

025274604

**HOUSE BILL NO. 1120**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Appropriations  
on February 9, 2002)

(Patrons Prior to Substitute—Delegates Albo, Griffith [HB453], Purkey [HBs 32 and 58], Woodrum [HB 38])

*A BILL to amend and reenact §§ 2.2-511, 18.2-18, 18.2-31, 18.2-52.1, 18.2-60, 18.2-85, 19.2-61, 19.2-66, 19.2-68, 19.2-70.2, 19.2-120, 19.2-215.1, 19.2-294 and 19.2-386.1 through 19.2-386.5, 24.2-233, and 52-8.5 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 18.2 an article numbered 2.2, consisting of sections numbered 18.2-46.4 through 18.2-46.9, relating to terrorism, etc.; penalties.*

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

**1. That §§ 2.2-511, 18.2-18, 18.2-31, 18.2-52.1, 18.2-60, 18.2-85, 18.2-144, 19.2-61, 19.2-66, 19.2-68, 19.2-70.2, 19.2-120, 19.2-215.1, 19.2-294 and 19.2-386.1 through 19.2-386.5, 24.2-233, and 52-8.5 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 4 of Title 18.2 an article numbered 2.2, consisting of sections numbered 18.2-46.4 through 18.2-46.9, as follows:**

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (ix) of this subsection, and (xi) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same and (xii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing and disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

§ 18.2-18. How principals in second degree and accessories before the fact punished.

In the case of every felony, every principal in the second degree and every accessory before the fact

HOUSE  
SUBSTITUTE

HB1120H1

60 may be indicted, tried, convicted and punished in all respects as if a principal in the first degree;  
 61 provided, however, that except in the case of a killing for hire under the provisions of subdivision 2 of  
 62 § 18.2-31 or a killing pursuant to the direction or order of one who is engaged in a continuing criminal  
 63 enterprise under the provisions of subdivision 10 of § 18.2-31; *or a killing pursuant to the direction or*  
 64 *order of one who is engaged in the commission of or attempted commission of an act of terrorism under*  
 65 *the provisions of subdivision 13 of § 18.2-31, an accessory before the fact or principal in the second*  
 66 *degree to a capital murder shall be indicted, tried, convicted and punished as though the offense were*  
 67 *murder in the first degree.*

68 § 18.2-31. Capital murder defined; punishment.

69 The following offenses shall constitute capital murder, punishable as a Class 1 felony:

70 1. The willful, deliberate, and premeditated killing of any person in the commission of abduction, as  
 71 defined in § 18.2-48, when such abduction was committed with the intent to extort money or a  
 72 pecuniary benefit or with the intent to defile the victim of such abduction;

73 2. The willful, deliberate, and premeditated killing of any person by another for hire;

74 3. The willful, deliberate, and premeditated killing of any person by a prisoner confined in a state or  
 75 local correctional facility as defined in § 53.1-1, or while in the custody of an employee thereof;

76 4. The willful, deliberate, and premeditated killing of any person in the commission of robbery or  
 77 attempted robbery;

78 5. The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent  
 79 to, rape or attempted rape, forcible sodomy or attempted forcible sodomy or object sexual penetration;

80 6. The willful, deliberate, and premeditated killing of a law-enforcement officer as defined in  
 81 § 9.1-101 or any law-enforcement officer of another state or the United States having the power to arrest  
 82 for a felony under the laws of such state or the United States, when such killing is for the purpose of  
 83 interfering with the performance of his official duties;

84 7. The willful, deliberate, and premeditated killing of more than one person as a part of the same act  
 85 or transaction;

86 8. The willful, deliberate, and premeditated killing of more than one person within a three-year  
 87 period;

88 9. The willful, deliberate, and premeditated killing of any person in the commission of or attempted  
 89 commission of a violation of § 18.2-248, involving a Schedule I or II controlled substance, when such  
 90 killing is for the purpose of furthering the commission or attempted commission of such violation;

91 10. The willful, deliberate, and premeditated killing of any person by another pursuant to the  
 92 direction or order of one who is engaged in a continuing criminal enterprise as defined in subsection I  
 93 of § 18.2-248;

94 11. The willful, deliberate and premeditated killing of a pregnant woman by one who knows that the  
 95 woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy  
 96 without a live birth; ~~and~~

97 12. The willful, deliberate and premeditated killing of a person under the age of fourteen by a person  
 98 age twenty-one or older; *and*

99 13. *The willful, deliberate and premeditated killing of any person by another in the commission of or*  
 100 *attempted commission of an act of terrorism as defined in § 18.2-46.4.*

101 If any one or more subsections, sentences, or parts of this section shall be judged unconstitutional or  
 102 invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof but shall  
 103 be confined in its operation to the specific provisions so held unconstitutional or invalid.

#### 104 Article 2.2.

#### 105 Terrorism Offenses.

##### 106 § 18.2-46.4. Definitions.

107 *As used in this article unless the context requires otherwise or it is otherwise provided:*

108 "*Act of terrorism*" means an act of violence as defined in subdivision A (i) of § 19.2-297.1 committed  
 109 with the intent to (i) intimidate the civilian population at large; or (ii) influence the conduct or activities  
 110 of the government of the United States, a state or locality through intimidation .

111 "*Base offense*" means an act of violence as defined in subdivision A (i) of § 19.2-297.1 committed  
 112 with the intent required to commit an act of terrorism.

113 "*Weapon of terrorism*" means any device that is designed, intended or used to cause death, serious  
 114 bodily injury or serious bodily harm, through the release, dissemination, or impact of (i) poisonous  
 115 chemicals; (ii) an infectious biological substance; or (iii) release of radiation or radioactivity.

116 §18.2-46.5. *Conspiring and aiding and abetting acts of terrorism prohibited; penalty.*

117 A. Any person who conspires to commit, or aids and abets the commission of an act of terrorism, as  
 118 defined in § 18.2-46.4, is guilty of a Class 2 felony if the base offense of such act of terrorism may be  
 119 punished by life imprisonment, or a term of imprisonment of not less than twenty years.

120 B. Any person who conspires to commit, or aids and abets the commission of an act of terrorism, as  
 121 defined in § 18.2-46.4, is guilty of a Class 3 felony if the maximum penalty for the base offense of such

122 act of terrorism is a term of imprisonment or incarceration in jail of less than twenty years.  
123 § 18.2-46.6. Possession, manufacture, distribution, etc. of weapon of terrorism or hoax  
124 device prohibited; penalty.

125 A. Any person who, with the intent to commit an act of terrorism, possesses, uses, sells, gives,  
126 distributes or manufactures (i) a weapon of terrorism or (ii) a "fire bomb," "explosive material," or  
127 "device," as those terms are defined in § 18.2-85, shall be guilty of a Class 2 felony.

128 B. Any person who, with the intent to commit an act of terrorism, possesses, uses, sells, gives,  
129 distributes or manufactures any device or material that by its design, construction, content or  
130 characteristics appears to be or appears to contain a (i) weapon of terrorism or (ii) a "fire  
131 bomb," "explosive material," or "device," as those terms are defined in § 18.2-85, but that is an imitation  
132 of any such weapon of terrorism, "fire bomb," "explosive material," or "device" shall be guilty of a Class  
133 3 felony.

134 C. Any person who constructs, uses, places, sends, or causes to be sent any hoax weapon of  
135 terrorism so as to intentionally cause another person to believe that such device or material is a  
136 weapon of terrorism is guilty of a Class 6 felony.

137 § 18.2-46.7. Venue.

138 Venue for any violation of this article may be had in the county or city where such crime is alleged  
139 to have occurred or where any act in furtherance of an act prohibited by this article was committed.

140 § 18.2-46.8. Seizure of property used in connection with or derived from terrorism.

141 A. The following property shall be subject to lawful seizure by any law-enforcement officer charged  
142 with enforcing the provisions of this article: all moneys or other property, real or personal, together  
143 with any interest or profits derived from the investment of such money and used in substantial  
144 connection with an act of terrorism as defined in § 18.2-46.4.

145 B. All seizures and forfeitures under this section shall be governed by the procedures contained in  
146 Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

147 18.2-46.9. Violation of sections within article separate and distinct offenses.

148 A violation of any section in this article shall constitute a separate and distinct offense. If the acts  
149 or activities violating any section within this article also violate another provision of law, a prosecution  
150 under any section in this article shall not prohibit or bar any prosecution or proceeding under such  
151 other provision or the imposition of any penalties provided for thereby.

152 § 18.2-52.1. Possession of infectious biological substances; penalties.

153 A. Any person who possesses, manufactures, sells, gives, distributes or uses, with the intent thereby  
154 to injure another, an infectious biological substance or radiological agent, capable of causing death,  
155 serious bodily injury or serious bodily harm, is guilty of a Class 5 felony.

156 B. Any person who destroys or damages, or attempts to destroy or damage, any facility, equipment  
157 or material involved in the sale, manufacturing, storage or distribution of an infectious biological  
158 substance or radiological agent, capable of causing death, with the intent to injure another by releasing  
159 the substance, is guilty of a Class 4 felony.

160 An "infectious biological substance" includes any bacteria, ~~virus~~ viruses, fungi, protozoa, or  
161 rickettsiae capable of causing death, serious bodily injury or serious bodily harm.

162 A "radiological agent" includes any substance able to release radiation at levels which are capable  
163 of causing death, serious bodily injury or serious bodily harm.

164 § 18.2-60. Threats of death or bodily injury to a person or member of his family; threats to commit  
165 serious bodily harm to persons on school property; penalty.

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

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

179 B. Any person who orally makes a threat to any employee of any elementary, middle or secondary  
180 school, while on a school bus, on school property or at a school-sponsored activity, to kill or to do  
181 bodily injury to such person, is guilty of a Class 1 misdemeanor.

182 A prosecution pursuant to this section may be either in the county, city or town in which the

183 communication was made or received.

184 § 18.2-85. Manufacture, possession, use, etc., of fire bombs or explosive materials or devices;  
185 penalties.

186 For the purpose of this section:

187 "Fire bomb" means any container of a flammable material such as gasoline, kerosene, fuel oil, or  
188 other chemical compound, having a wick or other substance or device which, if set or ignited, is capable  
189 of igniting such flammable material or chemical compound but does not include a similar device  
190 commercially manufactured and used solely for the purpose of illumination or cooking.

191 "Explosive material" means any chemical compound, mechanical mixture or device that is commonly  
192 used or can be used for the purpose of producing an explosion and which contains any oxidizing and  
193 combusive ignition by fire, friction, concussion, percussion, detonation or by any part of the compound  
194 or mixture may cause a sudden generation of highly heated gases. These materials include, but are not  
195 limited to, gunpowder, powders for blasting, high explosives, blasting materials, fuses (other than  
196 electric circuit breakers), detonators, and other detonating agents and smokeless powder.

197 "Device" means any instrument, apparatus or contrivance, including its component parts, that is  
198 capable of producing or intended to produce an explosion but shall not include fireworks as defined in  
199 § 59.1-142.

200 "Hoax explosive device" means any device which by its design, construction, content or  
201 characteristics appears to be or to contain a bomb or other destructive device or explosive but which is,  
202 ~~in fact,~~ an imitation of any such device or explosive.

203 Any person who (i) possesses materials with which fire bombs or explosive materials or devices can  
204 be made with the intent to manufacture fire bombs or explosive materials or devices or, (ii)  
205 manufactures, transports, distributes, possesses or uses a fire bomb or explosive materials or devices  
206 shall be guilty of a Class 5 felony. Any person who constructs, uses, places, sends, or causes to be sent  
207 any hoax explosive device so as to intentionally cause another person to believe that such device is a  
208 bomb or explosive shall be guilty of a Class 6 felony.

209 Nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use or  
210 possession of any material, substance, or device by a member of the armed forces of the United States,  
211 fire fighters or law-enforcement officers, nor shall it prohibit the manufacture, transportation,  
212 distribution, use or possession of any material, substance or device to be used solely for scientific  
213 research, educational purposes or for any lawful purpose, subject to the provisions of §§ 27-97 and  
214 27-97.2.

215 § 19.2-61. Definitions.

216 As used in this chapter:

217 "Wire communication" means any aural transfer made in whole or in part through the use of  
218 facilities for the transmission of communications by the aid of wire, cable, or other like connection,  
219 including the use of such connection in a switching station, furnished or operated by any person  
220 engaged in providing or operating such facilities for the transmission of communications ~~and includes~~  
221 ~~electronic storage of such communication;~~

222 "Oral communication" means any oral communication uttered by a person exhibiting an expectation  
223 that such communication is not subject to interception under circumstances justifying such expectations  
224 but does not include any electronic communication;

225 "Intercept" means any aural or other means of acquisition of the contents of any wire, electronic or  
226 oral communication through the use of any electronic, mechanical or other device;

227 "Electronic, mechanical or other device" means any device or apparatus which can be used to  
228 intercept a wire, electronic or oral communication other than:

229 (a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, (i)  
230 furnished to the subscriber or user by a provider of wire or electronic communication service in the  
231 ordinary course of its business and being used by the subscriber or user in the ordinary course of its  
232 business or furnished by the subscriber or user for connection to the facilities of such service and used  
233 in the ordinary course of the subscriber's or user's business; or (ii) being used by a communications  
234 common carrier in the ordinary course of its business, or by an investigative or law-enforcement officer  
235 in the ordinary course of his duties;

236 (b) A hearing aid or similar device being used to correct subnormal hearing to not better than  
237 normal;

238 "Person" means any employee or agent of the Commonwealth or a political subdivision thereof, and  
239 any individual, partnership, association, joint stock company, trust or corporation;

240 "Investigative or law-enforcement officer" means any officer of the United States or of a state or  
241 political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests  
242 for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in  
243 the prosecution of such offenses;

244 "Contents" when used with respect to any wire, electronic or oral communication, includes any

245 information concerning the substance, purport or meaning of that communication;  
 246 "Judge of competent jurisdiction" means a judge of any circuit court of the Commonwealth with  
 247 general criminal jurisdiction;  
 248 "Communications common carrier" means any person engaged as a common carrier for hire in  
 249 communication by wire or radio or in radio transmission of energy;  
 250 "Aggrieved person" means a person who was a party to any intercepted wire, electronic or oral  
 251 communication or a person against whom the interception was directed;  
 252 "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or  
 253 intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic,  
 254 photoelectronic or photooptical system. The term does not include:  
 255 1. Any wire communication or oral communication as defined herein;  
 256 2. Any communication made through a tone-only paging device; ~~or~~  
 257 3. Any communication from an electronic or mechanical device which permits the tracking of the  
 258 movement of a person or object; *or*  
 259 4. Any *electronic funds transfer information stored by a financial institution in a communications*  
 260 *system used for the electronic storage and transfer of funds;*  
 261 "User" means any person or entity who uses an electronic communication service and is duly  
 262 authorized by the provider of such service to engage in such use;  
 263 "Electronic communication system" means any wire, radio, electromagnetic, photooptical or  
 264 photoelectronic facilities for the transmission of *wire or* electronic communications, and any computer  
 265 facilities or related electronic equipment for the electronic storage of such communications;  
 266 "Electronic communication service" means any service which provides to users thereof the ability to  
 267 send or receive wire or electronic communications;  
 268 "Readily accessible to the general public" means, with respect to a radio communication, that such  
 269 communication is not (i) scrambled or encrypted, (ii) transmitted using modulation techniques whose  
 270 essential parameters have been withheld from the public with the intention of preserving the privacy of  
 271 such communication; (iii) carried on a subcarrier or other signal subsidiary to a radio transmission, (iv)  
 272 transmitted over a communication system provided by a communications common carrier, unless the  
 273 communication is a tone-only paging system communication; or (v) transmitted on frequencies allocated  
 274 under Part 25, subpart D, E, or F of Part 74, or Part 94 of the Rules of the Federal Communications  
 275 Commission, unless, in the case of a communication transmitted on a frequency allocated under Part 74  
 276 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice  
 277 communication by radio;  
 278 "Electronic storage" means any temporary, intermediate storage of a wire or electronic  
 279 communication incidental to the electronic transmission thereof and any storage of such communication  
 280 by an electronic communication service for purposes of backup protection of such communication;  
 281 "Aural transfer" means a transfer containing the human voice at any point between and including the  
 282 point of origin and the point of reception;  
 283 "Pen register" means a device *or process* which records or decodes ~~electronic or other impulses which~~  
 284 ~~identify the numbers dialed or otherwise transmitted on the telephone line to which such device is~~  
 285 ~~attached dialing, routing, addressing or signaling information transmitted by an instrument or facility~~  
 286 ~~from which a wire or electronic communication is transmitted; however, such information shall not~~  
 287 ~~include the contents of any communication.~~ The term does not include any device *or process* used by a  
 288 provider or customer of a wire or electronic communication service for billing, or recording as an  
 289 incident to billing, for communications services provided by such provider or any device *or process*  
 290 used by a provider or customer of a wire communication service for cost accounting or other like  
 291 purposes in the ordinary course of the provider's or customer's business;  
 292 "Trap and trace device" means a device *or process* which captures the incoming electronic or other  
 293 impulses ~~identifying which identify the originating number of an instrument or device from which a~~  
 294 ~~wire or electronic communication was transmitted; and/or other dialing, routing, addressing and~~  
 295 ~~signaling information reasonably likely to identify the source of a wire or electronic communication,~~  
 296 ~~however, such information shall not include the contents of any communication;~~  
 297 "Remote computing service" means the provision to the public of computer storage or processing  
 298 services by means of an electronic communications system.  
 299 § 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order  
 300 authorizing interception of communications.  
 301 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in  
 302 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a  
 303 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to  
 304 a judge of competent jurisdiction for the jurisdiction where the proposed intercept is to be made for an  
 305 order authorizing the interception of wire, electronic or oral communications by the Department of State

306 Police, when such interception may reasonably be expected to provide evidence of the commission of a  
307 felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 or  
308 § 18.2-248.1, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, *any felony violation*  
309 *of Article 2.2 (§ 18.2-46.4 et seq.) of Title 18.2*, or any conspiracy to commit any of the foregoing  
310 offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization for the  
311 observation or monitoring of the interception by a police department of a county or city or by  
312 law-enforcement officers of the United States. Such application shall be made, and such order may be  
313 granted, in conformity with the provisions of § 19.2-68. Application for installation of a mobile  
314 interception device may be made to and granted by any court of competent jurisdiction in the  
315 Commonwealth.

316 § 19.2-68. Application for and issuance of order authorizing interception; contents of order; recording  
317 and retention of intercepted communications, applications and orders; notice to parties; introduction in  
318 evidence of information obtained.

319 A. Each application for an order authorizing the interception of a wire, electronic or oral  
320 communication shall be made in writing upon oath or affirmation to the appropriate judge of competent  
321 jurisdiction and shall state the applicant's authority to make such application. Each application shall be  
322 verified by the Attorney General to the best of his knowledge and belief and shall include the following  
323 information:

324 1. The identity of the attorney for the Commonwealth and law-enforcement officer who requested the  
325 Attorney General to apply for such order;

326 2. A full and complete statement of the facts and circumstances relied upon by the applicant to  
327 justify his belief that an order should be issued, including (i) details as to the particular offense that has  
328 been, is being or is about to be committed, (ii) except as provided in subsection I, a particular  
329 description of the nature and location of the facilities from which or the place where the communication  
330 is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted,  
331 (iv) the identity of the person, if known, committing the offense and whose communications are to be  
332 intercepted;

333 3. A full and complete statement as to whether or not other investigative procedures have been tried  
334 and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

335 4. A statement of the period of time for which the interception is required to be maintained. If the  
336 nature of the investigation is such that the authorization for interception should not automatically  
337 terminate when the described type of communication has been first obtained, a particular description of  
338 facts establishing probable cause to believe that additional communications of the same type will occur  
339 thereafter;

340 5. A full and complete statement of the facts concerning all previous applications known to the  
341 individual authorizing and making the application, made to any judge for authorization to intercept wire,  
342 electronic or oral communications involving any of the same persons, facilities or places specified in the  
343 application, and the action taken by the judge on each such application;

344 6. Where the application is for the extension of an order, a statement setting forth the results thus far  
345 obtained from the interception, or a reasonable explanation of the failure to obtain such results; and

346 7. If authorization is requested for observation or monitoring by a police department of a county or  
347 city or by law-enforcement officers of the United States, a statement containing the name of the police  
348 department or United States agency, and an explanation of the reasons such observation or monitoring is  
349 necessary.

350 The judge may require the applicant to furnish additional testimony or documentary evidence in  
351 support of the application.

352 B. Upon such application the judge may enter an ex parte order, as requested or as modified,  
353 authorizing interception of wire, electronic or oral communications within the territorial jurisdiction of  
354 the court in which the judge is sitting, and outside that jurisdiction but within the Commonwealth in the  
355 case of a mobile interception device authorized by a court of competent jurisdiction within such  
356 jurisdiction, if the judge determines on the basis of the facts submitted by the applicant that:

357 1. There is probable cause for belief that an individual is committing, has committed or is about to  
358 commit an offense enumerated in § 19.2-66 of this chapter;

359 2. There is probable cause for belief that particular communications concerning that offense will be  
360 obtained through such interception;

361 3. Normal investigative procedures have been tried and have failed, or reasonably appear to be  
362 unlikely to succeed if tried, or to be too dangerous; and interception under this chapter is the only  
363 alternative investigative procedure available;

364 4. Except as provided in subsection I, there is probable cause for belief that the facilities from which,  
365 or the place where, the wire, electronic or oral communications are to be intercepted are being used, or  
366 are about to be used, in connection with the commission of such offense, or are leased to, listed in the  
367 name of, or commonly used by such person;

368 5. A wire, electronic or oral communication shall be deemed to be intercepted pursuant to subsection  
 369 B of this section in the jurisdiction where the communication is actually intercepted and the monitoring  
 370 of such intercepted communication may be at any location within the Commonwealth of Virginia. For  
 371 the purposes of this section, the definition of "intercept" means the acquisition of the contents of any  
 372 wire, electronic or oral communication through the use of any electronic, mechanical or other device.

373 C. Each order authorizing the interception of any wire, electronic or oral communication shall  
 374 specify:

375 1. The identity of the person, if known, whose communications are to be intercepted;

376 2. The nature and location of the communications facilities as to which, or the place where, authority  
 377 to intercept is granted;

378 3. A particular description of the type of communication sought to be intercepted, and a statement of  
 379 the particular offense enumerated in § 19.2-66 to which it relates;

380 4. That such interception is to be conducted only by the Department of State Police;

381 5. If observation or monitoring by the police department of a county or city or by law-enforcement  
 382 officers of the United States is authorized, only that police department or agency shall observe or  
 383 monitor the interception; and

384 6. The period of time during which such interception is authorized, including a statement as to  
 385 whether or not the interception shall automatically terminate when the described communication has  
 386 been first obtained.

387 An order authorizing the interception of a wire, electronic or oral communication shall, upon request  
 388 of the applicant, direct that a provider of wire or electronic communications service, landlord, custodian  
 389 or other person shall furnish the Department of State Police forthwith all information, facilities and  
 390 technical assistance necessary to accomplish the interception unobtrusively and with a minimum of  
 391 interference with the services that such service provider, landlord, custodian or person is providing the  
 392 person whose communications are to be intercepted. Any provider of wire or electronic communications  
 393 service, landlord, custodian or other person furnishing such facilities or technical assistance shall be  
 394 compensated therefor by the Commonwealth for reasonable and actual expenses incurred in providing  
 395 such facilities or assistance, to be paid out of the criminal fund.

396 D. No order entered under this section may authorize the interception of any wire, electronic or oral  
 397 communication for any period longer than is necessary to achieve the objective of the authorization, nor  
 398 in any event longer than thirty days which period begins to run on the earlier of the day on which the  
 399 investigative or law-enforcement officer begins to conduct an interception under the order or ten days  
 400 after the date of entry of the order. Extensions of an order may be granted, but only upon application  
 401 for an extension made in accordance with subsection A of this section and the court's making the  
 402 findings required by subsection B of this section. The period of extension shall be no longer than the  
 403 authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for  
 404 longer than thirty days. Every order and extension thereof shall contain a provision that the authorization  
 405 to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize  
 406 the interception of communications not otherwise subject to interception under this chapter, and must  
 407 terminate upon attainment of the authorized objective, or in any event in thirty days. In the event the  
 408 intercepted communication is in a code or foreign language, and an expert in that foreign language or  
 409 code is not reasonably available during the interception period, minimization may be accomplished as  
 410 soon as practicable after such interception.

411 E. Whenever an order authorizing interception is entered pursuant to this chapter, the order shall  
 412 require reports to be made to the judge who issued the order showing what progress has been made  
 413 toward achievement of the authorized objective and the need for continued interception. Such reports  
 414 shall be made at such intervals as the judge shall require.

415 F. 1. The contents of any wire, electronic or oral communication intercepted by any means  
 416 authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device.  
 417 Should it not be possible to record the intercepted communication, a detailed resume of such  
 418 communication shall forthwith be reduced to writing and filed with the court. The recording of the  
 419 contents of any wire, electronic or oral communication under this subsection shall be done in such way  
 420 as will protect the recording from editing or other alterations and shall not be duplicated except upon  
 421 order of the court as hereafter provided. Immediately upon the expiration of the period of the order, or  
 422 extensions thereof, such recording or detailed resume shall be made available to the judge issuing such  
 423 order and sealed under his directions. Custody of any recordings or detailed resumes shall be vested  
 424 with the court and shall not be destroyed for a period of ten years from the date of the order and then  
 425 only by direction of the court; provided, however, should any interception fail to reveal any information  
 426 related to the offense or offenses for which it was authorized, such recording or resume shall be  
 427 destroyed after the expiration of sixty days after the notice required by subdivision 4 of this subsection  
 428 is served. Duplicate recordings may be made for use or disclosure pursuant to the provisions of

429 subsections A and B of § 19.2-67 for investigations. The presence of the seal provided for by this  
430 subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or  
431 disclosure of the contents of any wire, electronic or oral communication or evidence derived therefrom  
432 under subsection C of § 19.2-67.

433 2. Applications made and orders granted or denied under this chapter shall be sealed by the judge.  
434 Custody of the applications and orders shall be wherever the judge directs. Such applications and orders  
435 shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall  
436 not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten  
437 years.

438 3. Any violation of the provisions of this subsection may be punished as contempt of the issuing or  
439 denying court.

440 4. Within a reasonable time but not later than ninety days after the filing of an application for an  
441 order of authorization which is denied or the termination of the period of an order or extensions thereof,  
442 the issuing or denying judge shall cause to be served, on the persons named in the order or the  
443 application, and such other parties to intercepted communications as the judge may determine in his  
444 discretion that is in the interest of justice, an inventory which shall include notice of:

445 (a) The fact of the entry of the order or the application;

446 (b) The date of the entry and the period of authorized interception, or the denial of the application;

447 (c) The fact that during the period wire, electronic or oral communications were or were not  
448 intercepted; and

449 (d) The fact that unless he files a motion with the court within sixty days after the service of notice  
450 upon him, the recordation or resume may be destroyed in accordance with subdivision 1 of this  
451 subsection.

452 The judge, upon the filing of a motion, shall make available to such person or his counsel for  
453 inspection the intercepted communications, applications and orders. The serving of the inventory  
454 required by this subsection may be postponed for additional periods, not to exceed thirty days each,  
455 upon the ex parte showing of good cause to a judge of competent jurisdiction.

456 G. The contents of any intercepted wire, electronic or oral communication or evidence derived  
457 therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing or other  
458 proceeding in a state court unless each party to the communication and to such proceeding, not less than  
459 ten days before the trial, hearing or proceeding, has been furnished with a copy of the court order,  
460 accompanying application under which the interception was authorized and the contents of any  
461 intercepted wire, electronic or oral communication that is to be used in any trial, hearing or other  
462 proceeding in a state court. This ten-day period may be waived by the judge if he finds that it was not  
463 possible to furnish the party with the above information ten days before the trial, hearing or proceeding  
464 and that the party will not be prejudiced by the delay in receiving such information; provided that such  
465 information in any event shall be given prior to the day of the trial, and the inability to comply with  
466 such ten-day period shall be grounds for the granting of a continuance to either party.

467 The judge who considers an application for an interception under this chapter, whether issuing or  
468 denying the order, shall be disqualified from presiding at any trial resulting from or in any manner  
469 connected with such interception, regardless of whether the evidence acquired thereby is used in such  
470 trial.

471 H. Any aggrieved person in any trial, hearing or proceeding in or before any court, department,  
472 officer, agency, regulatory body or other authority of the Commonwealth, or a political subdivision  
473 thereof, may move to suppress the contents of any intercepted wire, electronic or oral communication, or  
474 evidence derived therefrom, on the grounds that:

475 1. The communication was unlawfully intercepted, or was not intercepted in compliance with this  
476 chapter; or

477 2. The order of the authorization or approval under which it was intercepted is insufficient on its  
478 face; or

479 3. The interception was not made in conformity with the order of authorization or approval; or

480 4. The interception is not admissible into evidence in any trial, proceeding or hearing in a state court  
481 under the applicable rules of evidence.

482 Such motion shall be made before the trial, hearing or proceeding unless there was no opportunity to  
483 make such motion or the person was not aware of the grounds of the motion. If the motion is granted  
484 pursuant to subdivision 1, 2 or 3 of this subsection, the contents of the intercepted wire, electronic or  
485 oral communication or evidence derived therefrom shall be treated as having been obtained in violation  
486 of this chapter. The judge, upon the filing of such motion by the aggrieved person, shall make available  
487 to the aggrieved person, or his counsel, for inspection the intercepted communication.

488 I. The requirements of subdivision 2 of subsection A and subdivision 4 of subsection B of this  
489 section relating to the specification of the facilities from which, or the place where, the communication  
490 is to be intercepted do not apply if:

491 1. In the case of an application with respect to the interception of an oral communication:  
492 (a) The application contains a full and complete statement as to why such specification is not  
493 practical and identifies the person committing the offense and whose communications are to be  
494 intercepted; and

495 (b) The judge finds that such specification is not practical; or

496 2. In the case of an application with respect to a wire or electronic communication:

497 (a) the application identifies the person believed to be committing the offense and whose  
498 communications are to be intercepted and the applicant makes a showing of a purpose, on the part of  
499 that person, to thwart interception by changing facilities; and

500 (b) the judge finds that such purpose has been adequately shown.

501 The interception of a communication under an order issued pursuant to this subsection shall not  
502 begin until the facilities from which, or the place where, the communication is to be intercepted is  
503 ascertained by the person implementing the interception order. A provider of wire or electronic  
504 communications service that has received an order issued pursuant to this subdivision 2 may move the  
505 court to modify or quash the order on the ground that its assistance with respect to the interception  
506 cannot be performed in a timely or reasonable fashion. The court, upon notice to the Attorney General,  
507 shall decide the motion expeditiously.

508 § 19.2-70.2. Application for and issuance of order for a pen register or trap and trace device;  
509 assistance in installation and use.

510 A. An investigative or law-enforcement officer may make application for an order or an extension of  
511 an order authorizing or approving the installation and use of a pen register or a trap and trace device, in  
512 writing under oath or equivalent affirmation, to a court of competent jurisdiction. The application shall  
513 include:

514 1. The identity of the officer making the application and the identity of the law-enforcement agency  
515 conducting the investigation; and

516 2. A certification by the applicant that the information likely to be obtained is relevant to an ongoing  
517 criminal investigation being conducted by that agency.

518 The application may include a request that the order require information, facilities and technical  
519 assistance necessary to accomplish the installation be furnished.

520 B. Upon application, the court shall enter an ex parte order authorizing the installation and use of a  
521 pen register or a trap and trace device within the jurisdiction of the court if the court finds that the  
522 investigative or law-enforcement officer has certified to the court that the information likely to be  
523 obtained by such installation and use is relevant to an ongoing criminal investigation.

524 The order shall specify:

525 1. The identity, if known, of the person in whose name the telephone line *or other facility* to which  
526 the pen register or trap and trace device is to be attached *or applied* is listed or to whom the line *or*  
527 *other facility* is leased;

528 2. The identity, if known, of the person who is the subject of the criminal investigation;

529 3. ~~The number and, if known, the physical location of the telephone line to which the pen register or~~  
530 ~~trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits~~  
531 ~~of the trap and trace order~~ *The attributes of the communications to which the order applies, including*  
532 *the number or other identifier and, if known, the location of the telephone line or other facility to which*  
533 *the pen register or trap and trace device is to be attached or applied; and*

534 4. A statement of the offense to which the information likely to be obtained by the pen register or  
535 trap and trace device relates.

536 C. Installation and use of a pen register or a trap and trace device shall be authorized for a period  
537 not to exceed sixty days. Extensions of the order may be granted, but only upon application made and  
538 order issued in accordance with this section. The period of an extension shall not exceed sixty days.

539 D. An order authorizing or approving the installation and use of a pen register or a trap and trace  
540 device shall direct that:

541 1. The order and application be sealed until otherwise ordered by the court;

542 2. Information, facilities and technical assistance necessary to accomplish the installation be furnished  
543 if requested in the application; and

544 3. The person owning or leasing the line *or other facility* to which the pen register or trap and trace  
545 device is attached, ~~or who has been ordered by the court or applied, or who is obligated by the order to~~  
546 provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device  
547 or the existence of the investigation to the listed subscriber, or to any other person, unless or until  
548 otherwise ordered by the court.

549 E. Upon request of an investigative or a law-enforcement officer authorized by the court to install  
550 and use a pen register, a provider of wire or electronic communication service, a landlord, custodian or  
551 any other person so ordered by the court shall, as soon as practicable, furnish the officer with all

552 information, facilities, and technical assistance necessary to accomplish the installation of the pen  
 553 register unobtrusively and with a minimum of interference with the services that the person so ordered  
 554 by the court accords the party with respect to whom the installation and use is to take place.

555 F. Upon request of an investigative or law-enforcement officer authorized by the court to receive the  
 556 results of a trap and trace device under this section, a provider of wire or electronic communication  
 557 service, a landlord, custodian or any other person so ordered by the court shall, as soon as practicable,  
 558 install the device on the appropriate line and furnish the officer with all additional information, facilities  
 559 and technical assistance, including installation and operation of the device, unobtrusively and with a  
 560 minimum of interference with the services that the person so ordered by the court accords the party with  
 561 respect to whom the installation and use is to take place. Unless otherwise ordered by the court, the  
 562 results of the trap and trace device shall be furnished to the investigative or law-enforcement officer  
 563 designated by the court at reasonable intervals during regular business hours for the duration of the  
 564 order. *Where the law-enforcement agency implementing an ex parte order under this subsection seeks to*  
 565 *do so by installing and using its own pen register or trap and trace device on a packet-switched data*  
 566 *network of a provider of electronic communication service to the public, the agency shall ensure that a*  
 567 *record will be maintained which will identify (i) any officer or officers who installed the device and any*  
 568 *officer or officers who accessed the device to obtain information from the network; (ii) the date and*  
 569 *time the device was installed, the date and time the device was uninstalled, and the date, time, and*  
 570 *duration of each time the device is accessed to obtain information; (iii) the configuration of the device*  
 571 *at the time of its installation and any subsequent modification thereof; and (iv) any information which*  
 572 *has been collected by the device. To the extent that the pen register or trap and trace device can be set*  
 573 *automatically to record this information electronically, the record shall be maintained electronically*  
 574 *throughout the installation and use of such device. The record maintained hereunder shall be provided*  
 575 *ex parte and under seal to the court which entered the ex parte order authorizing the installation and*  
 576 *use of the device within thirty days after termination of the order, including any extensions thereof.*

577 G. A provider of a wire or electronic communication service, a landlord, custodian or other person  
 578 who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated  
 579 for reasonable and actual expenses incurred in providing such facilities and assistance. The expenses  
 580 shall be paid out of the criminal fund.

581 H. No cause of action shall lie in any court against a provider of a wire or electronic communication  
 582 service, its officers, employees, agents or other specified persons for providing information, facilities, or  
 583 assistance in accordance with the terms of a court order issued pursuant to this section. Good faith  
 584 reliance on a court order, a legislative authorization or a statutory authorization is a complete defense  
 585 against any civil or criminal action based upon a violation of this chapter.

586 § 19.2-120. Admission to bail.

587 Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to  
 588 the extent feasible, obtain the person's criminal history.

589 A. A person who is held in custody pending trial or hearing for an offense, civil or criminal  
 590 contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to  
 591 believe that:

592 1. He will not appear for trial or hearing or at such other time and place as may be directed, or

593 2. His liberty will constitute an unreasonable danger to himself or the public.

594 B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of  
 595 conditions will reasonably assure the appearance of the person or the safety of the public if the person is  
 596 currently charged with:

597 1. An act of violence as defined in § 19.2-297.1;

598 2. An offense for which the maximum sentence is life imprisonment or death;

599 3. A violation of §§ 18.2-248, 18.2-248.01, 18.2-255 or § 18.2-255.2 involving a Schedule I or II  
 600 controlled substance if (i) the maximum term of imprisonment is ten years or more and the person was  
 601 previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as  
 602 defined in § 18.2-248;

603 4. A violation of §§ 18.2-308.1, 18.2-308.2, or § 18.2-308.4 and which relates to a firearm and  
 604 provides for a minimum, mandatory sentence;

605 5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1  
 606 or 2, whether under the laws of this Commonwealth or substantially similar laws of the United States;

607 6. Any felony committed while the person is on release pending trial for a prior felony under federal  
 608 or state law or on release pending imposition or execution of sentence or appeal of sentence or  
 609 conviction; or

610 7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted  
 611 of an offense listed in § 18.2-67.5:2 and the judicial officer finds probable cause to believe that the  
 612 person who is currently charged with one of these offenses committed the offense charged; or

613 8. A violation of § 18.2-46.5 or § 18.2-46.7.

614 C. The court shall consider the following factors and such others as it deems appropriate in  
615 determining, for the purpose of rebuttal of the presumption against bail described in subsection B,  
616 whether there are conditions of release that will reasonably assure the appearance of the person as  
617 required and the safety of the public:

- 618 1. The nature and circumstances of the offense charged;
- 619 2. The history and characteristics of the person, including his character, physical and mental  
620 condition, family ties, employment, financial resources, length of residence in the community,  
621 community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record  
622 concerning appearance at court proceedings; and
- 623 3. The nature and seriousness of the danger to any person or the community that would be posed by  
624 the person's release.

625 D. The judicial officer shall inform the person of his right to appeal from the order denying bail or  
626 fixing terms of bond or recognizance consistent with § 19.2-124.

627 § 19.2-215.1. Functions of a multijurisdiction grand jury.

628 The functions of a multijurisdiction grand jury are:

- 629 1. To investigate any condition which involves or tends to promote criminal violations of:
  - 630 a. Title 10.1 for which punishment as a felony is authorized;
  - 631 b. § 13.1-520;
  - 632 c. §§ 18.2-47 and 18.2-48;
  - 633 d. §§ 18.2-111 and 18.2-112;
  - 634 e. Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2;
  - 635 f. Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2;
  - 636 g. Article 1 (§ 18.2-247 et seq.) and Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2;
  - 637 h. Article 1 (§ 18.2-325 et seq.) and Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2,
  - 638 Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or any other provision prohibiting, limiting, regulating, or  
639 otherwise affecting gaming or gambling activity;
    - 640 i. § 18.2-434, when violations occur before a multijurisdiction grand jury;
    - 641 j. Article 2 (§ 18.2-438 et seq.) and Article 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2;
    - 642 k. § 18.2-460 for which punishment as a felony is authorized;
    - 643 l. Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2;
    - 644 m. Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1;
    - 645 n. Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1;
    - 646 o. Article 6 (§ 3.1-796.122 et seq.) of Chapter 27.4 of Title 3.1;
    - 647 p. Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; and
    - 648 q. *Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of Title 18.2; and*
    - 649 r. Any other provision of law when such condition is discovered in the course of an investigation  
650 which a multijurisdiction grand jury is otherwise authorized to undertake and to investigate any  
651 condition which involves or tends to promote any attempt, solicitation or conspiracy to violate the laws  
652 enumerated in this section.
- 653 2. To report evidence of any criminal offense enumerated in subdivision 1 to the attorney for the  
654 Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or  
655 investigated and, when appropriate, to the Attorney General.
- 656 3. To consider bills of indictment prepared by a special counsel to determine whether there is  
657 sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which  
658 allege an offense enumerated in subdivision 1 may be submitted to a multijurisdiction grand jury.
- 659 4. The provisions of this section shall not abrogate the authority of an attorney for the  
660 Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

661 § 19.2-294. Offense against two or more statutes or ordinances.

662 If the same act be a violation of two or more statutes, or of two or more ordinances, or of one or  
663 more statutes and also one or more ordinances, conviction under one of such statutes or ordinances shall  
664 be a bar to a prosecution or proceeding under the other or others. Furthermore, if the same act be a  
665 violation of both a state and a federal statute a prosecution under the federal statute shall be a bar to a  
666 prosecution under the state statute. *The provisions of this section shall not apply to any offense involving*  
667 *an act of terrorism as defined in §18.2-46.4.*

668 For purposes of this section, a prosecution under a federal statute shall be deemed to be commenced  
669 with the return of an indictment by a grand jury or the filing of an information by a United States  
670 attorney.

671 § 19.2-386.1. Commencing an action of forfeiture.

672 An action against any property subject to seizure under the provisions of § 18.2-46.9 or § 18.2-249  
673 shall be commenced by the filing of an information in the clerk's office of the circuit court. Any  
674 information shall be filed in the name of the Commonwealth by the attorney for the Commonwealth or

675 may be filed by the Attorney General if so requested by the attorney for the Commonwealth. Venue for  
 676 an action of forfeiture shall lie in the county or city where (i) the property is located, (ii) the property is  
 677 seized, or (iii) an owner of the property could be prosecuted for the illegal conduct alleged to give rise  
 678 to the forfeiture. Such information shall (i) name as parties defendant all owners and lienholders then  
 679 known or of record and the trustees named in any deed of trust securing such lienholder, (ii) specifically  
 680 describe the property, (iii) set forth in general terms the grounds for forfeiture of the named property,  
 681 (iv) pray that the same be condemned and sold or otherwise be disposed of according to law, and (v)  
 682 ask that all persons concerned or interested be notified to appear and show cause why such property  
 683 should not be forfeited. In all cases, an information shall be filed within three years of the date of actual  
 684 discovery by the Commonwealth of the last act giving rise to the forfeiture or the action for forfeiture  
 685 will be barred.

686 § 19.2-386.2. Seizure of named property.

687 A. When any property subject to seizure under § 18.2-46.9 or §18.2-249 has not been seized at the  
 688 time an information naming that property is filed, the clerk of the circuit court, upon motion of the  
 689 attorney for the Commonwealth wherein the information is filed, shall issue a warrant to the sheriff or  
 690 other state or local law-enforcement officer authorized to serve criminal process in the jurisdiction where  
 691 the property is located, describing the property named in the complaint and authorizing its immediate  
 692 seizure.

693 B. In all cases of seizure of real property, a notice of lis pendens shall be filed with the clerk of the  
 694 circuit court of the county or city wherein the property is located and shall be indexed in the land  
 695 records in the name or names of those persons whose interests appear to be affected thereby.

696 § 19.2-386.3. Notice of seizure for forfeiture and notice of motion for judgment.

697 A. If an information has not been filed, then upon seizure of any property under § 18.2-249 or  
 698 § 18.2-46.9, the agency seizing the property shall forthwith notify in writing the attorney for the  
 699 Commonwealth in the county or city in which the seizure occurred, who shall, within twenty-one days  
 700 of receipt of such notice, file a notice of seizure for forfeiture with the clerk of the circuit court. Such  
 701 notice of seizure for forfeiture shall specifically describe the property seized, set forth in general terms  
 702 the grounds for seizure, identify the date on which the seizure occurred, and identify all owners and lien  
 703 holders then known or of record. The clerk shall forthwith mail by first-class mail notice of seizure for  
 704 forfeiture to the last known address of all identified owners and lien holders. When property has been  
 705 seized under § 18.2-249 or § 18.2-46.9, prior to filing an information, then an information against that  
 706 property shall be filed within ninety days of the date of seizure or the property shall be released to the  
 707 owner or lien holder.

708 B. Except as to corporations, all parties defendant shall be served, in accordance with § 8.01-296,  
 709 with a copy of the information and a notice to appear prior to any motion for default judgment on the  
 710 information. The notice shall contain a statement warning the party defendant that his interest in the  
 711 property shall be subject to forfeiture to the Commonwealth unless within thirty days after service on  
 712 him of the notice, or before the date set forth in the order of publication with respect to the notice, an  
 713 answer under oath is filed in the proceeding setting forth (i) the nature of the defendant's claim, (ii) the  
 714 exact right, title or character of the ownership or interest in the property and the evidence thereof, and  
 715 (iii) the reason, cause, exemption or defense he may have against the forfeiture of his interest in the  
 716 property, including but not limited to the exemptions set forth in § 19.2-386.8. Service upon corporations  
 717 shall be made in accordance with § 8.01-299 or subdivision 1 or 2 of § 8.01-301; however, if such  
 718 service cannot be thus made, it shall be made by publication in accordance with § 8.01-317.

719 § 19.2-386.4. Records and handling of seized property.

720 Any agency seizing property under § 18.2-249 ~~or under~~, § 19.2-386.2, or § 18.2-46.9 pending  
 721 forfeiture and final disposition, may do any of the following:

722 1. Place the property under constructive seizure by posting notice of seizure for forfeiture on the  
 723 property or by filing notice of seizure for forfeiture in any appropriate public record relating to property;

724 2. Remove the property to a storage area for safekeeping or, if the property is a negotiable  
 725 instrument or money, deposit it in an interest-bearing account;

726 3. Remove the property to a place designated by the circuit court in the county or city wherein the  
 727 property was seized; or

728 4. Provide for another custodian or agency to take custody of the property and remove it to an  
 729 appropriate location within or without the jurisdiction of the circuit court in the county or city wherein  
 730 the property was seized or in which the complaint was filed.

731 A report regarding the type of property subject to forfeiture and its handling pursuant to this section  
 732 and § 19.2-386.5, and the final disposition of the property shall be filed by the seizing agency with the  
 733 Department of Criminal Justice Services in accordance with regulations promulgated by the Board.

734 § 19.2-386.5. Release of seized property.

735 At any time prior to the filing of an information, the attorney for the Commonwealth in the county  
 736 or city in which the property has been seized pursuant to § 18.2-249 or § 18.2-46.9 may, in his

737 discretion, upon the payment of costs incident to the custody of the seized property, return the seized  
738 property to an owner or lien holder, without requiring that the owner or lien holder post bond as  
739 provided in § 19.2-386.6, if he believes the property is properly exempt from forfeiture pursuant to  
740 § 19.2-386.8.

741 § 24.2-233. Removal of elected and certain appointed officers by courts.

742 Upon petition, a circuit court may remove from office any elected officer or officer who has been  
743 appointed to fill an elective office, residing within the jurisdiction of the court:

744 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that  
745 neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse  
746 effect upon the conduct of the office, or

747 2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1  
748 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving  
749 the:

750 a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or  
751 distribute a controlled substance or marijuana, or

752 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug  
753 paraphernalia, or

754 c. Possession of any controlled substance or marijuana, and such conviction under a, b, or c has a  
755 material adverse effect upon the conduct of such office, or

756 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a  
757 "~~terrorist act~~ *crime of intimidation*" as that term is defined in § 52-8.5 when the conviction has a  
758 material adverse effect upon the conduct of such office.

759 The petition must be signed by a number of registered voters who reside within the jurisdiction of  
760 the officer equal to ten percent of the total number of votes cast at the last election for the office which  
761 the officer holds.

762 Any person removed from office under the provisions of subdivision 2 or 3 may not be subsequently  
763 subject to the provisions of this section for the same criminal offense.

764 § 52-8.5. Reporting crimes of intimidation.

765 A. The Superintendent shall establish and maintain within the Department of State Police a central  
766 repository for the collection and analysis of information regarding ~~terrorist acts~~ *crimes of intimidation*  
767 and groups and individuals carrying out such acts.

768 B. State, county and municipal law-enforcement agencies shall report to the Department all ~~terrorist~~  
769 *crimes of intimidation* occurring in their jurisdictions in a form, time and manner prescribed by the  
770 Superintendent. Such reports shall not be open to public inspection except insofar as the Superintendent  
771 shall permit.

772 C. For purposes of this section, "~~terrorist act~~ *crime of intimidation*" means (i) a criminal act  
773 committed against a person or his property with the specific intent of instilling fear or intimidation in  
774 the individual against whom the act is perpetrated because of race, religion or ethnic origin or which is  
775 committed for the purpose of restraining that person from exercising his rights under the Constitution or  
776 laws of this Commonwealth or of the United States, (ii) any illegal act directed against any persons or  
777 their property because of those persons' race, religion or national origin, and (iii) all other incidents, as  
778 determined by law-enforcement authorities, intended to intimidate or harass any individual or group  
779 because of race, religion or national origin.

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