reported to the Department of Agriculture and Consumer Services (the Department) and shall be subject to application, audit, and administration fees. The bill reduces the allowable audit and administration fee prescribed by the Department from 1.25 percent to 0.50 percent of gross receipts or electronic gaming adjusted gross receipts, as appropriate. The bill also provides that application fees shall be paid to the Department by the qualified organization and that audit fees may be paid to the Department either by the qualified organization or the electronic gaming manufacturer that provides electronic gaming devices to such organization. The bill imposes on any person or organization conducting charitable gaming without a permit a civil penalty of not less than $25,000 and not more than $50,000 per incident. This bill is identical to **SB 403.**

HB766 and SB401 – §§ 52-53 and 52-54 – Enforcement of gaming laws; Gaming Enforcement Coordinator established. Establishes the Office of the Gaming Enforcement Coordinator in the Department of State Police and charges such Coordinator with coordinating local, state, and federal enforcement of gaming laws, defined as laws regulating gambling, charitable gaming, lottery games, sports betting, casino gaming, fantasy contests, and horse racing and pari-mutuel wagering, and with establishing a tip line for members of the public to report concerns about gaming activities. This bill is identical to **SB 401.**

SB493 – § 8.01-46.2 – Civil action for the dissemination of sexually explicit visual material to another. Provides that any person 18 years of age or older who knowingly transmits an intimate image, as defined in the bill, by computer or other electronic means to the computer or electronic communication device of another person 18 years of age or older when such other person has not consented to the use of his computer or electronic communication device for the receipt of such material or has expressly forbidden the receipt of such material shall be considered a trespass and shall be liable to the recipient of the intimate image for actual damages or $500, whichever is greater, in addition to reasonable attorney fees and costs.

FIREARMS – FULL TEXT

Criminal history record information check required to sell firearm; exception for purchase of service weapon. Provides that the purchase of a service weapon by a retired law-enforcement officer is not subject to a criminal history record information check.

CHAPTER 270

*An Act to amend and reenact § **18.2-308.2:5** of the Code of Virginia, relating to criminal history record information check required to sell firearm; exception for purchase of service weapon.*

[S 675]

Approved April 8, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **18.2-308.2:5** of the Code of Virginia is amended and reenacted as follows:

§ **18.2-308.2:5**. Criminal history record information check required to sell firearm; penalty.

A. No person shall sell a firearm for money, goods, services or anything else of value unless he has obtained verification from a licensed dealer in firearms that information on the prospective purchaser has been submitted for a criminal history record information check as set out in § **18.2-308.2:2** and that a determination has been received from the Department of State Police that the prospective purchaser is not prohibited under state or federal law from possessing a firearm or such sale is specifically exempted by state or federal law. The Department of State Police shall provide a means by which sellers may obtain from designated licensed dealers the approval or denial of firearm transfer requests, based on criminal history record information checks. The processes established shall conform to the provisions of § **18.2-308.2:2**, and the definitions and provisions of § **18.2-308.2:2** regarding criminal history record information checks shall apply to this section mutatis mutandis. The designated dealer shall collect and disseminate the fees prescribed in § **18.2-308.2:2** as required by that section. The dealer may charge and retain an additional fee not to exceed $15 for obtaining a criminal history record information check on behalf of a seller.

B. Notwithstanding the provisions of subsection A and unless otherwise prohibited by state or federal law, a person may sell a firearm to another person if:

1. The sale of a firearm is to an authorized representative of the Commonwealth or any subdivision thereof as part of an authorized voluntary gun buy-back or give-back program; ~~or~~

2. The sale occurs at a firearms show, as defined in § **54.1-4200**, and the seller has received a determination from the Department of State Police that the purchaser is not prohibited under state or federal law from possessing a firearm in accordance with § **54.1-4201.2**; *or*

*3. The sale of a firearm is conducted pursuant to § **59.1-148.3**, with the exception of a sale conducted pursuant to subsection C of § **59.1-148.3***.

C. Any person who willfully and intentionally sells a firearm to another person without obtaining verification in accordance with this section is guilty of a Class 1 misdemeanor.

D. Any person who willfully and intentionally purchases a firearm from another person without obtaining verification in accordance with this section is guilty of a Class 1 misdemeanor.

FIREARMS – SUMMARY ONLY

HB1130 and SB207 – § 59.1-148.3 – Purchase of service handguns or other weapons by retired sworn law-enforcement officers. Removes the requirement that a sworn law-enforcement officer be employed in a full-time capacity at the time of his retirement to purchase his service handgun. This bill is identical to **SB 207.**

MISCELLANEOUS – FULL TEXT

Criminal acts committed during a close pursuit; arrest warrant. Provides that if a law-enforcement officer makes an arrest without a warrant when in close pursuit and such arrest is made beyond the boundary of the county or city from which the arrestee fled, then the law-enforcement officer shall procure a warrant from the magistrate serving the county or city wherein the arrest was made, charging the accused with the offense committed in the county or city from which he fled and any offense committed during the close pursuit in the county or city where such offense was committed. Under current law, such officer would not be able to obtain a warrant from the magistrate serving the county or city wherein the arrest was made for a criminal act committed during the close pursuit beyond the boundary of the county or city from which the arrestee fled.

CHAPTER 326

*An Act to amend and reenact § **19.2-77** of the Code of Virginia, relating to offenses committed during a close pursuit; arrest warrant.*

[S 102]
Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-77** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-77**. Escape, flight and pursuit; arrest anywhere in Commonwealth.

Whenever a person in the custody of an officer shall escape or whenever a person shall flee from an officer attempting to arrest him, such officer, with or without a warrant, may pursue such person anywhere in the Commonwealth and, when actually in close pursuit, may arrest him wherever he is found. If the arrest is made in a county or city adjoining that from which the accused fled, or in any area of the Commonwealth within one mile of the boundary of the county or city from which he fled, the officer may forthwith return the accused before the proper official of the county or city from which he fled. If the arrest is made beyond the foregoing limits, the officer shall proceed according to the provisions of § **19.2-76**, and if such arrest is made without a warrant, the officer shall procure a warrant from the magistrate serving the county or city wherein the arrest was made, charging the accused with the offense committed in the county or city from which he fled *and any offense committed during the close pursuit in the county or city where such offense was committed*.

Search warrants; copy of search warrant and affidavit given to occupants. Clarifies that if the owner of the place to be searched is not present, a copy of the search warrant and affidavit shall be given to at least one adult occupant of the place to be searched.

CHAPTER 403

*An Act to amend and reenact § **19.2-56** of the Code of Virginia, relating to search warrants; copy of search warrant and affidavit given to occupants.*

[S 404]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **19.2-56** of the Code of Virginia is amended and reenacted as follows:

§ **19.2-56**. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.

A. The judge, magistrate, or other official authorized to issue criminal warrants~~,~~ shall issue a search warrant only if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed (i) to the sheriff, sergeant, or any policeman of the county, city, or town in which the place to be searched is located; (ii) to any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police; or (iii) jointly to any such sheriff, sergeant, policeman, or law-enforcement officer or agent and an agent, special agent, or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official, or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall (a) name the affiant, (b) recite the offense or the identity of the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the search is to be made, (c) name or describe the place to be searched, (d) describe the property or person to be searched for, and (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched.

The warrant shall command that the place be forthwith searched and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense or over the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the warrant was issued as provided in § **19.2-57**.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman, or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer, or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except (1) the owners and occupants of the place to be

searched when permitted to be present by the officer in charge of the conduct of the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or outside the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § **19.2-57**, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was (A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk of the circuit court of the county or city where the warrant was issued or (B) issued, if executed outside the Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § **19.2-70.3** using the same process described in the preceding paragraph.

Notwithstanding the provisions of § **19.2-57**, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § **6.2-604**, money transmitter as defined in § **6.2-1900**, commercial business providing credit history or credit reports, or issuer as defined in § **6.2-424** may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § **19.2-54**, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § **19.2-54**.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

B. No law-enforcement officer shall seek, execute, or participate in the execution of a no-knock search warrant. A search warrant for any place of abode authorized under this section shall require that a law-enforcement officer be recognizable and identifiable as a uniformed law-enforcement officer and provide audible notice of his authority and purpose reasonably designed to be heard by the occupants of such place to be searched prior to the execution of such search warrant.

After entering and securing the place to be searched and prior to undertaking any search or seizure pursuant to the search warrant, the executing law-enforcement officer shall give a copy of the search warrant and affidavit to the person to be searched or the owner of the place to be searched or, if the owner is not present, to ~~any~~ *at least one adult* occupant of the place to be searched. If the place to be searched is unoccupied *by an adult*, the executing law-enforcement officer shall leave a copy of the search warrant and affidavit in a conspicuous place within or affixed to the place to be searched.

Search warrants authorized under this section for the search of any place of abode shall be executed by initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown by particularized facts in an affidavit or (ii) prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously.

A law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless circumstances require the issuance of the warrant after ~~5~~ *5:00* p.m., pursuant to the provisions of this subsection, in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. Such reasonable efforts shall be documented in an affidavit and submitted to a magistrate when seeking such authorization.

Any evidence obtained from a search warrant executed in violation of this subsection shall not be admitted into evidence for the Commonwealth in any prosecution.

C. For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § **13.1-759** to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § **13.1-775**.

Hunting on Sundays. Permits hunting on Sunday on public or private land, so long as it takes place more than 200 yards from a place of worship**.**

CHAPTER 98

*An Act to amend and reenact § **29.1-521** of the Code of Virginia, relating to hunting on Sunday.*

[S 8]

Approved April 5, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **29.1-521** of the Code of Virginia is amended and reenacted as follows:

§ **29.1-521**. Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as permitted; exception; penalty.

A. The following is unlawful:

1. To hunt or kill *on Sunday (i)* any wild bird or wild animal, including any nuisance species, with a gun, firearm, or other weapon, *within 200 yards of a place of worship or any accessory structure thereof* or ~~to hunt or kill~~ *(ii)* any deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs~~, on Sunday~~. ~~The provision of this subdivision that prohibits the hunting or killing of any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) any person who hunts or kills raccoons; (ii) any person who hunts or kills birds in the family Rallidae or waterfowl, subject to geographical limitations established by the Director and except within 200 yards of a place of worship or any accessory structure thereof; or (iii) any landowner or member of his family or any person with written permission from the landowner who hunts or kills any wild bird or wild animal, including any nuisance species, on the landowner's property, except within 200 yards of a place of worship or any accessory structure thereof. However, a person lawfully carrying a gun, firearm, or other weapon on Sunday in an area that could be used for hunting shall not be presumed to be hunting on Sunday, absent evidence to the contrary.~~

2. To destroy or harass the nest, eggs, dens, or young of any wild bird or wild animal, except nuisance species, at any time without a permit as required by law.

3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily bag or season limit during such day or season. However, any properly licensed person, or a person exempt from having to obtain a license, who has obtained such daily bag or season limit while hunting may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow, an unloaded slingbow, an unloaded arrowgun, or an unloaded crossbow. Any properly licensed person, or person exempt from having to obtain a license, who has obtained such season limit prior to commencement of the hunt may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he does not have a firearm, bow, slingbow, arrowgun, or crossbow in his possession.

4. To knowingly occupy any baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal or to put out bait or salt for any wild bird or wild animal for the purpose of taking or killing it. There shall be a rebuttable presumption that a person charged with violating this subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or attempting to take any wild

bird or wild animal. However, this shall not apply to baiting nuisance species of animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully trapped.

5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in progress.

6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except (i) as provided in § **29.1-521.3** or (ii) for the killing of nuisance species as defined in § **29.1-100** on private property by the owner of such property or his designee from a stationary automobile or other stationary vehicle.

7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name and address of the trapper; or (ii) an identification number issued by the Department.

8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may authorize employees of federal, state, and local government agencies, and persons holding a valid Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that are completely submerged at least once every 72 hours, and the Board may adopt regulations permitting trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations permitting trappers to use remote trap-checking technology to check traps under specified conditions.

10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for transportation, transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law and only by the manner or means and within the numbers stated. However, the provisions of this section shall not be construed to prohibit the (i) use or transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers; (ii) the manufacture or sale of implements, including tools or utensils made from legally harvested deer skeletal parts, including antlers; (iii) the possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements authorized by regulations adopted by the Board.

11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including subsection D of § **29.1-553**. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the hungry and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed meat to the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the actual cost for processing the meat. In addition, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation and (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall be punishable as provided in § **29.1-553**.

12. To offer for sale, sell, offer to purchase, or purchase a hunt guaranteeing the killing of a deer, bear, or wild turkey. Nothing in this subdivision shall prevent a landowner from leasing land for hunting. A violation of this subdivision shall be punishable as provided in § **29.1-553**.

B. Notwithstanding any other provision of this article, any American Indian who produces verification that he is an enrolled member of a tribe recognized by the Commonwealth, another state, or the U.S. government, may possess, offer for sale, or sell to another American Indian, or offer to purchase or purchase from another American Indian, parts of legally obtained fur-bearing animals, nonmigratory game birds, and game animals, except bear. Such legally obtained parts shall include antlers, hooves, feathers, claws, and bones.

"Verification" as used in this section shall include (i) display of a valid tribal identification card, (ii) confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv) certification from a tribal office that the person is an enrolled member of the tribe.

C. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of snakes resulting from the use of such devices.

D. A violation of subdivisions A 1 through 10 shall be punishable as a Class 3 misdemeanor.

Alcoholic beverage control; transportation of alcoholic beverages. Increases from one gallon to three gallons the amount of alcoholic beverages that a person may transport into the Commonwealth and consolidates current law regarding the transportation of alcoholic beverages into or within the Commonwealth. The bill contains technical amendments.

CHAPTER 201

*An Act to amend and reenact §§ **4.1-130**, **4.1-131**, **4.1-212**, and **4.1-311** of the Code of Virginia and to repeal § **4.1-310** of the Code of Virginia, relating to alcoholic beverage control; transportation of alcoholic beverages.*

[S 325]

Approved April 7, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **4.1-130**, **4.1-131**, **4.1-212**, and **4.1-311** of the Code of Virginia are amended and reenacted as follows:

§ **4.1-130**. Importation of beverages not under customs or internal revenue bonds; storage in approved warehouses; release.

A. Notwithstanding the provisions of §-**4.1-310** ***4.1-311***, alcoholic beverages not under United States customs bonds or internal revenue bonds may be transported into and stored in the Commonwealth in warehouses which have been approved by the Board for that purpose.

The Board may refuse to approve any warehouse as a place where alcoholic beverages may be stored if it has reasonable cause to believe that the owner or operator of the warehouse is a person to whom or the place sought to be approved is one for which the Board may refuse to grant a license under the provisions of § **4.1-222**, which shall apply mutatis mutandis, unless the provisions of such section are inapplicable.

The Board may disapprove any warehouse which has been approved as a place where alcoholic beverages may be stored if it has reasonable cause to believe that a ground exists for which the Board may suspend or revoke a license under the provisions of § **4.1-225**, which shall apply mutatis mutandis, unless the provisions of such section are inapplicable.

B. Alcoholic beverages stored in warehouses in the Commonwealth pursuant to this section shall be released only on permits issued by the Board for delivery to the Board or to persons entitled to receive them within or outside the Commonwealth.

§ **4.1-131**. Importation of beverages under customs bonds and holding in warehouses; release.

A. Alcoholic beverages may be imported into the Commonwealth under United States customs bonds and be held in the Commonwealth in United States customs bonded warehouses. Alcoholic beverages may be removed from any such warehouse, wherever situated, to such a warehouse located in the Commonwealth and be held in the Commonwealth.

B. Alcoholic beverages so imported or removed to such warehouses in the Commonwealth shall be released from customs bonds in the Commonwealth only (i) for delivery to the Board, or to licensees entitled to receive them in the Commonwealth, as provided in §-**4.1-310** ***4.1-311***; (ii) to boats engaged in foreign trade, trade between the Atlantic and Pacific ports of the United States, trade between the United States and any of its possessions outside of the several states and the District of Columbia, or for shipment outside of the

Commonwealth; or (iii) in accordance with subsection C for the official or personal use of persons who are on duty in the United States as members of the armed forces of any foreign country, or their immediate family, authorized by federal laws and regulations to receive imported alcoholic beverages free of customs duties and internal revenue taxes.

C. Persons operating United States customs bonded warehouses and licensed as wholesalers or retailers may make sales and deliveries, in quantities determined by the Board, of alcoholic beverages held in customs bond to foreign armed forces personnel as provided in subsection B. Such sales may be made only on permits issued by the Board which shall cover the transportation of such imported alcoholic beverages, either by the operator of a customs bonded warehouse or purchaser from the operator, from such customs bonded warehouse to the place of duty or residence of such authorized persons.

§ **4.1-212**. Permits required in certain instances.

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.

3. Any person to keep upon his premises alcoholic beverages that he is not authorized by any license to sell and which shall be used for culinary purposes only.

4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with §~~4.1-310~~ ***4.1-311***.

5. Any person to keep, store, or possess any still or distilling apparatus for the purpose of distilling alcohol.

6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.

7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § **4.1-131**.

8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § **4.1-132**.

9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.

10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.

12. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.

13. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.

14. Any person to conduct tastings in accordance with § **4.1-201.1**, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of § **4.1-201.1** by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § **4.1-229**.

15. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation of this title or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this title and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this title or any Board regulation committed by, or any errors or omissions of, the permittee.

16. Any sight-seeing carrier or contract passenger carrier as defined in § **46.2-2000** transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

17. Any tour company guiding individuals for compensation on a walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the alcoholic beverages served as part of the tour, (ii) a fee for any food offered as part of the tour, and (iii) a fee for the walking tour service. The tour company shall remit to the licensee any fee collected for the alcoholic beverages and any food served as part of the tour. The tour company shall ensure that (a) each tour includes no more than 15 participants per tour guide and no more than three tour guides, (b) a tour guide is present with the participants throughout the duration of the tour, and (c) all participants are persons to whom alcoholic beverages may be lawfully sold.

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § **4.1-216**.

§ **4.1-311**. Limitations on transporting lawfully purchased alcoholic beverages; penalty.

A. ~~The~~ *Except as otherwise permitted under subsection F of § **4.1-206.3** or § **4.1-209.1** or **4.1-212.1**, the* transportation of alcoholic beverages ~~lawfully purchased in the Commonwealth in excess of the following limits~~ is prohibited except in accordance with Board regulations *and the following provisions*:

1. Wine ~~and beer, no limitation~~ *may be (i) if lawfully purchased in the Commonwealth for personal use and not for resale, transported within the Commonwealth in the personal possession of the purchaser; (ii) if lawfully purchased outside the Commonwealth for personal use and not for resale, transported into or within the Commonwealth in the personal possession of the purchaser in an amount not to exceed three gallons; or (iii) transported into the Commonwealth if consigned to a wholesale wine licensee*.

2. *Beer may be (i) if lawfully purchased in the Commonwealth for personal use and not for resale, transported within the Commonwealth in the personal possession of the purchaser; (ii) if lawfully purchased outside the Commonwealth for personal use and not for resale, transported into or within the Commonwealth in the personal possession of the purchaser in an amount not to exceed three gallons; or (iii) transported into the Commonwealth if consigned to a wholesale beer licensee.*

3. Alcoholic beverages other than wine and beer~~,~~ *may be (i) if lawfully purchased for personal use and not for resale, transported into or within the Commonwealth in the personal possession of the purchaser in an amount not to exceed* three gallons~~, provided that not more than one gallon thereof shall be in containers holding less than one-fifth of a gallon. If any part of the alcoholic beverages being transported is held in metric-sized containers, the three-gallon limitation shall be construed to be 12 liters, and not more than 4 liters thereof shall be in containers smaller than 750 milliliters~~ *or (ii) transported into the Commonwealth if such alcoholic beverages (a) are consigned to the Board, (b) are being transported to a distillery or winery licensee, or (c) are ordered by the Board and are being transported directly to persons for industrial purposes, persons for the manufacture of articles allowed to be manufactured under § **4.1-200**, or hospitals pursuant to a permit issued by the Board for which the Board may charge a reasonable fee*.

B. The ~~transportation of alcoholic beverages lawfully purchased outside the Commonwealth, within, into or through the Commonwealth, in quantities in excess of one gallon or four liters if any part of the alcohol being transported is held in metric-sized containers, is prohibited except in accordance with Board regulations adopted pursuant to this section~~ *provisions of this section shall not be construed to prohibit (i) any person from bringing, through U.S. Customs in his accompanying baggage, into the Commonwealth for personal use and not for resale alcoholic beverages in an amount not to exceed three gallons; (ii) the transportation into the Commonwealth of a reasonable quantity of alcoholic beverages for personal use and not for resale in the personal or household effects of a person relocating his place of residence to the Commonwealth; or (iii) the transportation of alcoholic beverages on passenger boats, dining cars, buffet cars, or club cars licensed under this title or by common carriers engaged in interstate or foreign commerce*.

C. Any person transporting alcoholic beverages in violation of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

2. That § **4.1-310** of the Code of Virginia is repealed.

3. That the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) shall promulgate regulations to implement the provisions of this act. The Board's initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ **2.2-4000** et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on such regulations prior to adoption.

4. That the Virginia Code Commission shall replace with "this subtitle" all references to "this title" in Chapters 1 through 5 of Title 4.1 of the Code of Virginia.

Sex offenders in emergency shelters; notification registration. Provides that a registered sex offender who enters an emergency shelter designated by the Commonwealth or any political subdivision thereof and operated in response to a declared state or local emergency shall, as soon as practicable after entry, notify a member of the shelter's staff who is responsible for providing security of such person's status as a registered sex offender. This bill provides that no person shall be denied entry solely on the basis of his status as a sex offender unless such entry is otherwise prohibited by law. The bill requires that the Department of State Police provide to any registered sex offender at the time of his initial registration a summary of his obligation to inform the staff of an emergency shelter of his status as a registered sex offender.

CHAPTER 316

*An Act to amend the Code of Virginia by adding a section numbered **9.1-906.1**, relating to sex offenders in emergency shelters; notification; registration.*

[H 1080]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered **9.1-906.1** as follows:

*§ **9.1-906.1**. Emergency shelters; notification; registration.*

*Any person required to register or reregister who enters any place or facility that is designated by the Commonwealth or any political subdivision thereof as an emergency shelter and operated in response to a state or local emergency declared pursuant to Chapter 3.2 (§ **44-146.13** et seq.) of Title 44 shall, as soon as practicable after entry, notify a member of the emergency shelter's staff who is responsible for providing security at the emergency shelter that such person is a registered sex offender. The use of such Registry information pursuant to this section does not constitute a violation of § **9.1-918**. No person shall be denied entry into an emergency shelter solely on the basis of his status as a registered sex offender unless such entry is otherwise prohibited by law.*

2. That the Department of State Police shall provide to any person required to register on the Sex Offender and Crimes Against Minors Registry at the time of his initial registration a summary of the provisions of this act.

Vicious dogs. Requires a law-enforcement officer or animal control officer to apply to a magistrate for a summons for a vicious dog if such officer is located in either the jurisdiction where the vicious dog resides or in the jurisdiction where the vicious dog committed one of the acts set forth in the definition of a vicious dog. Current law requires such action only if the law-enforcement officer or animal control officer is located in the jurisdiction where the vicious dog resides. The bill also requires any evidentiary hearing or appeal to be held not less than 30 days from the date of the summons or appeal, unless good cause is found by the court.

CHAPTER 614

*An Act to amend and reenact §§ **3.2-6540.1** and **3.2-6569** of the Code of Virginia, relating to vicious dogs.*

[S 279]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **3.2-6540.1** and **3.2-6569** of the Code of Virginia are amended and reenacted as follows:

§ **3.2-6540.1**. Vicious dogs; penalties.

A. As used in this section:

"Serious injury" means an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

"Vicious dog" means a canine or canine crossbreed that has (i) killed a person, (ii) inflicted serious injury to a person, or (iii) continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an animal control officer as authorized by ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

B. Any law-enforcement officer or animal control officer who *(i)* has reason to believe that a canine or canine crossbreed ~~within his jurisdiction~~ is a vicious dog ~~shall~~ *and (ii) is located in the jurisdiction where the vicious dog resides or in the jurisdiction where a vicious dog committed an act set forth in the definition* *shall* apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. *Unless good cause is determined by the court, the evidentiary hearing shall be held not more than 30 days from the issuance of the summons.* The court, through its contempt powers, may compel the owner, custodian, or harborer of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § **3.2-6562**. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harborer thereof to pay restitution for actual damages to any person injured by the animal or to the estate of any person killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such vicious dog from the time the animal is taken into custody until such time as the animal is disposed of. The procedure for appeal and trial shall be the same as provided by law for misdemeanors*, except that unless good cause is determined by the court, an appeal shall be heard within 30 days*. Trial by jury shall be as provided in Article 4 (§ **19.2-260** et

seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

C. No canine or canine crossbreed shall be found to be a vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a vicious dog.

D. Any owner or custodian of a canine or canine crossbreed or other animal whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such dog or other animal attacking and causing serious injury to any person is guilty of a Class 6 felony. The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

E. The governing body of any locality may enact an ordinance parallel to this statute regulating vicious dogs. No locality may impose a felony penalty for violation of such ordinances.

§ **3.2-6569**. Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. The seizure or impoundment of an equine resulting from a violation of clause (iv) of subsection A or clause (ii) of subsection B of § **3.2-6570** may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal, the humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;

2. A general district court so orders; or

3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors*, except that unless good cause is determined by the court, an appeal shall be heard within 30 days*. Trial by jury shall be as provided in Article 4 (§ **19.2-260** et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § **3.2-6500**, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § **3.2-6571**, then the court shall order that the

animal may be: (a) sold by a local governing body, if not a companion animal; (b) disposed of by a local governing body pursuant to subsection D of § **3.2-6546**, whether such animal is a companion animal or an agricultural animal; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

H. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § **3.2-6504** or **3.2-6570**. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.

M. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

Emergency custody and temporary detention; transportation; transfer of custody. Provides that when a magistrate orders alternative transportation for an individual under a temporary detention order, the primary law-enforcement agency that executes the order may transfer custody of the person to the alternative transportation provider immediately upon execution of the order. Such alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the temporary detention facility, as is appropriate. The bill adds employees of and persons providing services pursuant to a contract with the Department of Behavioral Health and Developmental Services to the list of individuals who may serve as alternative transportation providers. The bill clarifies that if no alternative transportation provider is available, the magistrate shall order a person to be kept in law-enforcement custody. The bill also requires the Department of Behavioral Health and Developmental Services to amend an existing contract or enter into a new contract for alternative custody of persons who are subject to temporary detention orders, to the extent funding for such alternative custody is available. This bill incorporates **SB 176, SB 650,** and **SB 682.**

CHAPTER 482

*An Act to amend and reenact §§ **37.2-809**, **37.2-809.1**, and **37.2-810** of the Code of Virginia, relating to emergency custody and temporary detention; transportation; transfer of custody; alternative custody.*

[S 268]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **37.2-809**, **37.2-809.1**, and **37.2-810** of the Code of Virginia are amended and reenacted as follows:

§ **37.2-809**. Involuntary temporary detention; issuance and execution of order.

A. For the purposes of this section:

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department, (iii) is able to provide an independent examination of the person, (iv) is not related by blood or marriage to the person being evaluated, (v) has no financial interest in the admission or treatment of the person being evaluated, (vi) has no investment interest in the facility detaining or admitting the person under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

B. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § **37.2-804.1** by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician, clinical psychologist, or clinical social worker treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause

serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) is in need of hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider, if available, (a) information provided by the person who initiated emergency custody and (b) the recommendations of any treating or examining physician licensed in Virginia either verbally or in writing prior to rendering a decision. Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § **37.2-804.2**. This subsection shall not preclude any other disclosures as required or permitted by law.

C. When considering whether there is probable cause to issue a temporary detention order, the magistrate may, in addition to the petition, consider (i) the recommendations of any treating or examining physician, psychologist, or clinical social worker licensed in Virginia, if available, (ii) any past actions of the person, (iii) any past mental health treatment of the person, (iv) any relevant hearsay evidence, (v) any medical records available, (vi) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (vii) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue a temporary detention order.

D. A magistrate may issue a temporary detention order without an emergency custody order proceeding. A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i) the person has been personally examined within the previous 72 hours by an employee or a designee of the local community services board or (ii) there is a significant physical, psychological, or medical risk to the person or to others associated with conducting such evaluation.

E. An employee or a designee of the local community services board shall determine the facility of temporary detention in accordance with the provisions of § **37.2-809.1** for all ~~individuals~~ *persons* detained pursuant to this section. An employee or designee of the local community services board may change the facility of temporary detention and may designate an alternative facility for temporary detention at any point during the period of temporary detention if it is determined that the alternative facility is a more appropriate facility for temporary detention of the ~~individual~~ *person* given the specific security, medical, or behavioral health needs of the person. In cases in which the facility of temporary detention is changed following transfer of custody to an initial facility of temporary custody, transportation of the ~~individual~~ *person* to the alternative facility of temporary detention shall be provided in accordance with the provisions of § **37.2-810**. The initial facility of temporary detention shall be identified on the preadmission screening report and indicated on the temporary detention order; however, if an employee or designee of the local community services board designates an alternative facility, that employee or designee shall provide written notice forthwith, on a form developed by the Executive Secretary of the Supreme Court of Virginia, to the clerk of the issuing court of the name and address of the alternative facility. Subject to the provisions of § **37.2-809.1**, if a facility of temporary detention cannot be identified by the time of the expiration of the period of emergency custody pursuant to § **37.2-808**, the ~~individual~~ *person* shall be detained in a state facility for the treatment of ~~individuals~~ *persons* with mental illness and such facility shall be indicated on the temporary detention order. Except as provided in § **37.2-811** for inmates requiring hospitalization in accordance with subdivision A 2 of § **19.2-169.6**, the person shall not be detained in a jail or other place of confinement for persons charged with criminal offenses ~~and~~. *Except as provided in § **37.2-811** for inmates requiring hospitalization in accordance with subdivision A 2 of § **19.2-169.6**, the person* shall remain in the custody of law enforcement until *(i)* the person is either detained within a secure facility or *(ii)* custody has been accepted by the appropriate personnel designated by either the initial facility of temporary detention identified in the temporary detention order or by the alternative facility of temporary

detention designated by the employee or designee of the local community services board pursuant to this subsection. The person detained or in custody pursuant to this section shall be given a written summary of the temporary detention procedures and the statutory protections associated with those procedures.

F. Any facility caring for a person placed with it pursuant to a temporary detention order is authorized to provide emergency medical and psychiatric services within its capabilities when the facility determines that the services are in the best interests of the person within its care. The costs incurred as a result of the hearings and by the facility in providing services during the period of temporary detention shall be paid and recovered pursuant to § **37.2-804**. The maximum costs reimbursable by the Commonwealth pursuant to this section shall be established by the State Board of Medical Assistance Services based on reasonable criteria. The State Board of Medical Assistance Services shall, by regulation, establish a reasonable rate per day of inpatient care for temporary detention.

G. The employee or the designee of the local community services board who is conducting the evaluation pursuant to this section shall determine, prior to the issuance of the temporary detention order, the insurance status of the person. Where coverage by a third party payor exists, the facility seeking reimbursement under this section shall first seek reimbursement from the third party payor. The Commonwealth shall reimburse the facility only for the balance of costs remaining after the allowances covered by the third party payor have been received.

H. The duration of temporary detention shall be sufficient to allow for completion of the examination required by § **37.2-815**, preparation of the preadmission screening report required by § **37.2-816**, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible, but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein specified terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the person may be detained, as herein provided, until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. The person may be released, pursuant to § **37.2-813**, before the 72-hour period herein specified has run.

I. If a temporary detention order is not executed within 24 hours of its issuance, or within a shorter period as is specified in the order, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if the office is not open, to any magistrate serving the jurisdiction of the issuing court. Subsequent orders may be issued upon the original petition within 96 hours after the petition is filed. However, a magistrate must again obtain the advice of an employee or a designee of the local community services board prior to issuing a subsequent order upon the original petition. Any petition for which no temporary detention order or other process in connection therewith is served on the subject of the petition within 96 hours after the petition is filed shall be void and shall be returned to the office of the clerk of the issuing court.

J. The Executive Secretary of the Supreme Court of Virginia shall establish and require that a magistrate, as provided by this section, be available seven days a week, 24 hours a day, for the purpose of performing the duties established by this section. Each community services board shall provide to each general district court and magistrate's office within its service area a list of its employees and designees who are available to perform the evaluations required herein.

K. For purposes of this section, a health care provider or designee of a local community services board or behavioral health authority shall not be required to encrypt any email containing information or medical records provided to a magistrate unless there is reason to believe that a third party will attempt to intercept the email.

L. If the employee or designee of the community services board who is conducting the evaluation pursuant to this section recommends that the person should not be subject to a temporary detention order, such employee or designee shall (i) inform the petitioner, the person who initiated emergency custody if such person is present, and an onsite treating physician of his recommendation; (ii) promptly inform such person who initiated emergency custody that the community services board will facilitate communication between the person and the magistrate if the person disagrees with recommendations of the employee or designee of the community services board who conducted the evaluation and the person who initiated emergency custody so requests; and (iii) upon prompt request made by the person who initiated emergency custody, arrange for such person who initiated emergency custody to communicate with the magistrate as soon as is practicable and prior to the expiration of the period of emergency custody. The magistrate shall consider any information provided by the person who initiated emergency custody and any recommendations of the treating or examining physician and the employee or designee of the community services board who conducted the evaluation and consider such information and recommendations in accordance with subsection B in making his determination to issue a temporary detention order. The ~~individual~~ *person* who is the subject of emergency custody shall remain in the custody of law enforcement or a designee of law enforcement and shall not be released from emergency custody until communication with the magistrate pursuant to this subsection has concluded and the magistrate has made a determination regarding issuance of a temporary detention order.

M. For purposes of this section, "person who initiated emergency custody" means any person who initiated the issuance of an emergency custody order pursuant to § **37.2-808** or a law-enforcement officer who takes a person into custody pursuant to subsection G of § **37.2-808**.

§ **37.2-809.1**. Facility of temporary detention.

A. In each case in which an employee or designee of the local community services board as defined in § **37.2-809** is required to make an evaluation of an individual pursuant to subsection B, G, or H of § **37.2-808**, an employee or designee of the local community services board shall, upon being notified of the need for such evaluation, contact the state facility for the area in which the community services board is located and notify the state facility that the individual will be transported to the facility upon issuance of a temporary detention order if no other facility of temporary detention can be identified by the time of the expiration of the period of emergency custody pursuant to § **37.2-808**. Upon completion of the evaluation, the employee or designee of the local community services board shall convey to the state facility information about the individual necessary to allow the state facility to determine the services the individual will require upon admission.

B. A state facility may, following the notice in accordance with subsection A, conduct a search for an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual, which may include another state facility if the state facility notified in accordance with subsection A is unable to provide temporary detention and appropriate care for the individual. Under no circumstances shall a state facility fail or refuse to admit an individual who meets the criteria for temporary detention pursuant to § **37.2-809** unless an alternative facility that is able to provide temporary detention and appropriate care agrees to accept the individual for temporary detention and the individual shall not during the duration of the temporary detention order be released from custody except for purposes of transporting the individual to the state facility or alternative facility in accordance with the provisions of § **37.2-810**. If an alternative facility is identified and agrees to accept the individual for temporary detention, the state facility shall notify the community services board, and an employee or designee of the community services board shall designate the alternative facility on the prescreening report.

C. *A state facility may conduct a search for an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual in accordance with subsection B if the individual is in the custody of an alternative transportation provider.*

D. The facility of temporary detention designated in accordance with this section shall be one that has been approved pursuant to regulations of the Board.

§ **37.2-810**. Transportation of person in the temporary detention process.

A. In specifying the primary law-enforcement agency and jurisdiction for purposes of this section, the magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the person resides, or any other willing law-enforcement agency that has agreed to provide transportation, to execute the order and, in cases in which transportation is ordered to be provided by the primary law-enforcement agency, provide transportation. However, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation.

B. The magistrate issuing the temporary detention order shall *(i)* specify the law-enforcement agency to execute the order and ~~provide~~ *(ii) designate a* transportation *provider*. ~~However,~~ *In determining the transportation provider,* the magistrate shall consider any request to authorize transportation by an alternative transportation provider in accordance with this section, whenever an alternative transportation provider is identified to the magistrate, which may be a person, facility, or agency, including a family member or friend of the person who is the subject of the temporary detention order, a representative of the community services board, *an employee of or person providing services pursuant to a contract with the Department,* or other transportation provider with personnel trained to provide transportation in a safe manner ~~upon~~. *Upon* determining, following consideration of information provided by the petitioner; the community services board or its designee; the local law-enforcement agency, if any; the person's treating physician, if any; or other persons who are available and have knowledge of the person, and, when the magistrate deems appropriate, the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that ~~the proposed~~ *an* alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner, *the magistrate shall designate such alternative transportation provider to provide transportation of the person. If no alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner, the magistrate shall designate the primary law-enforcement agency and jurisdiction designated to execute the temporary detention order to provide transportation of the person*.

When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order the specified law-enforcement agency to execute the order, to take the person into custody, and to transfer custody of the person to the alternative transportation provider identified in the order. *The primary law-enforcement agency may transfer custody of the person to the alternative transportation provider immediately upon execution of the temporary detention order based on the availability of alternative transportation providers. The alternative transportation provider shall maintain custody of the person from the time custody is transferred to the alternative transportation provider by the primary law-enforcement agency until such time as custody of the person is transferred to the temporary detention facility, including during any period prior to the initiation of transportation of the person from the facility to which he was transported pursuant to § **37.2-808** and while transportation is being provided pursuant to this section.*

In such cases, a copy of the temporary detention order shall accompany the person being transported pursuant to this section at all times and shall be delivered by the alternative transportation provider to the temporary detention facility. The temporary detention facility shall return a copy of the temporary detention order to the court designated by the magistrate as soon as is practicable. Delivery of an order to a law-enforcement officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

The order may include transportation of the person to such other medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

C. If an alternative transportation provider providing transportation *or maintaining custody* of a person who is the subject of a temporary detention order becomes unable to continue providing transportation *or maintaining custody* of the person at any time after taking custody of the person, the primary law-enforcement agency for the jurisdiction in which the alternative transportation provider is located at the time he becomes unable to continue providing transportation *or maintaining custody* shall take custody of the person and shall transport the person to the facility of temporary detention. In such cases, a copy of the temporary detention order shall accompany the person being transported and shall be delivered to and returned by the temporary detention facility in accordance with the provisions of subsection B.

D. In cases in which an alternative facility of temporary detention is identified and the law-enforcement agency or alternative transportation provider identified to provide transportation in accordance with subsection B continues to have custody of the person, the local law-enforcement agency or alternative transportation provider shall transport the person to the alternative facility of temporary detention identified by the employee or designee of the community services board. In cases in which an alternative facility of temporary detention is identified and custody of the person has been transferred from the law-enforcement agency or alternative transportation provider that provided transportation in accordance with subsection B to the initial facility of temporary detention, the employee or designee of the community services board shall request, and a magistrate may enter an order specifying, an alternative transportation provider or, if no alternative transportation provider is available, willing, and able to provide transportation in a safe manner, the local law-enforcement agency for the jurisdiction in which the person resides or, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located, to provide transportation.

E. The magistrate may change the transportation provider specified in a temporary detention order at any time prior to the initiation of transportation of a person who is the subject of a temporary detention order pursuant to this section. If the designated transportation provider is changed by the magistrate at any time after the temporary detention order has been executed but prior to the initiation of transportation, the transportation provider having custody of the person shall transfer custody of the person to the transportation provider subsequently specified to provide transportation. For the purposes of this subsection, "transportation provider" includes both a law-enforcement agency and an alternative transportation provider.

F. A law-enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any temporary

detention order pursuant to this section. Law-enforcement agencies may enter into agreements to facilitate the execution of temporary detention orders and provide transportation.

G. No person who provides alternative transportation pursuant to this section shall be liable to the person being transported for any civil damages for ordinary negligence in acts or omissions that result from providing such alternative transportation.

2. That the Department of Behavioral Health and Developmental Services shall amend an existing contract or enter into a new contract for alternative custody of persons who are subject to temporary detention orders, to the extent funding for such alternative custody is available.

Virginia Freedom of Information Act; disclosure of certain criminal records. Provides that (i) criminal investigative files relating to a criminal investigation or proceeding that is not ongoing are excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act, though they may be disclosed by the custodian of such records to certain individuals except as otherwise provided in the bill, and (ii) with the exception of disclosure to an attorney representing a petitioner or inspection by an attorney or a person proceeding pro se in a petition for a writ of habeas corpus or writ of actual innocence or any other federal or state post-conviction proceeding or pardon, no criminal investigative file or portion thereof shall be disclosed to any requester except (a) the victim; (b) the victim's immediate family members, if the victim is deceased and the immediate family member to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation; or (c) the victim's parent or guardian, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding, unless the public body has made reasonable efforts to notify any such individual of the request for such information. Upon receipt of notice that a public body has received a request for criminal investigative files, such persons shall have 14 days to file in an appropriate court for an injunction to prevent disclosure of the records and the time period within which the public body has to respond to the underlying request shall be tolled pending the notification process and any subsequent disposition by the court. The bill requires the court to consider certain information in making its determination and provides that a public body shall be prohibited from responding to the request until at least 14 days have passed from the time notice was received by any such individual listed in clauses (a), (b), or (c) and shall not disclose any criminal investigative files if the court awards an injunction. This bill incorporates **HB 890.**

CHAPTER 386

*An Act to amend and reenact § **2.2-3706.1** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **8.01-622.2**, relating to the Virginia Freedom of Information Act; disclosure of certain criminal records.*

[H 734]
Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **2.2-3706.1** of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered **8.01-622.2** as follows:

§ **2.2-3706.1**. Disclosure of law-enforcement records; criminal incident information and certain criminal investigative files; limitations.

A. For purposes of this section:

"Criminal investigative files" means any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution, other than criminal incident information subject to disclosure in accordance with subsection B.

~~"Immediate family"~~ *"Family representative"* means the decedent's personal representative or, if no personal representative *as set forth in § **64.2-100*** has qualified, the decedent's next of kin in order of intestate succession as set forth in § **64.2-200**.

"Immediate family members" means the decedent's family representative, spouse, child, sibling, parent, grandparent, or grandchild. "Immediate family members" include a stepparent, stepchild, stepsibling, and adoptive relationships.

"Ongoing" refers to a case in which the prosecution has not been finally adjudicated, the investigation continues to gather evidence for a possible future criminal case, and such case would be jeopardized by the premature release of evidence.

B. All public bodies engaged in criminal law-enforcement activities shall provide ~~the following~~ records and information when requested in accordance with the provisions of this chapter~~:~~

~~1. Criminal~~ *regarding criminal* incident information relating to felony offenses contained in any report, notes, electronic communication, or other document, including filings through an incident-based reporting system, which shall include:

~~a.~~ *1.* A general description of the criminal activity reported;

~~b.~~ *2.* The date and time the alleged crime was committed;

~~c.~~ *3.* The general location where the alleged crime was committed;

~~d.~~ *4.* The identity of the investigating officer or other point of contact; *and*

~~e.~~ *5.* A description of any injuries suffered or property damaged or stolen~~; and~~

~~f. Any diagrams related to the alleged crime or the location where the alleged crime was committed, except that any diagrams described in subdivision 14 of § 2.2-3705.2 and information therein shall be excluded from mandatory disclosure, but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law~~.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of this ~~subdivision 1; and~~ *subsection.*

~~2. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, initial incident reports, filings through any incident-based reporting system, diagrams, maps, photographs, correspondence, reports, witness statements, or evidence, relating to a criminal investigation or proceeding that is not ongoing.~~

C. *Criminal investigative files relating to an ongoing criminal investigation or proceeding are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except as provided in subsection E or where such disclosure is prohibited by law.*

D. Criminal investigative files relating to a criminal investigation or proceeding that is not ongoing are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except as provided in subsection E; however, such records shall be disclosed, by request, to (i) the victim; (ii) the victim's immediate family members, if the victim is deceased and the immediate family member to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding; (iii) the parent or guardian of the victim, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding; (iv) an attorney representing a petitioner in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon; and (v) for the

sole purpose of inspection at the location where such records are maintained by the public body that is the custodian of the records, (a) an attorney or his agent when such attorney is considering representing a petitioner in a post-conviction proceeding or pardon, (b) an attorney who provides a sworn declaration that the attorney has been retained by an individual for purposes of pursuing a civil or criminal action and has a good faith basis to believe that the records being requested are material to such action, or (c) a person who is proceeding pro se in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ ***19.2-327.2*** *et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon, who provides a sworn affidavit that the records being requested are material to such action. An attorney or his agent who is in receipt of criminal investigative files or has inspected criminal investigative files pursuant to clause (iv) or (v) shall not release such criminal investigative files or any information contained therein except as necessary to provide adequate legal advice or representation to a person whom the attorney either represents or is considering representing in a post-conviction proceeding or pardon or represents in a civil or criminal action.*

An attorney who is in receipt of criminal investigative files pursuant to clause (iv) shall return the criminal investigative files to the public body that is the custodian of such records within 90 days of a final determination of any writ of habeas corpus, writ of actual innocence, or other federal or state post-conviction proceeding or pardon or, if no petition for such writ or post-conviction proceeding or pardon was filed, within six months of the attorney's receipt of the records.

No disclosure for the purpose of inspection pursuant to clause (v) (c) of this subsection shall be made unless an appropriate circuit court has reviewed the affidavit provided and determined the records requested are material to the action being pursued. The court shall order the person not to disclose or otherwise release any information contained in a criminal investigative file except as necessary for the pending action and may include other conditions as appropriate.

E. The provisions of ~~subsection B~~ *subsections C and D* shall not apply if the release of such information:

1. Would interfere with a particular ongoing criminal investigation or proceeding in a particularly identifiable manner;

2. Would deprive a person of a right to a fair trial or an impartial adjudication;

3. Would constitute an unwarranted invasion of personal privacy;

4. Would disclose (i) the identity of a confidential source or (ii) in the case of a record compiled by a law-enforcement agency in the course of a criminal investigation, information furnished only by a confidential source;

5. Would disclose law-enforcement investigative techniques and procedures, if such disclosure could reasonably be expected to risk circumvention of the law; or

6. Would endanger the life or physical safety of any individual.

Nothing in this subsection shall be construed to authorize the withholding of those portions of such information that are unlikely to cause any effect listed herein.

~~D.~~ *F. Notwithstanding the provisions of subsection C or D, no criminal investigative file or portion thereof, except disclosure of records under clause (iv) of subsection D or clause (v) (a) of subsection D, shall be disclosed to any requester pursuant to this section, unless the public body has made reasonable efforts to notify (i) the victim; (ii) the victim's immediate family members, if the victim is deceased and the immediate family member to be notified is not a person of interest or a suspect in the criminal investigation or proceeding; or (iii) the victim's parent or guardian, if the victim is a minor and the parent or guardian to be notified is not a person of interest or a suspect in the criminal investigation or proceeding.*

*Upon receipt of notice that a public body has received a request for criminal investigative files pursuant to this section, an individual listed in clause (i), (ii), or (iii) shall have 14 days to file in an appropriate court a petition for an injunction to prevent the disclosure of the records as set forth in § **8.01-622.2**. The public body shall not respond to the request until at least 14 days has passed from the time notice was received by an individual listed in clause (i), (ii), or (iii). The period within which the public body shall respond to the underlying request pursuant to § **2.2-3704** shall be tolled pending the notification process and any subsequent disposition by the court.*

G. No photographic, audio, video, or other record depicting a victim or allowing for a victim to be readily identified shall be released pursuant to subsection C or D to anyone except (i) the victim; (ii) the victim's family representative, if the victim is deceased and the family representative to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding; or (iii) the victim's parent or guardian, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding.

H. Nothing in this section shall prohibit the disclosure of current anonymized, aggregate location and demographic data collected pursuant to § **52-30.2** or similar data documenting law-enforcement officer encounters with members of the public.

~~No photographic, audio, video, or other record depicting a victim or allowing for a victim to be readily identified, except for transcripts of recorded interviews between a victim and law enforcement, shall be released pursuant to subdivision B 2 to anyone except (i) the victim; (ii) members of the immediate family of the victim, if the victim is deceased; or (iii) the parent or guardian of the victim, if the victim is a minor.~~

~~E.~~ *I.* In the event of a conflict between this section as it relates to requests made under this section and other provisions of law, the other provisions of law, including court sealing orders, that restrict disclosure of criminal investigative files~~, as defined in subsection B,~~ shall control.

*§ **8.01-622.2**. Injunction against disclosure of criminal investigative file materials under the Virginia Freedom of Information Act.*

*Except with respect to the disclosure of records under clause (iv) of subsection D or clause (v) (a) of subsection D of § **2.2-3706.1**, an injunction may be awarded to prevent the disclosure of records related to criminal investigative files requested under § **2.2-3706.1** of the Virginia Freedom of Information Act (§ **2.2-3700** et seq.).*

In making its determination, a court shall consider the following and shall enter its findings on the record:

1. Whether disclosure of the public records would constitute an unreasonable invasion of personal privacy;

2. Whether disclosure of the public records would endanger the life or physical safety of any individual;

*3. Whether disclosure of the public records would subject (i) the victim; (ii) the victim's immediate family members as set forth in § **2.2-3706.1**, if the victim is deceased and the immediate family member is not a person of interest or a suspect in the criminal investigation or proceeding; or (iii) the parent or guardian of the victim, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding, to severe mental or emotional distress; and*

4. Any other factor or information deemed by the court to be relevant.

Exempted vehicles; insurance. Requires motor vehicles, trailers, and semi-trailers exempted from the registration requirement to be covered by motor vehicle insurance; a general liability policy; or an umbrella or excess insurance policy. The bill requires the owner of any such motor vehicle, trailer, or semi-trailer to provide proof of insurance within 30 days when requested by a law-enforcement officer and provides that failure to do so is punishable as a traffic infraction by a fine of $600 to be paid into the Uninsured Motorists Fund.

CHAPTER 736

*An Act to amend and reenact § **46.2-684.1** of the Code of Virginia, relating to exempted vehicles; insurance.*

[S 733]

Approved April 27, 2022

Be it enacted by the General Assembly of Virginia:

1. That § **46.2-684.1** of the Code of Virginia is amended and reenacted as follows:

§ **46.2-684.1**. Insurance coverage and proof of insurance for exempted motor vehicles.

~~If a~~ *A. Any* motor vehicle, trailer, or semi-trailer that is exempt from motor vehicle registration requirements pursuant to this article ~~is~~ *shall be* insured under a ~~policy other than a~~ *general liability policy that includes personal injury liability insurance as defined in § **38.2-117** and property damage liability insurance as defined in § **38.2-118**, under a* policy of motor vehicle insurance as defined in § **38.2-124**, *or under an umbrella or excess insurance policy. Any* such *umbrella or excess* insurance policy shall not be required to comply with the provisions of Chapter 22 (§ **38.2-2200** et seq.) of Title 38.2 of the Code of Virginia that relate to the ownership, maintenance, or use of the exempt motor vehicle, trailer, or semi-trailer.

*B. Any person who owns a motor vehicle, trailer, or semi-trailer that is exempt from motor vehicle registration requirements pursuant to this article may be required by a law-enforcement officer to furnish proof that such motor vehicle, trailer, or semi-trailer is insured as required in subsection A. Failure to furnish proof of insurance when required by a law-enforcement officer as provided in this section within 30 days shall constitute a traffic infraction punishable by a $600 fine that shall be paid into the Uninsured Motorists Fund created pursuant to § **38.2-3000**.*

Threats and harassment of certain officials and property; venue. Removes provisions that allow certain crimes relating to threats and harassment to be prosecuted in the City of Richmond if venue cannot otherwise be established and (i) the victim is the Governor, Governor-elect, Lieutenant Governor, Lieutenant Governor-elect, Attorney General, or Attorney General-elect, a member or employee of the General Assembly, a justice of the Supreme Court of Virginia, or a judge of the Court of Appeals of Virginia and (ii) such official or employee was threatened or harassed while engaged in the performance of his public duties or because of his position with the Commonwealth. The bill also removes provisions that allow threats to damage property to be prosecuted in the City of Richmond if (a) venue cannot otherwise be established and (b) the threatened property is owned by the Commonwealth and located in the Capitol District.

CHAPTER 336

*An Act to amend and reenact §§ **18.2-60**, **18.2-60.1**, **18.2-83**, **18.2-152.7:1**, and **18.2-430** of the Code of Virginia, relating to threats and harassment of certain officials and property; venue.*

[H 350]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **18.2-60**, **18.2-60.1**, **18.2-83**, **18.2-152.7:1**, and **18.2-430** of the Code of Virginia are amended and reenacted as follows:

§ **18.2-60**. Threats of death or bodily injury to a person or member of his family; threats of death or bodily injury to persons on school property; threats of death or bodily injury to health care providers; penalty.

A. 1. Any person who knowingly communicates, in a writing, including an electronically transmitted communication producing a visual or electronic message, a threat to kill or do bodily injury to a person, regarding that person or any member of his family, and the threat places such person in reasonable apprehension of death or bodily injury to himself or his family member, is guilty of a Class 6 felony. However, any person who violates this subsection with the intent to commit an act of terrorism as defined in § **18.2-46.4** is guilty of a Class 5 felony.

2. Any person who communicates a threat, in a writing, including an electronically transmitted communication producing a visual or electronic message, to kill or do bodily harm, (i) on the grounds or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or secondary school-sponsored event or (iii) on a school bus to any person or persons, regardless of whether the person who is the object of the threat actually receives the threat, and the threat would place the person who is the object of the threat in reasonable apprehension of death or bodily harm, is guilty of a Class 6 felony.

3. Any person 18 years of age or older who communicates a threat in writing, including an electronically transmitted communication producing a visual or electronic message, to another to kill or to do serious bodily injury to any other person and makes such threat with the intent to (i) intimidate a civilian population at large; (ii) influence the conduct or activities of a government, including the government of the United States, a state, or a locality, through intimidation; or (iii) compel the emergency evacuation, or avoidance, of any place of assembly, any building or other structure, or any means of mass transportation is guilty of a Class 5 felony. Any person younger than 18 years of age who commits such offense is guilty of a Class 1 misdemeanor.

B. Any person who orally makes a threat to kill or to do bodily injury to (i) any employee of any elementary, middle, or secondary school, while on a school bus, on school property, or at a school-sponsored activity or (ii)

any health care provider as defined in § **8.01-581.1** who is engaged in the performance of his duties in a hospital as defined in § **18.2-57** or in an emergency room on the premises of any clinic or other facility rendering emergency medical care, unless the person is on the premises of the hospital or emergency room of the clinic or other facility rendering emergency medical care as a result of an emergency custody order pursuant to § **37.2-808**, involuntary temporary detention order pursuant to § **37.2-809**, involuntary hospitalization order pursuant to § **37.2-817**, or emergency custody order of a conditionally released acquittee pursuant to § **19.2-182.9**, is guilty of a Class 1 misdemeanor.

C. A prosecution pursuant to this section may be either in the county, city, or town in which the communication was made or received ~~or in the City of Richmond if venue cannot otherwise be established and the person threatened is one of the following officials or employees of the Commonwealth and such official or employee was threatened while engaged in the performance of his public duties or because of his position with the Commonwealth: the Governor, Governor-elect, Lieutenant Governor, Lieutenant Governor-elect, Attorney General, or Attorney General-elect, a member or employee of the General Assembly, a justice of the Supreme Court of Virginia, or a judge of the Court of Appeals of Virginia~~.

§ **18.2-60.1**. Threatening the Governor or his immediate family.

Any person who shall knowingly and willfully send, deliver or convey, or cause to be sent, delivered or conveyed, to the Governor or his immediate family any threat to take the life of or inflict bodily harm upon the Governor or his immediate family, whether such threat be oral or written, is guilty of a Class 6 felony. ~~A violation of this section may be prosecuted in the jurisdiction in which the communication was made or received or in the City of Richmond if venue cannot otherwise be established.~~

§ **18.2-83**. Threats to bomb or damage buildings or means of transportation; false information as to danger to such buildings, etc.; punishment; venue.

A. Any person (i) who makes and communicates to another by any means any threat to bomb, burn, destroy or in any manner damage any place of assembly, building or other structure, or any means of transportation, or (ii) who communicates to another, by any means, information, knowing the same to be false, as to the existence of any peril of bombing, burning, destruction or damage to any such place of assembly, building or other structure, or any means of transportation, is guilty of a Class 5 felony, provided, however, that if such person is under 15 years of age, he is guilty of a Class 1 misdemeanor.

B. A violation of this section may be prosecuted either in the jurisdiction from which the communication was made or in the jurisdiction where the communication was received ~~or in the City of Richmond if venue cannot otherwise be established and the property threatened is owned by the Commonwealth and located within the Capitol District~~.

§ **18.2-152.7:1**. Harassment by computer; penalty.

If any person, with the intent to coerce, intimidate, or harass any person, shall use a computer or computer network to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act, he is guilty of a Class 1 misdemeanor. ~~A violation of this section may be prosecuted in the jurisdiction in which the communication was made or received or in the City of Richmond if venue cannot otherwise be established and the person subjected to the act is one of the following officials or employees of the Commonwealth and such official or employee was~~

~~subjected to the act while engaged in the performance of his public duties or because of his position with the Commonwealth: the Governor, Governor-elect, Lieutenant Governor, Lieutenant Governor-elect, Attorney General, or Attorney General-elect, a member or employee of the General Assembly, a justice of the Supreme Court of Virginia, or a judge of the Court of Appeals of Virginia.~~

§ **18.2-430**. Venue for offenses under this article.

Any person violating any of the provisions of this article may be prosecuted either in the county or city from which he called or in the county or city in which the call was received~~, or in the City of Richmond if venue cannot otherwise be established and the person subjected to the act is one of the following officials or employees of the Commonwealth and such official or employee was subjected to the act while engaged in the performance of his public duties or because of his position with the Commonwealth: the Governor, Governor-elect, Lieutenant Governor, Lieutenant Governor-elect, Attorney General, or Attorney General-elect, a member or employee of the General Assembly, a justice of the Supreme Court of Virginia or a judge of the Court of Appeals of Virginia~~.

Facial recognition technology; authorized uses; penalty. Authorizes local law-enforcement agencies, campus police departments, and the Department of State Police (the Department) to use facial recognition technology for certain authorized uses as defined in the bill. The bill requires that the appropriate facial recognition technology be determined by the Division of Purchases and Supply and that such facial recognition technology be evaluated by the National Institute of Standards and Technology and have an accuracy score of at least 98 percent true positives across all demographic groups. The bill directs the Department to develop a model policy regarding the investigative uses of facial recognition technology, including training requirements and protocols for handling requests for assistance in the use of facial recognition technology made to the Department by local law-enforcement agencies and campus police departments, to be posted publicly no later than January 1, 2023, and requires local law-enforcement agencies or campus police departments that use facial recognition technology to either adopt the Department's model policy or develop an individual policy that meets or exceeds the standards set by the Department's model policy. The bill directs local law-enforcement agencies, campus police departments, and the Department to collect and maintain certain data related to the use of facial recognition technology and to publish an annual report to provide information to the public regarding the agency's use of facial recognition technology. The bill clarifies that any match made through facial recognition technology shall not be used in an affidavit to establish probable cause for the purposes of a search or arrest warrant. Additionally, any facial recognition technology operator employed by a local law-enforcement agency, campus police department, or the Department who violates the agency's or department's policy for the use of facial recognition technology or conducts a search for any reason other than those authorized by the bill is guilty of a Class 3 misdemeanor for a first offense, and is guilty of a Class 1 misdemeanor for a second or subsequent offense.

CHAPTER 737

*An Act to amend and reenact §§ **15.2-1723.2** and **23.1-815.1** of the Code of Virginia and to amend the Code of Virginia by adding a section numbered **52-4.5**, relating to facial recognition technology; Department of State Police and authorized uses; report; penalty.*

[S 741]

Approved April 27, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **15.2-1723.2** and **23.1-815.1** of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered **52-4.5** as follows:

§ **15.2-1723.2**. Facial recognition technology; approval; penalty.

A. For purposes of this section~~, "facial~~:

"Authorized use" means the use of facial recognition technology to (i) help identify an individual when there is a reasonable suspicion the individual has committed a crime; (ii) help identify a crime victim, including a victim of online sexual abuse material; (iii) help identify a person who may be a missing person or witness to criminal activity; (iv) help identify a victim of human trafficking or an individual involved in the trafficking of humans, weapons, drugs, or wildlife; (v) help identify an online recruiter of criminal activity, including but not limited to human, weapon, drug, and wildlife trafficking; (vi) help a person who is suffering from a mental or physical disability impairing his ability to communicate and be understood; (vii) help identify a deceased person; (viii) help identify a person who is incapacitated or otherwise unable to identify himself; (ix) help identify a person who is reasonably believed to be a danger to himself or others; (x) help identify an individual lawfully detained; (xi) help mitigate an imminent threat to public safety, a significant threat to life, or a threat to national security, including acts of terrorism; (xii) ensure officer safety as part of the vetting of undercover law enforcement; (xiii) determine whether an individual may have unlawfully obtained one or more state driver's licenses, financial instruments, or other official forms of identification using information that is fictitious or associated with a

victim of identity theft; or (xiv) help identify a person who an officer reasonably believes is concealing his true identity and about whom the officer has a reasonable suspicion has committed a crime other than concealing his identity.

"Facial recognition technology" means an electronic system *or service* for ~~enrolling, capturing, extracting, comparing, and matching an individual's geometric facial data to identify individuals in photos, videos, or real time~~ *conducting an algorithmic comparison of images of a person's facial features for the purpose of identification*. "Facial recognition technology" does not include the use of an automated or semi-automated process to redact a recording in order to protect the privacy of a subject depicted in the recording prior to release or disclosure of the recording outside of the law-enforcement agency if the process does not generate or result in the retention of any biometric data or surveillance information.

"Publicly post" means to post on a website that is maintained by the entity or on any other website on which the entity generally posts information and that is available to the public or that clearly describes how the public may access such data.

"State Police Model Facial Recognition Technology Policy" means the model policy developed and published by the Department of State Police pursuant to § 52-4.5.

B. ~~No~~ *Pursuant to § 2.2-1112, the Division of Purchases and Supply (the Division) shall determine the appropriate facial recognition technology for use in accordance with this section. The Division shall not approve any facial recognition technology unless it has been evaluated by the National Institute of Standards and Technology (NIST) as part of the Face Recognition Vendor Test. Any facial recognition technology utilized shall utilize algorithms that have demonstrated (i) an accuracy score of at least 98 percent true positives within one or more datasets relevant to the application in a NIST Face Recognition Vendor Test report and (ii) minimal performance variations across demographics associated with race, skin tone, ethnicity, or gender. The Division shall require all approved vendors to annually provide independent assessments and benchmarks offered by NIST to confirm continued compliance with this section.*

C. A local law-enforcement agency ~~shall purchase or deploy~~ *may use* facial recognition technology ~~unless such purchase or deployment of facial recognition technology is expressly authorized by statute~~ *for authorized uses*. ~~For purposes of this section, a statute that does not refer to facial recognition technology shall not be construed to provide express authorization. Such statute shall require that any facial recognition technology purchased or deployed by the local law-enforcement agency be maintained under the exclusive control of such local law-enforcement agency and that any data contained by such facial recognition technology be kept confidential, not be disseminated or resold, and be accessible only by a search warrant issued pursuant to Chapter 5 (§ 19.2-52 et seq.) of Title 19.2 or an administrative or inspection warrant issued pursuant to law.~~ *A match made through facial recognition technology shall not be included in an affidavit to establish probable cause for purposes of issuance of a search warrant or an arrest warrant but shall be admissible as exculpatory evidence. A local law-enforcement agency shall not (i) use facial recognition technology for tracking the movements of an identified individual in a public space in real time; (ii) create a database of images using a live video feed for the purpose of using facial recognition technology; or (iii) enroll a comparison image in a commercial image repository of a facial recognition technology service provider except pursuant to an authorized use. Following such use as provided in clause (iii), no comparison image may be retained or used further by the service provider except as required for auditing that use or as may be otherwise required by law.*

~~C.~~ *D. A local law-enforcement agency shall publicly post and annually update its policy regarding the use of facial recognition technology before employing such facial recognition technology to investigate a specific criminal incident or citizen welfare situation. A local law-enforcement agency that uses facial recognition technology may adopt the State Police Model Facial Recognition Technology Policy. If a local law-enforcement agency uses facial recognition technology but does not adopt such model policy, such agency shall develop its own policy within 90 days of publication of the State Police Model Facial Recognition Technology Policy that meets or exceeds the standards set forth in such model policy. A local law-enforcement agency shall not utilize any facial recognition technology until after the publication of the State Police Model Facial Recognition Technology Policy and after publication of the agency's policy regarding the use of facial recognition technology.*

E. Any local law-enforcement agency that uses facial recognition technology shall maintain records sufficient to facilitate discovery in criminal proceedings, post-conviction proceedings, public reporting, and auditing of compliance with such agency's facial recognition technology policies. Such agency shall collect data pertaining to (i) a complete history of each user's queries; (ii) the total number of queries conducted; (iii) the number of queries that resulted in a list of possible candidates; (iv) how many times an examiner offered law enforcement an investigative lead based on his findings; (v) how many cases were closed due to an investigative lead from facial recognition technology; (vi) what types of criminal offenses are being investigated; (vii) the nature of the image repository being compared or queried; (viii) demographic information for the individuals whose images are queried; and (ix) if applicable, any other entities with which the agency shared facial recognition data.

F. Any chief of police whose agency uses facial recognition technology shall publicly post and annually update a report by April 1 each year to provide information to the public regarding the agency's use of facial recognition technology. The report shall include all data required by clauses (ii) through (viii) of subsection E in addition to (i) all instances of unauthorized access of the facial recognition technology, including any unauthorized access by employees of the agency; (ii) vendor information, including the specific algorithms employed; and (iii) if applicable, data or links related to third-party testing of such algorithms, including any reference to variations in demographic performance. If any information or data (a) contains an articulable concern for any person's safety; (b) is otherwise prohibited from public disclosure by federal or state statute; or (c) if disclosed, may compromise sensitive criminal justice information, such information or data may be excluded from public disclosure. Nothing herein shall limit disclosure of data collected pursuant to subsection E when such disclosure is related to a writ of habeas corpus.

For purposes of this subsection, "sensitive criminal justice information" means information related to (1) a particular ongoing criminal investigation or proceeding, (2) the identity of a confidential source, or (3) law-enforcement investigative techniques and procedures.

G. At least 30 days prior to procuring facial recognition technology, a local law-enforcement agency shall notify in writing the governing body of the locality that such agency serves of such intended procurement, but such notice shall not be required if such procurement is directed by the governing body.

H. Nothing in this section shall apply to commercial air service airports.

I. Any facial recognition technology operator employed by a local law-enforcement agency who (i) violates the agency's policy for the use of facial recognition technology or (ii) conducts a search for any reason other than an authorized use is guilty of a Class 3 misdemeanor and shall be required to complete training on the agency's policy on and authorized uses of facial recognition technology before being reinstated to operate such facial

recognition technology. The local law-enforcement agency shall terminate from employment any facial recognition technology operator who violates clause (i) or (ii) for a second time. A facial recognition technology operator who commits a second or subsequent violation of this subsection is guilty of a Class 1 misdemeanor.

§ **23.1-815.1**. Facial recognition technology; approval; penalty.

A. For purposes of this ~~subsection, "facial~~ *section:*

"Authorized use" means the use of facial recognition technology to (i) help identify an individual when there is a reasonable suspicion the individual has committed a crime; (ii) help identify a crime victim, including a victim of online sexual abuse material; (iii) help identify a person who may be a missing person or witness to criminal activity; (iv) help identify a victim of human trafficking or an individual involved in the trafficking of humans, weapons, drugs, or wildlife; (v) help identify an online recruiter of criminal activity, including but not limited to human, weapon, drug, and wildlife trafficking; (vi) help a person who is suffering from a mental or physical disability impairing his ability to communicate and be understood; (vii) help identify a deceased person; (viii) help identify a person who is incapacitated or otherwise unable to identify himself; (ix) help identify a person who is reasonably believed to be a danger to himself or others; (x) help identify an individual lawfully detained; (xi) help mitigate an imminent threat to public safety, a significant threat to life, or a threat to national security, including acts of terrorism; (xii) ensure officer safety as part of the vetting of undercover law enforcement; (xiii) determine whether an individual may have unlawfully obtained one or more state driver's licenses, financial instruments, or other official forms of identification using information that is fictitious or associated with a victim of identity theft; or (xiv) help identify a person who an officer reasonably believes is concealing his true identity and about whom the officer has a reasonable suspicion has committed a crime other than concealing his identity.

"Facial recognition technology" means an electronic system *or service* for ~~enrolling, capturing, extracting, comparing, and matching an individual's geometric facial data to identify individuals in photos, videos, or real time~~ *conducting an algorithmic comparison of images of a person's facial features for the purpose of identification*. "Facial recognition technology" does not include the use of an automated or semi-automated process to redact a recording in order to protect the privacy of a subject depicted in the recording prior to release or disclosure of the recording outside of the law-enforcement agency if the process does not generate or result in the retention of any biometric data or surveillance information.

"Publicly post" means to post on a website that is maintained by the entity or on any other website on which the entity generally posts information and that is available to the public or that clearly describes how the public may access such data.

*"State Police Model Facial Recognition Technology Policy" means the model policy developed and published by the Department of State Police pursuant to § **52-4.5**.*

B. ~~No~~ *Pursuant to § **2.2-1112**, the Division of Purchases and Supply (the Division) shall determine the appropriate facial recognition technology for use in accordance with this section. The Division shall not approve any facial recognition technology unless it has been evaluated by the National Institute of Standards and Technology (NIST) as part of the Face Recognition Vendor Test. Any facial recognition technology utilized shall utilize algorithms that have demonstrated (i) an accuracy score of at least 98 percent true positives within one or more datasets relevant to the application in a NIST Face Recognition Vendor Test report and (ii) minimal performance variations across demographics associated with race, skin tone, ethnicity, or gender. The Division*

shall require all approved vendors to annually provide independent assessments and benchmarks offered by NIST to confirm continued compliance with this section.

C. A campus police department ~~shall purchase or deploy~~ *may use* facial recognition technology ~~unless such purchase or deployment of facial recognition technology is expressly authorized by statute~~ *for authorized uses*. ~~For purposes of this section, a statute that does not refer to facial recognition technology shall not be construed to provide express authorization. Such statute shall require that any facial recognition technology purchased or deployed by the campus police department be maintained under the exclusive control of such campus police department and that any data contained by such facial recognition technology be kept confidential, not be disseminated or resold, and be accessible only by a search warrant issued pursuant to Chapter 5 (§ 19.2-52 et seq.) of Title 19.2 or an administrative or inspection warrant issued pursuant to law.~~ *A match made through facial recognition technology shall not be included in an affidavit to establish probable cause for purposes of issuance of a search warrant or an arrest warrant but shall be admissible as exculpatory evidence. A campus police department shall not (i) use facial recognition technology for tracking the movements of an identified individual in a public space in real time; (ii) create a database of images using a live video feed for the purpose of using facial recognition technology; or (iii) enroll a comparison image in a commercial image repository of a facial recognition technology service provider except pursuant to an authorized use. Following such use as provided in clause (iii), no comparison image may be retained or used further by the service provider except as required for auditing that use or as may be otherwise required by law.*

D. A campus police department shall publicly post and annually update its policy on use of facial recognition technology before employing such facial recognition technology to investigate a specific criminal incident or citizen welfare situation. A campus police department that uses facial recognition technology may adopt the State Police Model Facial Recognition Technology Policy. If a campus police department uses facial recognition technology but does not adopt the State Police Model Facial Recognition Technology Policy, such department shall develop its own policy within 90 days of publication of the State Police Model Facial Recognition Technology Policy that meets or exceeds the standards set forth in such model policy. Any policy adopted or developed pursuant to this subsection shall be updated annually. A campus police department shall not utilize any facial recognition technology until after the publication of the State Police Model Facial Recognition Technology Policy and after publication of the department's policy regarding use of facial recognition technology.

E. Any campus police department that uses facial recognition technology shall maintain records sufficient to facilitate discovery in criminal proceedings, post-conviction proceedings, public reporting, and auditing of compliance with such department's facial recognition technology policies. Such department that uses facial recognition technology shall collect data pertaining to (i) a complete history of each user's queries; (ii) the total number of queries conducted; (iii) the number of queries that resulted in a list of possible candidates; (iv) how many times an examiner offered campus police an investigative lead based on his findings; (v) how many cases were closed due to an investigative lead from facial recognition technology; (vi) what types of criminal offenses are being investigated; (vii) the nature of the image repository being compared or queried; (viii) demographic information for the individuals whose images are queried; and (ix) if applicable, any other entities with which the department shared facial recognition data.

F. Any chief of a campus police department whose department uses facial recognition technology shall publicly post and annually update a report by April 1 each year to provide information to the public regarding the department's use of facial recognition technology. The report shall include all data required by clauses (ii) through (viii) of subsection E in addition to (i) all instances of unauthorized access of the facial recognition

technology, including any unauthorized access by employees of the campus police department; (ii) vendor information, including the specific algorithms employed; and (iii) if applicable, data or links related to third-party testing of such algorithms, including any reference to variations in demographic performance. If any information or data (a) contains an articulable concern for any person's safety; (b) is otherwise prohibited from public disclosure by federal or state statute; or (c) if disclosed, may compromise sensitive criminal justice information, such information or data may be excluded from public disclosure. Nothing herein shall limit disclosure of data collected pursuant to subsection E when such disclosure is related to a writ of habeas corpus.

For purposes of this subsection, "sensitive criminal justice information" means information related to (1) a particular ongoing criminal investigation or proceeding, (2) the identity of a confidential source, or (3) law-enforcement investigative techniques and procedures.

G. At least 30 days prior to procuring facial recognition technology, a campus police department shall notify in writing the institution of higher education that such department serves of such intended procurement, but such notice shall not be required if such procurement is directed by the institution of higher education.

H. Any facial recognition technology operator employed by a campus police department who (i) violates the department's policy for the use of facial recognition technology or (ii) conducts a search for any reason other than an authorized use is guilty of a Class 3 misdemeanor and shall be required to complete training on the department's policy on and authorized uses of facial recognition technology before being reinstated to operate such facial recognition technology. The campus police department shall terminate from employment any facial recognition technology operator who violates clause (i) or (ii) for a second time. A facial recognition technology operator who commits a second or subsequent violation of this subsection is guilty of a Class 1 misdemeanor.

§ 52-4.5. Facial recognition technology; authorized uses; Department to establish a State Police Model Facial Recognition Technology Policy; penalty.

A. For purposes of this section:

"Authorized use" means the use of facial recognition technology to (i) help identify an individual when there is a reasonable suspicion the individual has committed a crime; (ii) help identify a crime victim, including a victim of online sexual abuse material; (iii) help identify a person who may be a missing person or witness to criminal activity; (iv) help identify a victim of human trafficking or an individual involved in the trafficking of humans, weapons, drugs, or wildlife; (v) help identify an online recruiter of criminal activity, including but not limited to human, weapon, drug, and wildlife trafficking; (vi) help a person who is suffering from a mental or physical disability impairing his ability to communicate and be understood; (vii) help identify a deceased person; (viii) help identify a person who is incapacitated or otherwise unable to identify himself; (ix) help identify a person who is reasonably believed to be a danger to himself or others; (x) help identify an individual lawfully detained; (xi) help mitigate an imminent threat to public safety, a significant threat to life, or a threat to national security, including acts of terrorism; (xii) ensure officer safety as part of the vetting of undercover law enforcement; (xiii) determine whether an individual may have unlawfully obtained one or more state driver's licenses, financial instruments, or other official forms of identification using information that is fictitious or associated with a victim of identity theft; or (xiv) help identify a person who an officer reasonably believes is concealing his true identity and about whom the officer has a reasonable suspicion has committed a crime other than concealing his identity.

"Facial recognition technology" means an electronic system or service for conducting an algorithmic comparison of images of a person's facial features for the purpose of identification. "Facial recognition technology" does not include the use of automated or semi-automated process to redact a recording in order to protect the privacy of a subject depicted in the recording prior to release or disclosure of the recording outside of the law-enforcement agency if the process does not generate or result in the retention of any biometric data or surveillance information.

"Publicly post" means to post on a website that is maintained by the entity or on any other website on which the entity generally posts information and that is available to the public or that clearly describes how the public may access such data.

*B. Pursuant to § **2.2-1112**, the Division of Purchases and Supply (the Division) shall determine the appropriate facial recognition technology for use in accordance with this section. The Division shall not approve any facial recognition technology unless it has been evaluated by the National Institute of Standards and Technology (NIST) as part of the Face Recognition Vendor Test. Any facial recognition technology utilized shall utilize algorithms that have demonstrated (i) an accuracy score of at least 98 percent true positives within one or more datasets relevant to the application in a NIST Face Recognition Vendor Test report and (ii) minimal performance variations across demographics associated with race, skin tone, ethnicity, or gender. The Division shall require all approved vendors to annually provide independent assessments and benchmarks offered by NIST to confirm continued compliance with this section.*

C. The Department shall create a model policy regarding the use of facial recognition technology, which shall be known as the State Police Model Facial Recognition Technology Policy, and shall, as a part of such model policy, administer protocols for handling requests for assistance in the use of facial recognition technology made to the Department by local law-enforcement agencies and campus police departments. The Department shall publicly post such policy no later than January 1, 2023, and such policy shall be updated annually thereafter and shall include:

1. Requirements for training facilitated through the Department, including the nature and frequency of specialized training required for an individual to be authorized by a law-enforcement agency to utilize facial recognition technology as authorized by this section;

2. The extent to which a law-enforcement agency shall document (i) instances when facial recognition technology is used for authorized purposes and (ii) how long such information is retained;

3. Procedures for the confirmation of any initial findings generated by facial recognition technology by a secondary examiner; and

4. Promulgation of standing orders, policies, or public materials by law-enforcement agencies that use facial recognition technology.

D. The Department may use facial recognition technology for authorized uses. A match made through facial recognition technology shall not be included in an affidavit to establish probable cause for purposes of issuance of a search warrant or an arrest warrant but shall be admissible as exculpatory evidence. The Department shall not (i) use facial recognition technology for tracking the movements of an identified individual in a public space in real time; (ii) create a database of images using a live video feed for the purpose of using facial recognition technology; or (iii) enroll a comparison image in a commercial image repository of a facial recognition

technology service provider except pursuant to an authorized use. Following such use as provided in clause (iii), no comparison image may be retained or used further by the service provider except as required for auditing that use or as may be otherwise required by law.

E. The Department shall maintain records regarding its use of facial recognition technology. Such records shall be sufficient to facilitate discovery in criminal proceedings, post-conviction proceedings, public reporting, and auditing of compliance with the Department's policy. The Department shall collect data pertaining to (i) a complete history of each user's queries; (ii) the total number of queries conducted; (iii) the number of queries that resulted in a list of possible candidates; (iv) how many times an examiner offered the Department an investigative lead based on his findings; (v) how many cases were closed due to an investigative lead from facial recognition technology; (vi) what types of criminal offenses are being investigated; (vii) the nature of the image repository being compared or queried; (viii) demographic information for the individuals whose images are queried; and (ix) if applicable, any other entities with which the Department shared facial recognition data.

F. The Superintendent shall publicly post and annually update a report by April 1 each year to provide information to the public regarding the Department's use of facial recognition technology. The report shall include all data required by clauses (ii) through (viii) of subsection E in addition to (i) all instances of unauthorized access of the facial recognition technology, including any unauthorized access by employees of the Department; (ii) vendor information, including the specific algorithms employed; and (iii) if applicable, data or links related to third-party testing of such algorithms, including any reference to variations in demographic performance. If any information or data (a) contains an articulable concern for any person's safety; (b) is otherwise prohibited from public disclosure by federal or state statute; or (c) if disclosed, may compromise sensitive criminal justice information, such information or data may be excluded from public disclosure. Nothing herein shall limit disclosure of data collected pursuant to subsection E when such disclosure is related to a writ of habeas corpus.

For purposes of this subsection, "sensitive criminal justice information" means information related to (1) a particular ongoing criminal investigation or proceeding, (2) the identity of a confidential source, or (3) law-enforcement investigative techniques and procedures.

G. Any facial recognition technology operator employed by the Department who (i) violates the Department's policy for the use of facial recognition technology or (ii) conducts a search for any reason other than an authorized use is guilty of a Class 3 misdemeanor and shall be required to complete training on the Department's policy on and authorized uses of facial recognition technology before being reinstated to operate such facial recognition technology. The Department shall terminate from employment any facial recognition technology operator who violates clause (i) or (ii) for a second time. A facial recognition technology operator who commits a second or subsequent violation of this subsection is guilty of a Class 1 misdemeanor.

2. That the Department of Criminal Justice Services (the Department) shall analyze and report on the usage data of facial recognition technology reported and published by local law-enforcement agencies, campus police departments, and the Department of State Police pursuant to the provisions of this act. The Department shall include in its report an analysis of and recommendations for (i) improving the use of facial recognition technology as it relates to demographics associated with race, skin tone, ethnicity, and gender; (ii) specialized training, data storage, data retention, and the use of a second examiner pursuant to the State Police Model Facial Recognition Technology Policy established by § **52-4.5** of the Code of Virginia, as created by this act; and (iii) investigations and investigative outcomes related to the accuracy of identification across different demographic

groups. The Department shall submit its report to the Chairmen of the Senate Committee on the Judiciary and the House Committee on Public Safety by November 1, 2025.

3. That the provisions of this act shall expire on July 1, 2026.

Receipt of critically missing adult reports; Virginia Critically Missing Adult Alert Program; definition. Expands the definition of "critically missing adult" to include any missing adult, including an adult who has a developmental disability, intellectual disability, or mental illness, 18 years of age or older for the purpose of receipt of critically missing adult reports by a police or sheriff's department and the Virginia Critically Missing Adult Alert Program administered by the Department of State Police and removes from the Program the eligibility requirement that the adult is believed to have been abducted. This bill is identical to **SB 49.**

CHAPTER 394

*An Act to amend and reenact §§ **15.2-1718.2** and **52-34.10** of the Code of Virginia, relating to receipt of critically missing adult reports.*

[H 1060]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That §§ **15.2-1718.2** and **52-34.10** of the Code of Virginia are amended and reenacted as follows:

§ **15.2-1718.2**. Receipt of critically missing adult reports.

A. No police or sheriff's department shall establish or maintain any policy that requires the observance of any waiting period before accepting a critically missing adult report. Upon receipt of a critically missing adult report by any police or sheriff's department, the department shall immediately, but in all cases within two hours of receiving the report, enter identifying and descriptive data about the critically missing adult into the Virginia Criminal Information Network and the National Crime Information Center Systems, forward the report to the Department of State Police, notify all other law-enforcement agencies in the area, and initiate an investigation of the case.

B. For purposes of this section:

"Critically missing adult" means any missing adult ~~21~~, *including an adult who has a developmental disability, intellectual disability, or mental illness as those terms are defined in § **37.2-100**, 18* years of age or older whose disappearance indicates a credible threat to the health and safety of the adult~~,~~ as determined by a law-enforcement agency and under such other circumstances as deemed appropriate after consideration of all known circumstances.

"Critically missing adult report" means a report prepared in a format prescribed by the Superintendent of State Police for use by law-enforcement agencies to report critically missing adult information, including a photograph, to the Department of State Police.

§ **52-34.10**. Definitions.

As used in this chapter:

"Critically missing adult" means an adult ~~(i)~~, *including an adult who has a developmental disability, intellectual disability, or mental illness as those terms are defined in § **37.2-100**, 18 years of age or older* whose whereabouts are unknown~~, (ii) who is believed to have been abducted,~~ and ~~(iii)~~ whose disappearance poses a credible threat as determined by a law-enforcement agency to the health and safety of the adult and under such other circumstances as deemed appropriate by the Virginia State Police.

"Critically missing adult alert" means the notice of a critically missing adult provided to the public by the media or other methods under a Critically Missing Adult Alert Agreement.

"Critically Missing Adult Alert Agreement" means a voluntary agreement between law-enforcement officials and members of the media whereby an adult will be declared missing, and the public will be notified by media outlets, and includes all other incidental conditions of the partnership as found appropriate by the Virginia State Police.

"Critically Missing Adult Alert Program" means the procedures and Critically Missing Adult Alert Agreements to aid in the identification and location of a critically missing adult.

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

MISCELLANEOUS – SUMMARY ONLY

HB1129 and SB 600 – § 22.1-279.8 – School safety audits; law-enforcement officers. Requires each local school board to require its schools to collaborate with the chief law-enforcement officer of the locality or his designee when conducting required school safety audits. Under current law, the division superintendent is required to make the results of such audits available to the chief law-enforcement officer upon request. The bill also requires that the completed walk-through checklist using the standardized checklist provided by the Virginia Center for School and Campus Safety be made available to the chief law-enforcement officer of the locality or his designee. Current law requires that the completed walk-through checklist be made available to the chief law-enforcement officer or his designee upon request. This bill is identical to **SB 600.**

HB748 and SB150 – §§ 9.1-176.1, 9.1-903, 16.1-237, 19.2-303, 19.2-303.3, 19.2-310.2, 19.2-310.3, 19.2-310.3:1, and 53.1-145 – Department of Forensic Science; DNA data bank sample tracking system. Replaces certain references in the Code to the Local Inmate Data System with references to the Department of Forensic Science DNA data bank sample tracking system. This bill is identical to **SB 150.**

HB283 and SB467 – § 9.1-102 – Human trafficking training for law-enforcement personnel. Requires the Department of Criminal Justice Services to establish training standards for law-enforcement personnel regarding the recognition, prevention, and reporting of human trafficking. This bill is identical to **SB 467.**

HB756 and SB614 – § 19.2-121 – Bail for a person accused of a crime that is an act of violence; notice to attorney for the Commonwealth. Requires a magistrate to transmit within 24 hours a copy of the checklist for bail determination form to the attorney for the Commonwealth when a magistrate conducts a bail hearing for a person arrested on a warrant or capias for an act of violence. The bill also provides that transmission of such copy to the attorney for the Commonwealth may be by facsimile or other electronic means. This bill is identical to **SB 614.**

HB342 – §§ 52-12 through 52-20 – Virginia State Police communication system. Removes obsolete language relating to the teletype system formerly used by the Virginia State Police. The bill contains technical amendments. This bill is a recommendation of the Virginia Code Commission.

HB733 and SB316 – §§ 63.2-104, 63.2-105 and adding 66-10.3 – Juvenile records; identification of children receiving coordinated services. Provides that, for the purpose of disclosing records, information, and statistical registries of the Department of Social Services, local departments of social services, and all child-welfare agencies concerning social services, a person having a legitimate interest in child-protective services records includes the staff of (i) a court services unit, (ii) the Department of Juvenile Justice, (iii) a local community services board, or (iv) the Department of Behavioral Health and Developmental Services who are providing treatment, services, or care for a child who is the subject of such records for a purpose relevant to the provision of the treatment, services, or care when the local agencies have entered into a formal agreement with the Department of Juvenile Justice to provide coordinated services to such children. The bill provides that such formal agreements may allow the local agencies and the Department of Juvenile Justice to immediately identify children who may be receiving or who have received treatment, services, or care from the local agencies and the Department of Juvenile Justice. The bill also provides that the Department of Juvenile Justice shall develop and biennially update a model memorandum of understanding setting forth the respective roles and responsibilities of the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Services, the Department of Social Services, the court service units, the local departments of social services, and the community services boards or behavioral health authorities regarding the sharing of information derived from juvenile records for purposes of identifying juveniles who may be receiving or who have received treatment, services, or care from the local agencies, the Department of Juvenile Justice, or the Department of Behavioral Health and Developmental Services. The bill provides that the model memorandum of understanding developed by the Department of Juvenile Justice may satisfy the requirement for a formal agreement, but it shall be reviewed by the Office of the Attorney General before such agreement takes effect. As introduced, this bill was a recommendation of the Commission on Youth. This bill is identical to **SB 316.**

HB1112 – § 28.2-302.2 – Virginia Marine Resources Commission; saltwater fishing licenses. Requires the Virginia Marine Resources Commission to provide an option to purchase a multiyear recreational saltwater fishing license.

HB750 and SB327 – §§ 2.2-5516, and adding 15.2-1609.11, 15.2-1710.1, and 52-11.6 – Arrest and summons quotas; prohibition. Prohibits (i) any agency of the Commonwealth or director or chief executive of any agency or department employing law-enforcement officers, (ii) any sheriff, (iii) any police force, or (iv) the Department of State Police from establishing a formal or informal quota that requires a law-enforcement officer to make a specific number of arrests or issue a specific number of summonses within a designated period of time. The bill also provides that the number of arrests made or summonses issued by a law-enforcement officer shall not be used as the sole criterion for evaluating the law-enforcement officer's job performance. This bill is identical to **SB 327.**

HB1282 – § 19.2-386.14 – **Sharing of forfeited assets; promoting law enforcement.** Specifies that the forfeited property and assets paid to the state treasury into a special fund of the Department of Criminal Justice Services that shall be made available to federal, state, and local agencies to promote law enforcement may include expenditures to strengthen the relationships between the community and law enforcement, encourage goodwill between the community and law enforcement, or promote cooperation with law enforcement.

SB152 – §§ 2.2-3701 and 30-179 – Virginia Freedom of Information Act and Virginia Freedom of Information Advisory Council; definition; official public government website. Defines "official public government website" as it applies to the Virginia Freedom of Information Act and the Virginia Freedom of Information Advisory Council as any Internet site controlled by a public body and used, among any other purposes, to post required notices and other content pursuant to the Virginia Freedom of Information Act on behalf of the public body. This bill is a recommendation of the Virginia Freedom of Information Advisory Council.

HB671 – § 19.2-152.10:1 – Pharmaceutical processors. Amends the definition of "cannabis oil" by removing the requirement that only oil from industrial hemp be used in the formulation of cannabis oil. The bill removes the Board of Pharmacy patient registration requirement for medical cannabis but maintains the requirement that patients obtain written certification from a health care provider for medical cannabis. The bill directs the Board to promulgate numerous regulations related to pharmaceutical processors by September 15, 2022. This bill is identical to **HB 933.**

HB813 and SB328 – §§ 2.2-5515, 15.2-1721.1, and 52-11.3 – **Acquisition of certain military property by law-enforcement agencies.** Changes the limitation on the acquisition or purchase of military property by a law-enforcement agency from firearms of .50 caliber or higher to rifles of .50 caliber or higher and from ammunition of .50 caliber or higher to rifle ammunition of .50 caliber or higher. This bill is identical to **SB 328.**

HB282 and SB409 – §§ 54.1-114 and 54.1-204 – Department of Professional and Occupational Regulation; effect of criminal convictions on licensure; data to be included in biennial report. Provides for consideration of certain factors to be made by any regulatory board through an individualized assessment prior to denying an application for licensure, certification, or registration for any occupation or profession regulated by the Department of Professional and Occupational Regulation where such denial was made in whole or in part upon the existence of the applicant's criminal record. The provisions of the bill do not become effective unless reenacted by the 2023 Session of the General Assembly, and the bill requires, beginning July 1, 2025, the Department to include certain data related to the criminal history of applicants to each regulatory board in its biennial report. This bill is identical to **SB 409** and contains technical amendments.

HB497 and SB124 – §§ 64.2-1608 and 64.2-1621 and adding 18.2-178.2 – Misuse of power of attorney; financial exploitation; incapacitated adults; penalty. Makes it a Class 1 misdemeanor for an agent under a power of attorney to knowingly or intentionally engage in financial exploitation of an incapacitated adult who is

the principal of that agent. The bill also provides that the agent's authority terminates upon such conviction. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference. This bill is identical to **SB 124.**

HB719 and SB658 – §§ 19.2-11.8 and 19.2-11.11 – Physical evidence recovery kits; victim's right to notification; storage. Provides that for a physical evidence recovery kit that (i) was collected by the Office of the Chief Medical Examiner as part of a routine death investigation and the medical examiner and the law-enforcement agency agree that analysis is not warranted, (ii) was determined by the law-enforcement agency not to be connected to a criminal offense, or (iii) is connected to an offense that occurred outside of the Commonwealth or another law-enforcement agency has taken over responsibility of the investigation and such kit is not transferred to another law-enforcement agency, the law-enforcement agency that received the physical evidence recovery kit shall store such kit for a period of 10 years or until 10 years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. The bill provides that after the mandatory retention period, the law-enforcement agency may destroy the physical evidence recovery kit, or in its discretion, may elect to retain the physical evidence recovery kit for a longer period of time. The bill also provides that when a state or local law-enforcement agency located within the Commonwealth has taken over responsibility for the investigation related to the physical evidence recovery kit, unless one of the other exceptions for submitting such kit to the Department of Forensic Science applies, the physical evidence recovery kit shall be transferred to such law-enforcement agency and such law-enforcement agency shall submit the physical evidence recovery kit to the Department of Forensic Science within 60 days of receipt from the original receiving law-enforcement agency.

The bill also requires the law-enforcement agency to inform the victim, parent, guardian, or next of kin of the unique identification number assigned to the physical evidence recovery kit utilized by the health care provider and the personal identification number required to view the status of the physical evidence recovery kit and provide information regarding the Physical Evidence Recovery Kit Tracking System, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or next of kin shall be informed of the estimated date on which the information may be disclosed, if known. This bill is identical to **SB 658.**

HB731 and SB149 – § 16.1-301 – **Juvenile law-enforcement records; inspection.** Provides that a juvenile, the parent, guardian, or other custodian of the juvenile, and counsel for the juvenile may inspect a law-enforcement record concerning such juvenile if (i) no other law or rule of the Supreme Court of Virginia requires or allows withholding of the record; (ii) the parent, guardian, or other custodian requesting the record is not a suspect, offender, or person of interest in the record; and (iii) any identifying information of any other involved juveniles is redacted. This bill is identical to **SB 149.**

SB468 – §§ 9.1-404 and 9.1-405 – Virginia Retirement System; Line of Duty Act; medical reviews to be conducted by Virginia practitioners. Provides that, for any medical review of a claim made pursuant to the provisions of the Line of Duty Act, the Virginia Retirement System shall require that such review be conducted by a doctor, nurse, or psychologist who is licensed in Virginia or a contiguous state. The bill has a delayed effective date of July 1, 2023.

SB743 – §§ 9.1-1000 and 52-9.1:1 – Former law-enforcement officers; retention of identification and badge. Provides that a former law-enforcement officer with at least 10 years of service who has been diagnosed with post-traumatic stress disorder or is disabled shall, upon request, be issued a photo identification and badge indicating that he honorably served, both of which will be mounted by the employing department or agency in such a manner that it will be impossible for anyone to carry it on his person.

HB216 and SB57 – § 2.2-310 – State and Local Government Conflict of Interests Act; definition of gift; certain tickets and registration or admission fees. Exempts from the definition of gift tickets and registration or admission fees to an event that are provided by an agency to its own officers or employees for the purposes of performing official duties related to the officer's or employee's public service. This bill is identical to **SB 57.**

HB444 – §§ 2.2-2455, 2.2-3701, 2.2-3707, 2.2-3707.01, 2.2-3708.2, 2.2-3714, 10.1-1322.01, 15.2-1627.4, 23.1-1301, 23.1-2425, 30-179, and 62.1-44.15:02 and adding 2.2-3708.3 – Virginia Freedom of Information Act; meetings conducted through electronic communication means. Amends existing provisions concerning electronic meetings by keeping the provisions for electronic meetings held in response to declared states of emergency, repealing the provisions that are specific to regional and state public bodies, and allowing certain public bodies to conduct all-virtual public meetings where all of the members who participate do so remotely and that the public may access through electronic communications means. The bill excepts local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and any board with the authority to deny, revoke, or suspend a professional or occupational license from the provisions that allow public bodies to conduct all-virtual public meetings. Definitions, procedural requirements, and limitations for all-virtual public meetings are set forth in the bill, along with technical amendments. The bill has a delayed effective date of September 1, 2022.

SB593 – §§ 15.2-1731, 15.2-1734, 15.2-1735, 15.2-1736, 37.2-808, and 37.2-810 – Custody and transportation of persons subject to emergency custody or temporary detention order; alternative custody; auxiliary police officers. Allows auxiliary police officers to provide transportation for a person subject to an emergency custody or temporary detention order. The bill also directs the Department of Criminal Justice Services to establish compulsory minimum training standards for auxiliary police officers who are called into service solely for the purpose of providing transportation for such person subject to an emergency custody order or providing transportation for a person in the temporary detention process.

SB577 – § 37.2-408.1 – Children's residential facilities; criminal history background checks. Allows a person who is required to undergo a background check as a condition of employment at a children's residential facility to be employed by the children's residential facility pending the results of the check of the central registry of child abuse and neglect records maintained by the Department of Social Services, provided that (i) the person has received qualifying results on the fingerprint-based criminal history background check, (ii) the person does not work in the children's residential facility or any other location where children placed in such facility are present, and (iii) such employment is permitted under federal law and regulations. This bill incorporates **SB 728.**

SB17 – § 9.1-116 – Employment of retired law-enforcement officers; exemption from certain training requirements. Provides that the Director of the Department of Criminal Justice Services shall exempt a law-enforcement officer who has demonstrated sensitivity to cultural diversity issues, had previous experience and training as a law-enforcement officer, is currently receiving or is eligible to receive a service retirement allowance, and has a break in service of no longer than 60 calendar months between retirement and new employment as a law-enforcement officer from the mandatory attendance of all courses that are required for the successful completion of the compulsory minimum training standards established by the Criminal Justice Services Board.

HB307 – §§ 2.2-3704 and 2.2-3704.1 – Virginia Freedom of Information Act; estimated charges; exception for certain scholastic. Provides that a public body subject to the Virginia Freedom of Information Act shall make all reasonable efforts to supply records requested by a citizen at the lowest possible cost; however, no such public body shall charge for the provision of certain scholastic records, outlined in the bill. The bill requires a public body, prior to conducting a search for records, to notify the requester in writing of the public body's right to make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. Finally, the bill provides that any costs incurred by a public body in estimating the cost of supplying requested records shall be applied toward the overall charges to be paid by the requester for the supplying of such records.

HB1332 and SB700 – § 18.2-473.2 – Covering a security camera in a correctional facility; penalty. Provides that any person who intentionally covers, removes, damages, renders inoperable, or otherwise obscures a security camera, as defined in the bill, without the permission of the sheriff, jail superintendent, warden, or Director of the Department of Corrections or Department of Juvenile Justice is guilty of a Class 1 misdemeanor. The bill also provides that any person who intentionally covers, removes, damages, renders inoperable, or otherwise obscures a security camera with the intent of inhibiting or preventing a security camera from recording or transmitting a photograph, motion picture, or other digital image of the commission of a felony is guilty of a Class 6 felony. This bill is identical to **SB 700.**

HB1273 – § 29.1-516.2 – Hunting with dogs; dogs to wear tags. Requires that any dog engaged in lawful hunting wear a substantial collar with a tag attached that identifies the name of the owner or custodian of the dog and a current phone number.

HB386 and SB131 – § 46.2-1239.1 – Potomac River Bridge Towing Compact. Adds the Arland D. Williams, Jr. Memorial Bridge to the Potomac River bridges subject to the Potomac River Bridge Towing Compact to facilitate the prompt and orderly removal of disabled and abandoned vehicles from the bridges by giving the District of Columbia, Maryland, and Virginia appropriate authority anywhere on the bridges. The effective date of this amendment to the Compact is contingent upon enactment of substantially similar legislation by the State of Maryland and the District of Columbia. The bill contains technical amendments. This bill is identical to **SB 131.**

HB1290 and SB764 – §§ 2.2-603, 2.2-2009, and 2.2-5514 – Public bodies; security of government databases and data communications. Requires every public body to report to the Virginia Fusion Intelligence Center all known incidents that threaten the security of the Commonwealth's data or communications or result in exposure of data protected by federal or state laws and all other incidents compromising the security of the public body's information technology systems with the potential to cause major disruption to normal activities of the public body or other public bodies. The bill requires such reports to be made to the Virginia Fusion Intelligence Center within 24 hours of the discovery of the incident and that the Virginia Fusion Intelligence Center share such reports with the Chief Information Officer promptly upon receipt. The bill requires the Chief Information Officer to convene a work group to review current cybersecurity reporting and information sharing practices and report any legislative recommendations to the Governor and the Chairmen of the Senate Committee on General Laws and Technology and the House Committee on Communications, Technology and Innovation by November 15, 2022. This bill is identical to **SB 764.**

HB1191 and SB361 – §§ 9.1-193 and 37.2-311.1 – Marcus alert system; participation. Extends the date by which localities shall establish voluntary databases to be made available to the 9-1-1 alert system and the Marcus alert system to provide relevant mental health information and emergency contact information for appropriate response to an emergency or crisis from July 1, 2021, to July 1, 2023, and provides an exemption to the requirement that localities establish protocols for local law-enforcement agencies to enter into memorandums of agreement with mobile crisis response providers regarding requests for law-enforcement back-up during mobile crisis or community care team response and minimum standards, best practices, and a system for the review and approval of protocols for law-enforcement participation in the Marcus alert system for localities with a population that is less than or equal to 40,000, so that localities with a population that is less than or equal to 40,000 may but are not required to establish such protocols. The bill also requires the Department of Behavioral Health and Developmental Services to include in its annual report to the Governor and the Chairmen of the House Committees for Courts of Justice and on Health, Welfare and Institutions, the Senate Committees on the Judiciary and Education and Health, and the Behavioral Health Commission information regarding barriers to establishment of local Marcus alert programs and community care or mobile crisis teams to provide mobile crisis response in geographical areas served by community services boards or behavioral health agencies in which such programs and teams have not been established and a plan for addressing such barriers. This bill is identical to **SB 361.**

SB649 – §16.1-301 – Juvenile law-enforcement records; disclosures to school principals. Changes from discretionary to mandatory that the chief of police of a city or chief of police or sheriff of a county disclose to a school principal all instances where a juvenile at the principal's school has been charged with a violent juvenile felony, an arson offense, or a concealed weapon offense and adds an offense that requires a juvenile intake officer to make a report with the school division superintendent to the list of such instances that must be disclosed to a school principal for the protection of the juvenile, his fellow students, and school personnel.