VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-3706, 2.2-3802, 9.1-102, 9.1-902 through 9.1-910, 9.1-913, 9.1-914, 9.1-918, 18.2-48, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-370.2, 18.2-472.1, 19.2-169.3, 19.2-299, 19.2-303, 19.2-390.1, 22.1-79, 22.1-79.3, 37.2-900, 37.2-903, 37.2-904, 37.2-905, 37.2-906, 37.2-907, 37.2-908, 37.2-910, 37.2-912, 37.2-919, 46.2-323, 46.2-324, 46.2-330, 46.2-345, 46.2-348, 53.1-115.1, 53.1-116.1, 53.1-121, 53.1-136, 53.1-145, 53.1-160.1, and 63.2-105 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 9 of Title 9.1 a section numbered 9.1-921, and by adding sections numbered 16.1-249.1, 16.1-278.7:01, 16.1-278.7:02, 18.2-370.3, 18.2-370.4, 19.2-295.2:1, 23-2.2:1, 37.2-900.1, 37.2-920, 53.1-23.2, and 53.1-116.1:01, relating to the Sex Offender and Crimes Against Minors Registry; sex crimes; civil commitment of sexual predators; penalties.

[S 559]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3706, 2.2-3802, 9.1-102, 9.1-902 through 9.1-910, 9.1-913, 9.1-914, 9.1-918, 18.2-48, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-370.2, 18.2-472.1, 19.2-169.3, 19.2-299, 19.2-303, 19.2-390.1, 22.1-79, 22.1-79.3, 37.2-900, 37.2-903, 37.2-904, 37.2-905, 37.2-906, 37.2-907, 37.2-908, 37.2-910, 37.2-912, 37.2-919, 46.2-323, 46.2-324, 46.2-330, 46.2-345, 46.2-348, 53.1-115.1, 53.1-116.1, 53.1-121, 53.1-136, 53.1-145, 53.1-160.1, and 63.2-105 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 9 of Title 9.1 a section numbered 9.1-921, and by adding sections numbered 16.1-249.1, 16.1-278.7:01, 16.1-278.7:02, 18.2-370.3, 18.2-370.4, 19.2-295.2:1, 23-2.2:1, 37.2-900.1, 37.2-920, 53.1-23.2, and 53.1-116.1:01, as follows:

§ 2.2-3706. Disclosure of criminal records; limitations.

A. As used in this section:

"Criminal incident information" means a general description of the criminal activity reported, the date and general location the alleged crime was committed, the identity of the investigating officer, and a general description of any injuries suffered or property damaged or stolen.

B. Law-enforcement agencies shall make available upon request criminal incident information relating to felony offenses. However, where the release of criminal incident information is likely to jeopardize an ongoing investigation or prosecution, or the safety of an individual; cause a suspect to flee or evade detection; or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in this subsection shall be construed to prohibit the release of those portions of such information that are not likely to cause the above-referenced damage.

C. Information in the custody of law-enforcement agencies relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest shall be released.

D. The identity of any victim, witness or undercover officer, or investigative techniques or procedures need not but may be disclosed unless disclosure is prohibited or restricted under § 19.2-11.2.

E. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

F. The following records are excluded from the provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

1. Complaints, memoranda, correspondence, case files or reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information as defined in subsection A;

2. Adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;

3. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to § 53.1-16 or § 66-3.1, and (iii) campus police departments of public institutions of higher education established pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23;

4. Portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity;

5. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

6. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

7. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;

8. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision or monitoring by a local community-based probation program in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1; and

9. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

G. Records kept by law-enforcement agencies as required by § 15.2-1722 shall be subject to the provisions of this chapter except:

1. Those portions of noncriminal incident or other investigative reports or materials containing identifying information of a personal, medical or financial nature provided to a law-enforcement agency where the release of such information would jeopardize the safety or privacy of any person;

2. Those portions of any records containing information related to plans for or resources dedicated to undercover operations; or

3. Records of background investigations of applicants for law-enforcement agency employment or other confidential administrative investigations conducted pursuant to law.

H. *Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 are excluded from the provisions of this chapter, including information obtained from state, local and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913.*

I. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;

2. Which may exist in publications of general circulation;

3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 *or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913*;

4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;

5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;

6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, and the Department of Alcoholic Beverage Control;

7. Maintained by the Department of State Police; police departments of cities, counties, and towns; and the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23, and that deal with investigations and intelligence gathering relating to criminal activity; and maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;

8. Maintained by the Virginia Port Authority as provided in § 62.1-134.1 or 62.1-132.4;

9. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;

10. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to

criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

11. Maintained by the Department of Corrections that deal with investigations and intelligence gathering by persons acting under the provisions of § 53.1-16; and

12. Maintained by the Department of the State Internal Auditor or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the State Employee Fraud, Waste and Abuse Hotline.

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence, and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in subdivision 2, prior to assignment of any such officers to undercover investigation work. Failure to complete the training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation;

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and for correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and establish the time required for completion of such training;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

12. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

13. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

14. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

15. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

16. Make recommendations concerning any matter within its purview pursuant to this chapter;

17. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

18. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

19. Conduct audits as required by § 9.1-131;

20. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

21. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

22. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

23. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

24. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

25. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

26. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

27. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

28. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

29. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

30. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

31. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

32. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section

shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

33. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

34. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

35. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

36. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse, domestic violence, sexual assault and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3;

37. Establish training standards and publish a model policy for law-enforcement personnel in communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Publish and disseminate a model policy or guideline that may be used by state and local agencies to ensure that law-enforcement personnel are sensitive to and aware of cultural diversity and the potential for biased policing;

41. [Expired.]

42. Establish a Virginia Law-Enforcement Accreditation Center. The Center shall, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

43. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

44. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School Safety pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of these standards and certification requirements;

45. Establish training standards and publish a model policy and protocols for local and regional sexual assault response teams;

46. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.) of this chapter;

47. (Effective October 1, 2005) License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.) of this chapter; ~~and~~

48. *In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements*

as they pertain to the Sex Offender and Crimes Against Minors Act (§ 9.1-900 et seq.); and

49. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

§ 9.1-902. Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" means:

1. A violation or attempted violation of § 18.2-63, 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape, § 18.2-374.1 or subsection D of § 18.2-374.1:1; or a third or subsequent conviction of (i) § 18.2-67.4, (ii) subsection C of § 18.2-67.5 or (iii) § 18.2-386.1;

If the offense was committed on or after July 1, 2006, (i) a violation or attempted violation of § 18.2-91 with the intent to commit any felony offense listed in this section, or (ii) a violation or attempted violation of subsection A of § 18.2-374.1:1.

2. ~~Where~~ *Clause (iv) of subsection B of § 18.2-374.3 or where* the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, clause (i) or (iii) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, § 18.2-361, and 18.2-366~~, or clause (iv) of subsection B of § 18.2-374.3~~;

3. A violation of Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code;

4. A "sexually violent offense"; ~~or~~

5. *"*Murder*"; or* ~~pursuant to~~

6. Criminal homicide in conjunction with a violation of clause (i) of § 18.2-371 or § 18.2-371.1, when the offenses arise out of the same incident.

"Murder" means a violation of § 18.2-31 or 18.2-32 where the victim is ~~a minor~~ *(i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.*

"Sexually violent offense" means a violation or attempted violation of:

1. Clause (ii) of § 18.2-48, § 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-67.3, § 18.2-67.4 where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § 18.2-67.5, § 18.2-370, or 18.2-370.1; ~~or~~

2. Sections 18.2-63, 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) or (iii) of § 18.2-48, § 18.2-361, 18.2-366, or 18.2-374.1. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications~~.~~*; or*

3. If the offense was committed on or after July 1, 2006, a violation or attempted violation of § 18.2-91 with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications.

B. "Offense for which registration is required" and "sexually violent offense" shall also include any similar offense under the laws of *(i) any foreign country or any political subdivision thereof, (ii)* the United States or any political subdivision thereof and any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the ~~political subdivision~~ *jurisdiction* where the offender was convicted.

C. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent of any offense enumerated in subdivisions A 1 through A 4 on or after July 1, 2005, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case.

§ 9.1-903. Registration procedures.

A. Every person convicted, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as an adult or juvenile, of an offense for which registration is required and every juvenile found delinquent of an offense for which registration is required under subsection C of § 9.1-902 shall be required upon conviction to register and reregister with the Department of State

Police. The court shall order the person to provide to the local law-enforcement agency of the county or city where he physically resides all information required by the State Police for inclusion in the Registry. The court shall *immediately* remand the person to the custody of the local law-enforcement agency for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the State Police for inclusion in the Registry. ~~The~~ *Upon conviction, the* local law-enforcement agency shall *forthwith* forward to the State Police all the necessary registration information ~~within seven days of the date of sentencing~~.

B. Every person required to register shall register in person within ~~10~~ *three* days of his release from confinement in a state, local or juvenile correctional facility, in a state civil commitment program for sexually violent predators or, if a sentence of confinement is not imposed, within ~~10~~ *three* days of suspension of the sentence or in the case of a juvenile of disposition. *A person required to register shall register, submit to be photographed as part of the registration, and submit to have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person, and provide information regarding place of employment.* The local law-enforcement agency shall obtain from the person who presents himself for registration or reregistration ~~two sets~~ *one set* of fingerprints, *place of employment information,* proof of residency and ~~two photographs~~ *a photograph* of a type and kind specified by the State Police for inclusion in the Registry and advise the person of his duties regarding reregistration. *The local law-enforcement agency shall obtain from the person who presents himself for registration a sample of his blood, saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person, as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken.* The local law-enforcement agency shall ~~promptly~~ *forthwith* forward to the State Police all necessary registration information.

C. To establish proof of residence in Virginia, a person shall present one photo-identification form issued by a governmental agency of the Commonwealth which contains the person's complete name, gender, date of birth and complete *physical* address.

D. Any person required to register shall also reregister in person with the local law-enforcement agency following any change of residence, whether within or without the Commonwealth. If his new residence is within the Commonwealth, the person shall register in person with the local law-enforcement agency where his new residence is located within ~~10~~ *three* days following his change in residence. If the new residence is located outside of the Commonwealth, the person shall register in person with the local law-enforcement agency where he previously registered within 10 days prior to his change of residence. If a probation or parole officer becomes aware of a change of residence for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police within ~~10 days~~ *forthwith* of learning of the change of residence. Whenever a person subject to registration changes residence to another state, the State Police shall notify the designated law-enforcement agency of that state.

E. *Any person required to register shall reregister in person with the local law-enforcement agency where his residence is located within three days following any change of the place of employment, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of the place of employment for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change of the person's place of employment. Whenever a person subject to registration changes his place of employment to another state, the State Police shall notify the designated law-enforcement agency of that state.*

F. The registration shall be maintained in the Registry and shall include the person's name, all aliases that he has used or under which he may have been known, the date and locality of the conviction for which registration is required, his fingerprints and a photograph of a type and kind specified by the State Police, his date of birth, social security number, current physical and mailing address and a description of the offense or offenses for which he was convicted. The registration shall also include the locality of the conviction and a description of the offense or offenses for previous convictions for the offenses set forth in § 9.1-902.

~~F~~ *G.* The local law-enforcement agency shall ~~promptly~~ *forthwith* forward to the State Police all necessary registration or reregistration information received by it. Upon receipt of registration or reregistration information the State Police shall forthwith notify the chief law-enforcement officer of the locality listed as the person's address on the registration and reregistration.

§ 9.1-904. Reregistration.

A. Every person required to register, other than a person convicted of a sexually violent offense *or murder,* shall reregister with the State Police on an annual basis from the date of the initial registration. Every person convicted of a sexually violent offense *or murder* shall reregister with the State Police every 90 days from the date of initial registration. Reregistration means that the person has notified the

State Police, confirmed his current physical and mailing address and provided such other information, including identifying information, which the State Police may require. Upon registration and as may be necessary thereafter, the State Police shall provide the person with an address verification form to be used for reregistration. The form shall contain in bold print a statement indicating that failure to comply with the registration required is punishable as ~~a Class 1 misdemeanor or a Class 6 felony as~~ provided in § 18.2-472.1.

B. Any person convicted of a violation of § 18.2-472.1, other than a person convicted of a sexually violent offense or murder, shall register with the State Police every 180 days from the date of such conviction. Any person convicted of a violation of § 18.2-472.1, in which such person was included on the Registry for a conviction of a sexually violent offense or murder, shall reregister with the State Police every 30 days from the date of conviction. Reregistration means the person has notified the State Police, confirmed his current physical and mailing address and provided such other information, including identifying information, which the State Police may require. Upon registration and as may be necessary thereafter, the State Police shall provide the person with an address verification form to be used for reregistration. The form shall state the registration requirements and contain in bold print a statement indicating that failure to comply with the registration requirements is punishable as provided in § 18.2-472.1.

C. Every person required to register pursuant to this chapter shall submit to be photographed by a local law-enforcement agency every two years commencing with the date of initial registration. Photographs shall be in color, be taken with the registrant facing the camera, and clearly show the registrant's face and shoulders only. No person other than the registrant may appear in the photograph submitted. The photograph shall indicate the registrant's full name, date of birth and the date the photograph was taken. The local law-enforcement agency shall forthwith forward the photograph and the registration form to the State Police. Where practical, the local law-enforcement agency may electronically transfer a digital photograph containing the required information to the Sex Offender and Crimes Against Minors Registry within the State Police.

§ 9.1-905. New residents and nonresident offenders; registration required.

A. All persons required to register shall register within ~~10~~ *three* days of establishing a residence in the Commonwealth.

B. Nonresident offenders entering the Commonwealth for an extended visit, for employment, to carry on a vocation, or as a student attending school who are required to register in their state of residence or who would be required to register if a resident of the Commonwealth shall, within ~~10~~ *three* days of entering the Commonwealth for an extended visit, accepting employment or enrolling in school in the Commonwealth, be required to register and reregister in person with the local law-enforcement agency.

C. To document employment or school attendance in Virginia a person shall present proof of enrollment as a student or suitable proof of temporary employment in the Commonwealth and one photo-identification form issued by a governmental agency of the person's state of residence which contains the person's complete name, gender, date of birth and complete address.

D. For purposes of this section:

"Employment" and "carry on a vocation" include employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

"Extended visit" means a period of visitation for any purpose in the Commonwealth of 30 days or more.

"Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

§ 9.1-906. Enrollment or employment at institution of higher learning; information required.

A. Persons required to register or reregister who are enrolled in or employed at institutions of higher learning shall, in addition to other registration requirements, indicate on their registration and reregistration form the name and location of the institution attended by or employing the registrant whether such institution is within or without the Commonwealth. In addition, persons required to register or reregister shall notify the local law-enforcement agency in person within ~~10~~ *three* days of any change in their enrollment or employment status with an institution of higher learning. The local law-enforcement agency shall ~~promptly~~ *forthwith* forward to the State Police all necessary registration or reregistration information received by it.

B. Upon receipt of a registration or reregistration indicating enrollment or employment with an institute of higher learning or notification of a change in status, the State Police shall notify the chief law-enforcement officer of the institution's law-enforcement agency or, if there is no institutional law-enforcement agency, the local law-enforcement agency serving that institution, of the registration,

reregistration, or change in status. The law-enforcement agency receiving notification under this section shall make such information available upon request.

C. For purposes of this section:

"Employment" includes full- or part-time, temporary or permanent or contractual employment at an institution of higher learning either with or without compensation.

"Enrollment" includes both full- and part-time.

"Institution of higher learning" means any post-secondary school, trade or professional institution, or institution of higher education.

§ 9.1-907. Procedures upon a failure to register or reregister.

A. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant *or assist in obtaining an indictment* charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered or, if the person failed to comply with the duty to register, in the jurisdiction in which the person was last convicted of an offense for which registration or reregistration is required *or if the person was convicted of an offense requiring registration outside the Commonwealth, in the jurisdiction in which the person resides*. The State Police shall forward to the jurisdiction an affidavit signed by the custodian of the records that such person failed to comply with the duty to register or reregister. Such affidavit shall be admitted into evidence as prima facie evidence of the failure to comply with the duty to register or reregister in any trial for the violation of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

B. Nothing in this section shall prohibit a law-enforcement officer employed by a sheriff's office or police department of a locality from enforcing the provisions of this chapter, *including obtaining a warrant, or assisting in obtaining an indictment for a violation of § 18.2-472.1. The local law-enforcement agency shall notify the State Police forthwith of such actions taken pursuant to this chapter or under the authority granted pursuant to this section.*

C. The State Police shall physically verify or cause to be physically verified the registration information within 30 days of the initial registration and semiannually each year thereafter and within 30 days of a change of address of those persons who are not under the control of the Department of Corrections or Community Supervision as defined by § 53.1-1, who are required to register pursuant to this chapter. Whenever it appears that a person has provided false registration information, the State Police shall promptly investigate and, if there is probable cause to believe that a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered. The State Police shall forward to the jurisdiction an affidavit signed by the custodian of the records that such person failed to comply with the provisions of this chapter. Such affidavit shall be admitted into evidence as prima facie evidence of the failure to comply with the provisions of this chapter in any trial for the violation of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

D. The Department of Corrections shall physically verify the registration information within 30 days of the original registration and semiannually each year thereafter and within 30 days of a change of address of all persons who are under the control of the Department of Corrections or Community Supervision as defined by § 53.1-1, who are required to register pursuant to this chapter. The Department of Corrections, upon request, shall provide the State Police the verification information, in an electronic format approved by the State Police, regarding persons under their control who are required to register pursuant to the chapter. Whenever it appears that a person has provided false registration information, the Department of Corrections shall promptly notify the State Police, who shall investigate and, if there is probable cause to believe that a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered. The State Police shall forward to the jurisdiction an affidavit signed by the custodian of the records that such person failed to comply with the provisions of this chapter. Such affidavit shall be admitted into evidence as prima facie evidence of the failure to comply with the provisions of this chapter in any trial for the violation of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

§ 9.1-908. Duration of registration requirement.

Any person required to register or reregister shall be required to register for a period of 10 years from the date of initial registration *or for a period of 10 years from the date of his last conviction for a violation of § 18.2-472.1*, except that any person who has been convicted of (i) any sexually violent offense, ~~or~~ (ii) *murder or (iii)* former § 18.2-67.2:1 shall have a continuing duty to reregister for life.

Any period of confinement in a federal, state or local correctional facility, hospital or any other institution or facility during the otherwise applicable 10-year period shall toll the registration period and the duty to reregister shall be extended. Persons confined in a federal, state, or local correctional facility shall not be required to reregister until released from custody.

§ 9.1-909. Relief from registration or reregistration.

A. Upon expiration of three years from the date upon which the duty to register as a sexually violent offender *or murderer* is imposed, the person required to register may petition the court in which he was convicted *or, if the conviction occurred outside of the Commonwealth, the circuit court in the jurisdiction where he currently resides,* for relief from the requirement to reregister every 90 days. *After five years from the date of his last conviction for a violation of § 18.2-472.1, a sexually violent offender or murderer may petition for relief from the requirement to reregister monthly. A person who is required to register may similarly petition the circuit court for relief from the requirement to reregister every 180 days after five years from the date of his last conviction for a violation of § 18.2-472.1.* The court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior. Prior to the hearing the court shall order a comprehensive assessment of the applicant by a panel of three certified sex offender treatment providers as defined in § 54.1-3600. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that the person does not suffer from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior, the petition shall be granted and the duty to reregister ~~every 90 days~~ *more frequently than once a year* shall be terminated. The court shall promptly notify the State Police upon entry of an order granting the petition ~~and the State Police shall remove Registry information on the offender from the Internet system~~. The person shall, however, be under a continuing duty to register annually for life. If the petition is denied, the duty to reregister ~~every 90 days~~ *with the same frequency as before* shall continue. An appeal from the denial of a petition shall lie to the Supreme Court.

A petition for relief pursuant to this subsection may not be filed within three years from the date on which any previous petition for such relief was denied.

B. The duly appointed guardian of a person convicted of an offense requiring registration or reregistration as either a sex offender ~~or~~, sexually violent offender *or murderer,* who due to a physical condition is incapable of (i) reoffending and (ii) reregistering, may petition the court in which the person was convicted for relief from the requirement to reregister. The court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a physical condition that makes the person (i) no longer a menace to the health and safety of others and (ii) incapable of reregistering. Prior to the hearing the court shall order a comprehensive assessment of the applicant by at least two licensed physicians other than the person's primary care physician. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that due to his physical condition the person (i) no longer poses a menace to the health and safety of others and (ii) is incapable of reregistering, the petition shall be granted and the duty to reregister shall be terminated. However, for a person whose duty to reregister was terminated under this subsection, the Department of State Police shall, annually for sex offenders and quarterly for *persons convicted of* sexually violent ~~offenders~~ *offenses and murder*, verify and report to the attorney for the Commonwealth in the jurisdiction in which the person resides that the person continues to suffer from the physical condition that resulted in such termination.

The court shall promptly notify the State Police upon entry of an order granting the petition to terminate the duty to reregister ~~and the State Police shall remove any Registry information on the offender from the Internet system~~.

If the petition is denied, the duty to reregister shall continue. An appeal from the denial of a petition shall be to the Virginia Supreme Court.

A petition for relief pursuant to this subsection may not be filed within three years from the date on which any previous petition for such relief was denied.

If, at any time, the person's physical condition changes so that he is capable of reoffending or reregistering, the attorney for the Commonwealth shall file a petition with the circuit court in the jurisdiction where the person resides and the court shall hold a hearing on the petition, with notice to the person and his guardian, to determine whether the person still suffers from a physical condition that

makes the person (i) no longer a menace to the health and safety of others and (ii) incapable of reregistering. If the petition is granted, the duty to reregister shall commence from the date of the court's order. An appeal from the denial or granting of a petition shall be to the Virginia Supreme Court. Prior to the hearing the court shall order a comprehensive assessment of the applicant by at least two licensed physicians other than the person's primary care physician. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

§ 9.1-910. Removal of name and information from Registry.

A. Any person required to register, other than a person who has been convicted of any (i) sexually violent offense, (ii) two or more offenses for which registration is required ~~or~~, (iii) a violation of former § 18.2-67.2:1, *or (iv) murder,* may petition the circuit court in which he was convicted or the circuit court in the jurisdiction where he then resides for removal of his name and all identifying information from the Registry. A petition may not be filed earlier than 10 years after the date of initial registration *nor earlier than 10 years from the date of his last conviction for a violation of § 18.2-472.1*. The court shall hold a hearing on the petition at which the applicant and any interested persons may present witnesses and other evidence. If, after such hearing, the court is satisfied that such person no longer poses a risk to public safety, the court shall grant the petition. In the event the petition is not granted, the person shall wait at least 24 months from the date of the denial to file a new petition for removal from the Registry.

B. The State Police shall remove from the Registry the name of any person and all identifying information upon receipt of an order granting a petition pursuant to subsection A or at the end of the period for which the person is required to register under § 9.1-908.

§ 9.1-913. Public dissemination by means of the Internet.

The State Police shall develop and maintain a system for making certain Registry information on persons convicted of ~~murder of a minor and violent sex offenders~~ *an offense for which registration is required* publicly available by means of the Internet. The information to be made available shall include the offender's name; all aliases that he has used or under which he may have been known; the date and locality of the conviction and a brief description of the offense; his age, current address and photograph; and such other information as the State Police may from time to time determine is necessary to preserve public safety including but not limited to the fact that an individual is wanted for failing to register or reregister. The system shall be secure and not capable of being altered except by the State Police. The system shall be updated each business day with newly received registrations and reregistrations. The State Police shall remove all information that it knows to be inaccurate from the Internet system.

§ 9.1-914. Automatic notification of registration to certain entities; electronic notification to requesting persons.

Any school, day-care service and child-minding service, and any state-regulated or state-licensed child day center, child day program, children's residential facility, family day home or foster home as defined in § 63.2-100, *nursing home or certified nursing facility as defined in § 32.1-123, and any institution of higher education* may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration or reregistration of any sex offender~~. Entities that request and are entitled to this notification, and that~~ *and if such entities* do not have the capability of receiving such electronic notice, *the entity* may register with the State Police to receive written notification of sex offender registration or reregistration. Within three business days of receipt by the State Police of registration or reregistration, the State Police shall electronically or in writing notify an entity *listed above* that has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The Virginia Council for Private Education shall annually provide the State Police, in an electronic format approved by the State Police, with the location of every private school in the Commonwealth that is accredited through one of the approved accrediting agencies of the Council, and an electronic mail address for each school if available, for purposes of receiving notice under this section.

Any person may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration or reregistration of any sex offender. Within three business days of receipt by the State Police of registration or reregistration, the State Police shall electronically notify a person who has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The State Police shall establish reasonable guidelines governing the automatic dissemination of Registry information, which may include the payment of a fee, whether a one-time fee or a regular assessment, to maintain the electronic access. The fee, if any, shall defray the costs of establishing and

maintaining the electronic notification system and notice by mail.

For the purposes of this section~~,~~*:*

"Child-minding service" means provision of temporary custodial care or supervisory services for the minor child of another;

"~~day-care~~ *Day-care* service" means provision of supplementary care and protection during a part of the day for the minor child of another; ~~"child-minding service" means provision of temporary custodial care or supervisory services for the minor child of another;~~ and

"~~school~~ *School*" means any public, religious or private educational institution, including any preschool, elementary school, secondary school, post-secondary school, trade or professional institution, or institution of higher education.

§ 9.1-918. Misuse of registry information; penalty.

Use of registry information for purposes not authorized by this chapter is prohibited, the unlawful use of the information contained in or derived from the Registry for purposes of intimidating or harassing another is prohibited, and a willful violation of this chapter is a Class 1 misdemeanor. *For purposes of this section, absent other aggravating circumstances, the mere republication or reasonable distribution of material contained on or derived from the publicly available Internet sex offender database shall not be deemed intimidation or harassment.*

§ 9.1-921. Exemption of information systems from provisions related to the Virginia Information Technologies Agency.

The provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 shall not apply to the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, operated by the Department of State Police or to information technology as defined in § 2.2-2006 operated by the Department of Juvenile Justice, Department of Corrections or the Virginia Compensation Board that interact, furnish, update, contain or exchange information with the Sex Offender and Crimes Against Minors Registry.

§ 16.1-249.1 Places of confinement to give notice of intake of certain persons.

A. At the time of receipt of any person, for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 into a secure facility, the secure facility shall obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police. A person required to register shall register and submit to be photographed as part of the registration. The facility shall forthwith forward the registration information to the Department of State Police on the date of the receipt of the prisoner.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the facility shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant, or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was received. The facility shall notify the State Police forthwith of such actions taken pursuant to this section.

§ 16.1-278.7:01. Department to give notice of the receipt of certain persons.

A. At the time or receipt of any person, for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the Department shall obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police. A person required to register shall register and submit to be photographed as part of the registration. The Department shall forthwith forward the registration information and photograph to the Department of State Police on the date of the receipt of the person.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the Department shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or petition or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was received. The Department shall notify the State Police forthwith of such actions taken pursuant to this section.

§ 16.1-278.7:02. Department to give notice of Sex Offender and Crimes Against Minors Registry requirements to certain persons.

A. Prior to the release or discharge of any persons for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the Department shall give notice to the persons of his duty to register with the State Police. A person required to register shall register, submit to be photographed as part of the registration, and provide information regarding place of employment, if available, to the Department. The Department shall also obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police; inform the person of his duties regarding reregistration and change of address; and inform the person of his duty to register. The Department of

Juvenile Justice shall forward the registration information to the Department of State Police on the date of the person's release or discharge.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the Department shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was discharged. The Department shall notify the State Police forthwith of such actions taken pursuant to this section.

§ 18.2-48. Abduction with intent to extort money or for immoral purpose.

Abduction (i) with the intent to extort money or pecuniary benefit, (ii) of any person with intent to defile such person, or (iii) of any child under sixteen years of age for the purpose of concubinage or prostitution, shall be a Class 2 felony. *If the sentence imposed for a violation of (ii) or (iii) includes a term of confinement less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life subject to revocation by the court.*

§ 18.2-61. Rape.

A. If any person has sexual intercourse with a complaining witness, whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another person; or (ii) through the use of the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as the victim, he or she shall be guilty of rape.

B. A violation of this section shall be punishable, in the discretion of the court or jury, by confinement in a state correctional facility for life or for any term not less than five years*; the penalty for a violation of subdivision A (iii), where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-90 or 18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A (iii), where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.*

There shall be a rebuttable presumption that a juvenile over the age of 10 but less than 12, does not possess the physical capacity to commit a violation of this section. In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

§ 18.2-67.1. Forcible sodomy.

A. An accused shall be guilty of forcible sodomy if he or she engages in cunnilingus, fellatio, anilingus, or anal intercourse with a complaining witness whether or not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

B. Forcible sodomy is a felony punishable by confinement in a state correctional facility for life or for any term not less than five years. *The penalty for a violation of subdivision A 1, where the offender*

is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-90 or 18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A 1, where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.

In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

§ 18.2-67.2. Object sexual penetration; penalty.

A. An accused shall be guilty of inanimate or animate object sexual penetration if he or she penetrates the labia majora or anus of a complaining witness, whether or not his or her spouse, other than for a bona fide medical purpose, or causes such complaining witness to so penetrate his or her own body with an object or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person or to penetrate, or to be penetrated by, an animal, and

1. The complaining witness is less than 13 years of age, or

2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

B. Inanimate or animate object sexual penetration is a felony punishable by confinement in the state correctional facility for life or for any term not less than five years. *The penalty for a violation of subdivision A 1 where the offender is more than three years older than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-90 or 18.2-91, or (iii) § 18.2-51.2, shall include a mandatory minimum term of confinement of 25 years. If the term of confinement imposed for any violation of subdivision A 1, where the offender is more than three years older than the victim, is for a term less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life, subject to revocation by the court.*

In any case deemed appropriate by the court, all or part of any sentence imposed for a violation under this section against a spouse may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant who has not previously had a proceeding against him for violation of this section dismissed pursuant to this subsection and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the court may discharge the defendant and dismiss the proceedings against him if, after

consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

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

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

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

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

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

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

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

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

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

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

§ 18.2-472.1. Providing false information or failing to provide registration information; penalty; prima facie evidence.

A. Any person subject to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, other than a person convicted of a sexually violent offense *or murder as defined in § 9.1-902*, who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry is guilty of a Class 1 misdemeanor. *A second or subsequent conviction for an offense under this subsection is a Class 6 felony.*

~~However,~~ ~~any~~ *B. Any* person convicted of a sexually violent offense *or murder*, as defined in § 9.1-902, who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry is guilty of a Class 6 felony. *A second or subsequent conviction for an offense under this subsection is a Class 5 felony.*

C. A prosecution pursuant to this section shall be brought in the city or county where the offender can be found or where the offender last registered or reregistered or, if the offender failed to comply with the duty to register, where the offender was last convicted of an offense for which registration or

reregistration is required.

D. At any trial pursuant to this section, an affidavit from the State Police issued as required in § 9.1-907 shall be admitted into evidence as prima facie evidence of the failure to comply with the duty to register or reregister and a copy of such affidavit shall be provided to the registrant or his counsel seven days prior to hearing or trial by the attorney for the Commonwealth.

E. For the purposes of this section any conviction for a substantially similar offense under the laws of (i) any foreign country or any political subdivision thereof, (ii) any state or territory of the United States or any political subdivision thereof, the District of Columbia, or the United States shall be considered a prior conviction.

§ 19.2-169.3. Disposition of the unrestorably incompetent defendant; capital murder charge; referral to Commitment Review Committee.

A. If, at any time after the defendant is ordered to undergo treatment pursuant to subsection A of § 19.2-169.2, the director of the treating facility concludes that the defendant is likely to remain incompetent for the foreseeable future, he shall send a report to the court so stating. The report shall also indicate whether, in the director's opinion, the defendant should be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to ~~§ 37.2-908~~ *Chapter 9 (§ 37.2-900 et seq.) of Title 37.2*, or certified pursuant to § 37.2-806 in the event he is found to be unrestorably incompetent. Upon receipt of the report, the court shall make a competency determination according to the procedures specified in subsection E of § 19.2-169.1. If the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future, it shall order that he be (i) released, (ii) committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, (iii) reviewed for commitment pursuant to ~~§ 37.2-905~~ *Chapter 9 (§ 37.2-900 et seq.) of Title 37.2*, or (iv) certified pursuant to § 37.2-806. If the court finds the defendant incompetent but restorable to competency in the foreseeable future, it may order treatment continued until six months have elapsed from the date of the defendant's initial admission under subsection A of § 19.2-169.2.

B. At the end of six months from the date of the defendant's initial admission under subsection A of § 19.2-169.2 if the defendant remains incompetent in the opinion of the director, the director shall so notify the court and make recommendations concerning disposition of the defendant as described above. The court shall hold a hearing according to the procedures specified in subsection E of § 19.2-169.1 and, if it finds the defendant unrestorably incompetent, shall order one of the dispositions described above. If the court finds the defendant incompetent but restorable to competency, it may order continued treatment under subsection A of § 19.2-169.2 for additional six-month periods, provided a hearing pursuant to subsection E of § 19.2-169.1 is held at the completion of each such period and the defendant continues to be incompetent but restorable to competency in the foreseeable future.

C. Unless an incompetent defendant is charged with capital murder or the charges against an incompetent criminal defendant have been previously dismissed, charges against an unrestorably incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner.

D. If the court orders an unrestorably incompetent defendant to be reviewed for commitment pursuant to ~~§ 37.2-905~~ *§ 37.2-904*, it shall order the attorney for the Commonwealth in the jurisdiction wherein the defendant was charged and the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services to provide the ~~Attorney General~~ *Commitment Review Committee established pursuant to § 37.2-902* with any information relevant to the review, including, but not limited to: (i) a copy of the warrant or indictment, (ii) a copy of the defendant's criminal record, (iii) information about the alleged crime, (iv) a copy of the competency report completed pursuant to § 19.2-169.1, and (v) a copy of the report prepared by the director of the defendant's treating facility pursuant to this section. The court shall further order that the defendant be held in the custody of the Department of Mental Health, Mental Retardation and Substance Abuse Services for secure confinement and treatment until the *Commitment Review Committee's and* Attorney General's review and any subsequent hearing or trial are completed. If the court receives notice that the Attorney General has declined to file a petition for the commitment of an unrestorably incompetent defendant as a sexually violent predator after conducting a review pursuant to § 37.2-905, the court shall order that the defendant be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or certified pursuant to § 37.2-806.

E. In any case when an incompetent defendant is charged with capital murder, notwithstanding any other provision of this section, the charge shall not be dismissed and the court having jurisdiction over the capital murder case may order that the defendant receive continued treatment under subsection A of § 19.2-169.2 for additional six-month periods without limitation, provided that (i) a hearing pursuant to subsection E of § 19.2-169.1 is held at the completion of each such period, (ii) the defendant remains incompetent, (iii) the court finds continued treatment to be medically appropriate, and (iv) the defendant

presents a danger to himself or others.

F. The attorney for the Commonwealth may bring charges that have been dismissed against the defendant when he is restored to competency.

§ 19.2-295.2:1. Postrelease supervision of felons sentenced for certain offenses committed on or after July 1, 2006.

A. For offenses committed on or after July 1, 2006:

1. At the time the court imposes a sentence upon a conviction for a first violation of subsection A of § 18.2-472.1 the court shall impose an added term of postrelease supervision of six months.

2. For a second or subsequent violation of subsection A of § 18.2-472.1 when both violations occurred after July 1, 2006, or a first violation of subsection B of § 18.2-472.1, the court shall impose an added term of postrelease supervision by the Department of Corrections of two years.

3. For a second or subsequent violation of subsection B of § 18.2-472.1 when both violations occurred after July 1, 2006, the court shall impose an added term of postrelease supervision by the Department of Corrections of five years.

Any terms of postrelease supervision imposed pursuant to this section shall be in addition to any other punishment imposed, including any periods of active incarceration or suspended periods of incarceration, if any.

B. The court shall order that any term of postrelease supervision imposed pursuant to this section be suspended, and the defendant be placed on active supervision under a postrelease supervision program operated by the Department of Corrections. The court shall order that the defendant be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device during this period of postrelease supervision. Failure to successfully abide by the terms and conditions of the postrelease supervision program shall be grounds to terminate the period of postrelease supervision and recommit the defendant to the Department of Corrections or to a local correctional facility. Procedures for any such termination shall be conducted after a hearing in the court which originally sentenced the defendant, conducted in a manner consistent with a revocation hearing under § 19.2-306, mutatis mutandis.

C. Nothing in this section shall be construed to prohibit the court from exercising any authority otherwise granted by law.

§ 19.2-299. Investigations and reports by probation officers in certain cases.

A. Unless waived by the court and the defendant and the attorney for the Commonwealth, when a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, the court may, or on motion of the defendant shall; or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall when the defendant pleads guilty without a plea agreement or is found guilty by the court after a plea of not guilty; or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, *18.2-48*, 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1, or 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. Counsel for the accused may provide the accused with a copy of the presentence report. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as

the person subject to the report. Any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person is charged with a felony subsequent to the time of the preparation of the report. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints as condition of probation.

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the ~~accused~~ *defendant* on probation under such conditions as the court shall determine or may, as a condition of a suspended sentence, require the ~~accused~~ *defendant* to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. The judge, after convicting the ~~accused~~ *defendant* of a felony, shall determine whether a copy of the ~~accused's~~ *defendant's* fingerprints are on file at the Central Criminal Records Exchange. In any case where fingerprints are not on file, the judge shall require that fingerprints be taken as a condition of probation. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation for such time as the court shall determine, or otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections but has not actually been transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The court may place the person on probation for such time as the court shall determine.

§ 19.2-390.1. Sex Offender and Crimes Against Minors Registry; maintenance; access.

The Department of State Police shall keep and maintain a Sex Offender and Crimes Against Minors

Registry, separate and apart from all other records maintained by it.

The Superintendent of State Police shall organize, equip, and staff, within the Department of State Police, the Sex Offender and Crimes Against Minors Registry. The Superintendent shall appoint and designate personnel as he deems necessary to carry out all duties and assignments related to the Sex Offender and Crimes Against Minors Registry as required by Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

§ 22.1-79. Powers and duties.

A school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal, suspension, or other disciplinary actions and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances except that there shall be no right to a hearing before a fact-finding panel;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law;

8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required; ~~and~~

9. (Expires July 1, 2010) At least annually, survey the school division to identify critical shortages of teachers and administrative personnel by subject matter, and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System*; and*

10. Ensure that the public schools within the school division are registered with the Department of State Police to receive from the State Police electronic notice of the registration or reregistration of any sex offender within that school division pursuant to § 9.1-914.

§ 22.1-79.3. Policies regarding certain activities.

A. No later than January 1, 2001, local school boards shall develop and implement policies to ensure that public school students are not required to convey or deliver any materials that (i) advocate the election or defeat of any candidate for elective office, (ii) advocate the passage or defeat of any referendum question, or (iii) advocate the passage or defeat of any matter pending before a local school board, local governing body or the General Assembly of Virginia or the Congress of the United States.

This section shall not be construed to prohibit the discussion or use of political or issue-oriented materials as part of classroom discussions or projects or to prohibit the delivery of informational materials.

B. Local school boards shall develop and implement policies to prohibit the administration of questionnaires or surveys to public school students during the regular school day or at school-sponsored

events without written, informed parental consent for the student's participation when participation in such questionnaire or survey may subsequently result in the sale for commercial purposes of personal information regarding the individual student.

C. *Local school boards shall develop and implement policies to advise the parent of each student enrolled in the school division of the availability of information in the Sex Offender and Crimes Against Minors Registry and the location of the Internet website. Local school boards shall also develop protocols governing the release of children to persons who are not their parent.*

D. No local school board providing access and opportunity to use school facilities or to distribute literature may deny equal access or fair opportunity to use such school facilities or to distribute literature, or otherwise discriminate against the Boy Scouts of America or the Girl Scouts of the USA.

Nothing in this subsection shall be construed to require any school or school division to sponsor the Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from school board policies governing access to and use of school facilities and distribution of literature.

§ 23-2.2:1. Reporting of enrollment information to Sex Offender and Crimes Against Minor Registry.

Each public and private two- and four-year institution of higher education physically located in the Commonwealth shall electronically transmit enrollment data including (i) complete name, (ii) social security number or other identifying number, (iii) date of birth, and (iv) gender to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry File, for all applicants that are offered acceptance to attend the institution. This data shall be transmitted before such time that an applicant becomes a "student in attendance" pursuant to 20 United States Code 1232(g)(a)(6) at that institution. Institutions with a rolling or instantaneous admissions policy shall consult with the State Police to ensure compliance with this statute.

Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was enrolled with the educational institution.

§ 37.2-900. Definitions.

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

"Defendant" means any person charged with a sexually violent offense who is deemed to be an unrestorably incompetent defendant pursuant to § 19.2-169.3 and is referred for commitment review pursuant to ~~§ 37.2-905~~ *this chapter*.

"Director" means the Director of the Department of Corrections.

"Mental abnormality" or "personality disorder" means a congenital or acquired condition that affects a person's emotional or volitional capacity and renders the person so likely to commit sexually violent offenses that he constitutes a menace to the health and safety of others.

"Sexually violent offense" means (i) a felony conviction under former § 18-54, former § 18.1-44, § 18.2-61, 18.2-67.1, 18.2-67.2; (ii) a conviction under § *18.2-48 (ii), 18.2-48 (iii), 18.2-63, 18.2-64.1, or* 18.2-67.3 ~~where the complaining witness is less than 13 years of age~~; ~~or~~ (iii) a felony conviction under the laws of the Commonwealth for a forcible sexual offense committed prior to July 1, 1981, where the criminal behavior on which the conviction is based is set forth in § 18.2-67.1 or 18.2-67.2, or is set forth in § 18.2-67.3 ~~where the complaining witness is less than 13 years of age~~*; or (iv) a felony conviction for conspiracy to commit or attempt to commit any of the above offenses.*

"Sexually violent predator" means any person who (i) has been convicted of a sexually violent offense or has been charged with a sexually violent offense and is unrestorably incompetent to stand trial pursuant to § 19.2-169.3 and (ii) because of a mental abnormality or personality disorder, finds it difficult to control his predatory behavior, which makes him likely to engage in sexually violent acts.

§ 37.2-900.1. Office of Sexually Violent Predator Services.

There is hereby established within the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Office of Sexually Violent Predator Services for the purpose of administering the duties of the Department under this chapter.

§ 37.2-903. Treatment plans; database of prisoners convicted of sexually violent offenses; maintained by Department of Corrections; notice of pending release to CRC.

A. The Director shall establish and maintain a treatment program for prisoners convicted pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 and committed to the custody of the Department of Corrections. This program shall include a clinical assessment of all such prisoners upon receipt into the custody of the Department of Corrections and the development of appropriate treatment plans, if indicated. This program shall be operated under the direction of a licensed psychiatrist or licensed clinical psychologist who is experienced in the diagnosis and treatment of mental abnormalities and disorders associated with criminal sexual offenders.

B. The Director shall establish and maintain a database of ~~prisoners~~ *each prisoner* in his custody who ~~are~~ *is* (i) incarcerated for *a* sexually violent ~~offenses~~ *offense* or (ii) serving or will serve concurrent or consecutive time for ~~other~~ ~~offenses~~ *another offense* in addition to time for a sexually violent offense. The database shall include the following information regarding each prisoner: (a) the prisoner's criminal record and (b) the prisoner's sentences and scheduled date of release. A prisoner who is serving or will serve concurrent or consecutive time for other offenses in addition to his time for a sexually violent offense, shall remain in the database until such time as he is released from the custody or supervision of the Department of Corrections or Virginia Parole Board for all of his charges. *Prior to the initial assessment of a prisoner under subsection C, the Director shall order a national criminal history records check to be conducted on the prisoner.*

C. Each month, the Director shall review the database and identify all such prisoners who are scheduled for release from prison within 10 months from the date of such review who receive a score of ~~four~~ *five* or more on the ~~Rapid~~ ~~Risk~~ ~~Assessment~~ ~~for~~ ~~Sexual~~ ~~Offender~~ ~~Recidivism~~ *Static-99* or a like score on a comparable, scientifically validated instrument designated by the Commissioner*, or a score of a four on the Static-99 or a like score on a comparable, scientifically validated instrument if the sexually violent offense mandating the prisoner's evaluation under this section was a violation of (a) clause (iii) of subsection A of § 18.2-61; (b) subdivision A 1 of § 18.2-67.1; (c) subdivision A 1 of § 18.2-67.2; (d) subdivision A 1 of § 18.2-67.3 where the victim was under the age of 13 and suffered physical bodily injury; or (e) subdivision A 1 of § 18.2-67.3 where any initial warrant, indictment, information, presentment, petition, summons, or other charging document for the offense was for a violation of § 18.2-61, 18.2-67.1, or 18.2-67.2*.

D. If the Director and the Commissioner agree that no specific scientifically validated instrument exists to measure the risk assessment of a prisoner, the prisoner may instead be evaluated by a licensed psychiatrist or licensed clinical psychologist for an initial determination of whether or not the prisoner may meet the definition of a sexually violent predator.

E. Upon the identification of such prisoners, the Director shall forward their names, their scheduled dates of release, and copies of their files to the CRC for assessment.

§ 37.2-904. CRC assessment of prisoners or incompetent defendants eligible for commitment as sexually violent predators; mental health examination; recommendation.

A. Within 90 days of receiving notice from the Director pursuant to § 37.2-903 regarding a prisoner who is in the database, *or from a court referring an incompetent defendant pursuant to § 19.2-169.3,* the CRC shall (i) complete its assessment of the prisoner *or defendant* for possible commitment pursuant to subsection B and (ii) forward its written recommendation regarding the prisoner to the Attorney General pursuant to subsection C.

B. CRC assessments of eligible prisoners *or incompetent defendants* shall include a mental health examination, including a personal interview, of the prisoner *or incompetent defendant* by a licensed psychiatrist or a licensed clinical psychologist who is designated by the Commissioner, skilled in the diagnosis and treatment of mental abnormalities and disorders associated with ~~violent~~ sex offenders, and not a member of the CRC. *If the prisoner's or defendant's name was forwarded to the CRC based upon an evaluation by a licensed psychiatrist or licensed clinical psychologist, a different licensed psychiatrist or licensed clinical psychologist shall perform the examination for the CRC.* The licensed psychiatrist or licensed clinical psychologist shall determine whether the prisoner *or incompetent defendant* is a sexually violent predator, as defined in § 37.2-900, and forward the results of this evaluation and any supporting documents to the CRC for its review.

The CRC assessment shall also include*:*

~~consideration~~ *1. Consideration* of the prisoner's score on the ~~Rapid~~ ~~Risk~~ ~~Assessment~~ ~~for~~ ~~Sexual~~ ~~Offender~~ ~~Recidivism~~ *Static-99* or a comparable, scientifically validated instrument designated by the Commissioner*;* and

~~a~~ *2. A* review of (i) the prisoner's *or incompetent defendant's* institutional history and treatment record, if any; (ii) ~~the~~ ~~prisoner's~~ *his* criminal background; and (iii) any other factor that is relevant to the determination of whether ~~the~~ ~~prisoner~~ *he* is a sexually violent predator.

Notwithstanding § 19.2-299.1 or any other provision of law, the CRC is authorized to possess, copy, and use presentence reports, postsentence reports, and victim impact statements for all lawful purposes.

C. Following the examination and review ~~of~~ ~~a~~ ~~prisoner~~ conducted pursuant to subsection B, the CRC shall recommend that the prisoner *or incompetent defendant* (i) be committed as a sexually violent predator pursuant to this chapter; (ii) not be committed, but be placed in a conditional release program as a less restrictive alternative; or (iii) not be committed because he does not meet the definition of a sexually violent predator. To assist the Attorney General in his review, the Department of Corrections, the CRC, and the psychiatrist or psychologist who conducts the mental health examination pursuant to this section shall provide the Attorney General with all evaluation reports, prisoner records, criminal records, medical files, and any other documentation relevant to determining whether a prisoner *or*

incompetent defendant is a sexually violent predator.

D. Pursuant to clause (ii) of subsection C, the CRC shall recommend that a prisoner *or incompetent defendant* enter a conditional release program if it finds that (i) ~~the prisoner~~ *he* does not need inpatient treatment, but needs outpatient treatment and monitoring to prevent his condition from deteriorating to a degree that he would need inpatient treatment; (ii) appropriate outpatient supervision and treatment are reasonably available; (iii) there is significant reason to believe that ~~the prisoner~~, if conditionally released, *he* would comply with the conditions specified; and (iv) conditional release will not present an undue risk to public safety.

E. Notwithstanding any other provision of law, all state and local courts, clerks, departments, agencies, boards, and commissions shall provide to the CRC all requested records, documents, notes, recordings, or other information of any kind, including presentence or postsentence reports, victim impact statements, and child abuse registry records, within 20 days of receiving such request.

F. Notwithstanding any other provision of law, any mental health professional employed or appointed pursuant to subsection B or § 37.2-907 shall be permitted to copy and possess any presentence or postsentence reports and victim impact statements for use in examinations, creating reports, and testifying in any proceedings pursuant to this article. However, at the conclusion of the examiner's testimony or service in such proceedings, the examiner shall return all presentence reports, postsentence reports and victim impact statements to the Office of the Attorney General.

G. Any mental health professional appointed or employed pursuant to subsection B or § 37.2-907 shall be permitted to testify at the probable cause hearing and at the trial as to his diagnosis, his opinion as to whether the prisoner or *incompetent* defendant meets the definition of a sexually violent predator, his recommendation as to treatment and his reasoning therefor. Such opinion shall not be dispositive of whether the person is a sexually violent predator.

H. If the CRC deems it necessary to have the services of additional experts in order to complete its review of the prisoner, the Commissioner shall appoint such qualified experts as are needed.

§ 37.2-905. Review of prisoners convicted of a sexually violent offense; review of unrestorably incompetent defendants charged with sexually violent offenses; petition for commitment; notice to Department of Corrections or referring court regarding disposition of review.

A. Upon receipt of a recommendation by the CRC regarding an eligible prisoner or ~~upon receipt of a court order referring~~ an unrestorably incompetent defendant for review pursuant to § 19.2-169.3, the Attorney General shall have 90 days to conduct a review of the prisoner or defendant and (i) file a petition for the civil commitment of the prisoner or defendant as a sexually violent predator and stating sufficient facts to support such allegation or (ii) notify the Director and Commissioner, in the case of a prisoner, or the referring court and the Commissioner, in the case of an unrestorably incompetent defendant, that he will not file a petition for commitment. Petitions for commitment shall be filed in the circuit court in which the prisoner was last convicted of a sexually violent offense or in which the defendant was deemed unrestorably incompetent and referred for commitment review pursuant to § 19.2-169.3.

B. In determining whether to file a petition to civilly commit a prisoner under this chapter, the Attorney General shall review (i) the CRC recommendation and its reasoning; (ii) the results of the mental health examination conducted pursuant to § 37.2-904; (iii) the prisoner's institutional history and treatment record, if any; (iv) the prisoner's criminal offense history; and (v) any other factor relevant to the determination of whether the prisoner should be civilly committed. Although the Attorney General shall consider the CRC recommendation as part of the review, the CRC recommendation is not binding upon the Attorney General.

C. In determining whether to file a petition to civilly commit a defendant under this chapter, the Attorney General shall review (i) *the CRC recommendation and its reasoning, (ii)* the defendant's warrant or indictment, ~~(ii)~~ *(iii)* the competency report completed pursuant to § 19.2-169.1, ~~(iii)~~ *(iv)* the report and recommendations prepared by the director of the defendant's treating facility pursuant to § 19.2-169.3, ~~(iv)~~ *(v) the mental health evaluation completed pursuant to § 37.2-904, (vi)* the defendant's criminal offense history, ~~(v)~~ *(vii)* information about the alleged crime, ~~(vi)~~ *and (viii)* any other factor relevant to the determination of whether the defendant should be civilly committed~~, and (vii) the mental health evaluation performed pursuant to subsection E~~.

D. Notwithstanding § 19.2-299.1 or any other provision of law, the Attorney General is authorized to possess, copy, and use presentence reports, postsentence reports, and victim impact statements for all lawful purposes.

E. ~~Whenever a court refers an incompetent defendant to the Attorney General for review, the court shall also appoint a licensed psychiatrist or licensed clinical psychologist from the list maintained by the Commissioner pursuant to subsection B of § 37.2-904 to conduct a mental health evaluation, including a personal interview, of the incompetent defendant. The licensed psychiatrist or licensed clinical psychologist shall determine whether the incompetent defendant is a sexually violent predator as defined~~

~~in § 37.2-900 and shall forward the results of this evaluation and any supporting documents to the Attorney General within 45 days of his appointment.~~

If the Attorney General decides not to file a petition for the civil commitment of a prisoner or incompetent defendant, or if a petition is filed but is dismissed for any reason, and the prisoner or incompetent defendant has outstanding probation or parole time to serve, the Attorney General and the Director may share any relevant information with the probation and parole officer to the extent allowed by state and federal law.

§ 37.2-906. Probable cause hearing.

A. Upon the filing of a petition alleging that a person is a sexually violent predator, the circuit court shall (i) forthwith order that until a final order is entered in the proceeding, in the case of a prisoner, he remain in the secure custody of the Department of Corrections or, in the case of a defendant, he remain in the secure custody of the Department and (ii) schedule a hearing within 60 days to determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. *A continuance extending the case beyond the 60 days may be granted to either the Attorney General or the person who is the subject of the petition only upon good cause shown.* A copy of the petition shall be mailed by the clerk to the attorney appointed or retained for the person named in the petition and, in those cases in which the person named in the petition is a prisoner, to the warden or superintendent of the correctional facility in which the person is then confined. The warden or superintendent shall cause the petition to be delivered to the person and shall certify the delivery to the clerk. In addition, a written explanation of the sexually violent predator involuntary commitment process and the statutory protections associated with the process shall be given to the person at the time the petition is delivered.

B. Prior to any hearing under this section, the judge shall ascertain if the person whose commitment is sought is represented by counsel and, if he is not represented by counsel, the judge shall appoint an attorney to represent him. However, if the person requests an opportunity to employ counsel, the court shall give him a reasonable opportunity to employ counsel at his own expense.

C. At the probable cause hearing, the judge shall (i) verify the person's identity and (ii) determine whether probable cause exists to believe that the person is a sexually violent predator. In the case of a prisoner in the custody of the Department of Corrections, if the judge finds that there is not probable cause to believe that the person is a sexually violent predator, the judge shall dismiss the petition, and the person shall remain in the custody of the Department of Corrections until his scheduled date of release from prison. In the case of a defendant, if the judge finds that there is not probable cause to believe the defendant is a sexually violent predator, the judge shall dismiss the petition and order that the defendant be discharged, involuntarily admitted pursuant to §§ 37.2-814 through 37.2-819, or certified for admission pursuant to § 37.2-806.

§ 37.2-907. Right to assistance of experts; compensation.

A. Any person who is the subject of a petition under this chapter shall have, prior to trial, the right to employ experts at his own expense to perform examinations and testify on his behalf. However, if a person has not employed an expert and requests expert assistance, the judge shall appoint such experts as he deems necessary to perform examinations and participate in the trial on the person's behalf. Any expert appointed to assist the person on matters relating to the person's mental health, including examination, evaluation, diagnosis, and treatment, shall have the qualifications required by subsection B of § 37.2-904. Any expert employed to assist the person on matters relating to the person's mental health shall be a licensed psychiatrist or licensed clinical psychologist who is skilled in the diagnosis and treatment of mental abnormalities and disorders associated with ~~violent~~ sex offenders and who is not a member of the CRC. Any expert employed or appointed pursuant to this section shall have reasonable access to all relevant medical and psychological records and reports pertaining to the person he has been employed or appointed to assist.

B. Each psychiatrist, psychologist, or other expert appointed by the court to render professional service pursuant to this chapter who is not regularly employed by the Commonwealth, except by the University of Virginia School of Medicine and the Virginia Commonwealth University School of Medicine, shall receive a reasonable fee for such service. The fee shall be determined in each instance by the court that appointed the expert, in accordance with guidelines established by the Supreme Court after consultation with the Department. The fee shall not exceed $5,000. However, in addition, if any such expert is required to appear as a witness in any hearing held pursuant to this chapter, he shall receive mileage and a fee of $750 for each day during which he is required to serve. An itemized account of expenses, duly sworn to, must be presented to the court, and, when allowed, shall be certified to the Supreme Court for payment out of the state treasury, and shall be charged against the appropriations made to pay criminal charges. Allowance for the fee and for the per diem authorized shall also be made by order of the court, duly certified to the Supreme Court, for payment out of the appropriation to pay criminal charges.

§ 37.2-908. Trial; right to trial by jury; standard of proof; discovery.

A. Within 90 days after the completion of the probable cause hearing held pursuant to § 37.2-906, the court shall conduct a trial to determine whether the person who is the subject of the petition is a sexually violent predator. *A continuance extending the case beyond the 90 days may be granted to either the Attorney General or the person who is the subject of the petition only upon good cause shown.*

B. The Attorney General or the person who is the subject of the petition shall have the right to a trial by jury. Seven persons from a panel of 13 shall constitute a jury in such cases. If a jury determines a person to be a sexually violent predator, a unanimous verdict shall be required. If no demand is made by either party for a trial by jury, the trial shall be before the court.

C. The court or jury shall determine whether, by clear and convincing evidence, the person who is the subject of the petition is a sexually violent predator. If the court or jury does not find clear and convincing evidence that the person is a sexually violent predator, the court shall, in the case of a prisoner, direct that he be returned to the custody of the Department of Corrections. The Department of Corrections shall immediately release him if his scheduled release date has passed, or hold him until his scheduled release date. In the case of a defendant, if the court or jury does not find by clear and convincing evidence that the defendant is a sexually violent predator, the court shall order that the defendant be discharged, involuntarily admitted pursuant to §§ 37.2-814 through 37.2-819, or certified for admission pursuant to § 37.2-806.

D. If the court or jury finds the person to be a sexually violent predator, the court shall then determine whether the person shall be fully committed or placed on conditional release. *In making its determination, the court shall consider (i) the nature and circumstances of the sexually violent offense for which the person was charged or convicted, including the age and maturity of the victim; (ii) the results of any actuarial test, including the likelihood of recidivism; (iii) the results of any diagnostic tests previously administered to the person under this chapter; (iv) the person's mental history, including treatments for mental illness or mental disorders, participation in and response to therapy or treatment, and any history of previous hospitalizations; (v) the person's present mental condition; (vi) the person's disciplinary record and types of infractions he may have committed while incarcerated or hospitalized; (vii) the person's living arrangements and potential employment if he were to be placed on conditional release; (viii) the availability of transportation and the appropriate supervision to ensure participation by the person in necessary treatment; and (ix) any other factors that the court deems relevant.* If the court finds, in its determination of treatment needs, that alternatives to involuntary secure inpatient treatment have been investigated and deemed unsuitable and there is no less restrictive alternative to involuntary secure inpatient treatment, the judge shall by written order and specific findings so certify and order that the person be committed to the custody of the Department for appropriate inpatient treatment in a secure facility designated by the Commissioner. Persons committed pursuant to this chapter are subject to the provisions of § 19.2-174.1 and Chapter 11 (§ 37.2-1100 et seq.).

E. If the court determines not to order full commitment, the court shall continue the case for not less than 30 days *nor more than 60 days* and shall require the Commissioner to submit a report to the court, the Attorney General, and counsel for the person suggesting possible alternatives to full commitment. The court shall then reconvene the hearing and receive testimony on the possible alternatives to full commitment. At the conclusion of the hearing, if the court finds, in determining the treatment needs of a person found to be a sexually violent predator, that less restrictive alternatives to involuntary secure inpatient treatment have been investigated and are deemed suitable, *and that any such alternatives will be able to accommodate needed and appropriate supervision and treatment plans for the person, including but not limited to, therapy or counseling, access to medications, availability of travel, location of residence, and regular psychological monitoring of the person if appropriate, including polygraph examinations, penile plethysmograph testing, or sexual interest testing, if necessary.* ~~and~~ ~~if~~ *Access to anti-androgen medications or other medication prescribed to lower blood serum testosterone shall not be used as a primary reason for determining that less restrictive alternatives are appropriate pursuant to this chapter. If* the judge finds specifically that the person meets the criteria for conditional release set forth in § 37.2-912, the judge shall order outpatient treatment, day treatment in a hospital, night treatment in a hospital, outpatient involuntary treatment with anti-psychotic medication pursuant to Chapter 11 (§ 37.2-1100 et seq.), or such other appropriate course of treatment as may be necessary to meet the needs of the individual. *The court shall also order the person to be subject to electronic monitoring of his location by means of a GPS (Global Positioning System) tracking device, or other similar device, at all times while he is on conditional release.*

F. The Department shall recommend a specific course of treatment and programs for provision of such treatment and shall monitor the person's compliance with such treatment as may be ordered by the court under this section, unless the person is on parole or probation, in which case the parole or probation officer shall monitor the person's compliance. The person's failure to comply with involuntary outpatient treatment as ordered by the court may be admitted into evidence in subsequent hearings held pursuant to the provisions of this chapter. Upon failure of the person to adhere to the terms of the

involuntary outpatient treatment, the judge may revoke the same and, upon notice to the person undergoing involuntary outpatient treatment and after a hearing, order the person committed as a sexually violent predator for inpatient treatment at a secure facility designated by the Commissioner.

G. In the event of a mistrial, the court shall direct that the prisoner remain in the secure custody of the Department of Corrections or the defendant remain in the secure custody of the Department until another trial is conducted. Any subsequent trial following a mistrial shall be held within 90 days of the previous trial.

H. All proceedings conducted hereunder are civil proceedings. However, no discovery other than that provided in § 37.2-901 shall be allowed without prior leave of the court, which may deny or limit discovery in any such proceeding. No less than 30 days prior to the trial of the matter, any expert employed or appointed pursuant to § 37.2-907 shall prepare a written report detailing his findings and conclusions and shall submit the report, along with all supporting data, to the court, the Attorney General, and counsel for the person. Under no circumstances shall the prisoner or defendant be entitled to receive a copy of the victim impact statement or the presentence investigation report. However, counsel for the prisoner or defendant and any expert employed or appointed pursuant to § 37.2-907 may ~~review the victim impact statement or presentence investigation report outside the presence of the prisoner or defendant. The Attorney General shall file with the clerk copies of any relevant presentence reports, postsentence reports, and victim impact statements in his possession, withholding identifying information about victims. Such filings shall be held by the court in confidence and reviewable only by the court, the Attorney General, and the counsel for the prisoner or defendant pursuant to this section~~ *possess and copy the victim impact statement or presentence or postsentence report for use at the trial. Within 30 days after the case is finally disposed of, counsel for the prisoner or defendant and any expert employed or appointed pursuant to § 37.2-907 shall return all copies of the victim impact statements and presentence and postsentence reports to the Attorney General. However, in no event shall the prisoner or defendant be permitted to possess or copy a victim impact statement or presentence or postsentence report.*

§ 37.2-910. Review of continuation of secure inpatient treatment hearing; procedure and reports; disposition.

A. The committing court shall conduct a hearing 12 months after the date of commitment to assess each committed person's need for secure inpatient treatment. A hearing for assessment shall be conducted at yearly intervals for five years and at biennial intervals thereafter. The court shall schedule the matter for hearing as soon as possible after it becomes due, giving the matter priority over all pending matters before the court.

B. Prior to the hearing, the Commissioner shall provide to the court a report reevaluating the committed person's condition and recommending treatment. The report shall be prepared by a licensed psychiatrist or a licensed clinical psychologist skilled in the diagnosis and treatment of mental abnormalities and personality disorders associated with ~~violent~~ sex offenders and qualified by training and experience to perform forensic evaluations. If the Commissioner's report recommends discharge or the committed person requests discharge, the committed person's condition and need for secure inpatient treatment shall be evaluated by a second person with such credentials who is not currently treating the committed person. Any professional person who conducts a second evaluation of a committed person shall submit a report of his findings to the court and the Commissioner. A copy of any report submitted pursuant to this subsection shall be sent to the Attorney General.

C. The burden of proof at the hearing shall be upon the Commonwealth to prove to the court by clear and convincing evidence that the committed person remains a sexually violent predator.

D. If the court finds, based upon the report and other evidence provided at the hearing, that the committed ~~person's condition has so changed that he~~ *person* is no longer a sexually violent predator, the court shall ~~(i)~~ release the committed person from secure inpatient treatment ~~if he does not need it and does not meet the criteria for conditional release set forth in § 37.2-912, provided the court has approved a discharge plan prepared by the Department or (ii) place the committed person on conditional release if he meets the criteria for conditional release and the court has approved a conditional release plan prepared by the Department. However, if~~ . *If* the court finds that the committed person remains a sexually violent predator, it shall order that he remain in the custody of the Commissioner for secure inpatient *hospitalization and* treatment *or that he be conditionally released. To determine if the committed person shall be conditionally released, the court shall determine if the person meets the criteria for conditional release set forth in § 37.2-912. If the court orders that the person be conditionally released, the court shall allow the Department no less than 30 days and no more than 60 days to prepare a conditional release plan. Any such plan must be able to accommodate needed and appropriate supervision and treatment plans for the person, including but not limited to, therapy or counseling, access to medications, availability of travel, location of residence, and regular phychological monitoring of the person if called for, including polygraph examinations, penile plethysmograph testing,*

or sexual interest testing, if necessary. Access to anti-androgen medications or other medication prescribed to lower blood serum testosterone shall not be used as a primary reason for determining that less restrictive alternatives are appropriate pursuant to this chapter.

If the court places the person on conditional release, the court shall order the person to be subject to electronic monitoring of his location by means of a GPS (Global Positioning System) tracking device, or other similar device, at all times while he is on conditional release.

§ 37.2-912. Conditional release; criteria; conditions; reports.

A. At any time the court considers the committed person's need for secure inpatient treatment pursuant to this chapter, it shall place the committed person on conditional release if it finds that (i) based on consideration of the factors that the court must consider in its commitment decision, he does not need secure inpatient treatment but needs outpatient treatment or monitoring to prevent his condition from deteriorating to a degree that he would need secure inpatient treatment; (ii) appropriate outpatient supervision and treatment are reasonably available; (iii) there is significant reason to believe that the committed person, if conditionally released, would comply with the conditions specified; and (iv) conditional release will not present an undue risk to public safety. *In making its determination, the court shall consider (i) the nature and circumstances of the sexually violent offense for which the person was charged or convicted, including the age and maturity of the victim; (ii) the results of any actuarial test, including the likelihood of recidivism; (iii) the results of any diagnostic tests previously administered to the person under this chapter; (iv) the person's mental history, including treatments for mental illness or mental disorders, participation in and response to therapy or treatment, and any history of previous hospitalizations; (v) the person's present mental condition; (vi) the person's response to treatment while in secure inpatient treatment or on conditional release; (vii) the person's living arrangements and potential employment if he were to be placed on conditional release; (viii) the availability of transportation and the appropriate supervision to ensure participation by the person in necessary treatment; and (ix) any other factors that the court deems relevant.* The court shall subject a conditionally released committed person to the orders and conditions it deems will best meet the committed person's need for treatment and supervision and best serve the interests of justice and society. *In all cases of conditional release, the court shall order the person to be subject to electronic monitoring of his location by means of a GPS (Global Positioning System) tracking device, or other similar device, at all times while he is on conditional release.*

The Department or, if the person is on parole or probation, the person's parole or probation officer shall implement the court's conditional release orders and shall submit written reports to the court on the committed person's progress and adjustment in the community no less frequently than every six months. The Department or, if the person is on parole or probation, the person's parole or probation officer shall send a copy of each written report submitted to the court and copies of all correspondence with the court pursuant to this section to the Attorney General and the Commissioner.

B. Notwithstanding any other provision of law, when any person is placed on conditional release under this article, the Department of Corrections shall provide to the Department of Mental Health, Mental Retardation and Substance Abuse Services, or if the person is on parole or probation, the person's parole or probation officer, all relevant criminal history information, medical and mental health records, presentence and postsentence reports and victim impact statements, and the mental health evaluations performed pursuant to subsection B of § 37.2-904 and § 37.2-907, for use in the management and treatment of the person placed on conditional release. Any information or document provided pursuant to this subsection shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 37.2-919. Postrelease supervision of Department; commission of new criminal offense by person committed to Department.

A. If a person committed to the Department of Mental Health, Mental Retardation and Substance Abuse Services, whether in involuntary secure inpatient treatment or on conditional release, who is also on probation, parole, or postrelease supervision, fails to comply with any conditions established by the Department, or fails to comply with the terms of a treatment plan, the Department shall so notify the Department of Corrections or the person's probation and parole officer.

B. If a person committed to the Department of Mental Health, Mental Retardation and Substance Abuse Services is arrested for a felony or Class 1 or 2 misdemeanor offense, he shall be transported to a judicial officer forthwith for a bond determination in accordance with the provisions of § 19.2-80. If the judicial officer admits the accused to bail, he shall, upon his admission to bail, be immediately transported back into the custody of the Department of Mental Health, Mental Retardation and Substance Abuse Services. If, after trial for this offense, no active period of incarceration is imposed, or if the person is acquitted or the charges are withdrawn or dismissed, he shall be returned to the Department of Mental Health, Mental Retardation and Substance Abuse Services pursuant to his commitment. *If a period of active incarceration of 12 months or longer is imposed or any suspended sentence is revoked*

resulting in the person being returned to the Department of Corrections for a period of active incarceration of 12 months or longer, the person shall not be entitled to an annual or biennial review hearing pursuant to § 37.2-910 until 12 months after he has been returned to the custody of the Commissioner. Such reincarceration shall toll the provisions of § 37.2-910.

§ 37.2-920. Appeal by Attorney General; emergency custody order.

In any case in which the Attorney General successfully appeals the trial court's denial of probable cause, denial of civil commitment or conditional release, or discharge or placement on conditional release after an annual review hearing, upon the issuance of the mandate by the Supreme Court of Virginia, the trial court shall immediately issue an emergency custody order to any local law-enforcement official to have the person taken into custody and held in the local correctional facility, pending further appropriate proceedings.

§ 46.2-323. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, if the applicant has been convicted of an offense for which registration with the Sex Offender and Crimes Against Minors Registry is required.

B. Every application shall state the full legal name, year, month, and date of birth, social security number, sex, and residence address of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. The Department, as a condition for the issuance of any driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit may require the surrender of any driver's license or, in the case of a motorcycle learner's permit, a motorcycle license issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. The applicant may also be required to present to the person conducting the examination a birth certificate or other evidence, reasonably acceptable to the Department, of his name and date of birth.

The applicant shall also certify that he is a resident of the Commonwealth by signing a certification statement, on a form prescribed by the Commissioner, and by providing satisfactory proof that he is a resident of the Commonwealth. The Commissioner may adopt regulations to determine the process by which applicants prove that they are residents of the Commonwealth.

If the applicant either (i) fails or refuses to sign the certification statement or (ii) fails to follow the process determined by the Commissioner for proving residency, the Department shall not issue the applicant a driver's license, temporary driver's permit, learner's permit or motorcycle learner's permit.

Any applicant who knowingly makes a false certification of Virginia residency or supplies false or fictitious evidence of Virginia residency shall be punished as provided in § 46.2-348.

The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.

C. Every application for a driver's license shall include a color photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license.

D. Notwithstanding the provisions of § 46.2-334, every applicant for a driver's license who is under 19 years of age shall furnish the Department with satisfactory proof of his successful completion of a driver education program approved by the State Department of Education.

E. (Effective January 1, 2007) The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application of licensure.

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

A. Whenever any person, after applying for or obtaining a driver's license or special identification card shall move from the address shown in the application or on the license or special identification card, he shall, within thirty days, notify the Department of his change of address. If the Department receives notification from the person or any court or law-enforcement agency that a person's residential

address has changed to a non-Virginia address, unless the person (i) is on active duty with the armed forces of the United States, (ii) provides proof that he is a U.S. citizen and resides outside the United States because of his employment or the employment of a spouse or parent, or (iii) provides proof satisfactory to the Commissioner that he is a bona fide resident of Virginia, the Department shall (i) mail, by first-class mail, no later than three days after the notice of address change is received by the Department, notice to the person that his license and/or special identification card will be cancelled by the Department and (ii) cancel the driver's license and/or special identification card thirty days after notice of cancellation has been mailed.

B. There may be imposed upon anyone failing to notify the Department of his change of address as required by this section a fee of five dollars, which fee shall be used to defray the expenses incurred by the Department.

C. (Effective January 1, 2007) The Department shall electronically transmit change of address information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of the change of address. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered or in the jurisdiction where the person made application for change of address.

§ 46.2-330. Expiration and renewal of licenses; examinations required.

A. Every driver's license shall expire on the applicant's birthday in years in which the applicant attains an age equally divisible by five. At no time shall any driver's license be issued for less than three nor more than seven years. Thereafter the driver's license shall be renewed on or before the birthday of the licensee and shall be valid for five years, expiring in the next year in which the licensee's age is equally divisible by five.

B. Within one year prior to the date shown on the driver's license as the date of expiration, the Department shall mail notice, to the holder thereof, at the address shown on the records of the Department in its driver's license file, that his license will expire on a date specified therein, whether he must be reexamined, and when he may be reexamined. Nonreceipt of the notice shall not extend the period of validity of the driver's license beyond its expiration date.

Any driver's license may be renewed by application, which shall include the applicant's certification of Virginia residency, after the applicant has taken and successfully completed those parts of the examination provided for in §§ 46.2-311, 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), including vision and written tests, other than the parts of the examination requiring the applicant to drive a motor vehicle. All drivers applying in person for renewal of a license shall take and successfully complete the examination each renewal year.

C. Notwithstanding any other provision of this section, the Commissioner, in his discretion, may require any applicant for renewal to be fully examined as provided in §§ 46.2-311, 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). Furthermore, if the applicant is less than 80 years old, the Commissioner may waive the vision examination for any applicant for renewal of a driver's license which is not a commercial driver's license, and the requirement or the taking of the written test as provided in subsection B of this section, § 46.2-325 and the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), for any applicant for renewal who is at least 21 years old. Such written test shall not be waived for an applicant less than 21 years old if such applicant's driver's license record on file with the Department contains a record of one or more convictions for any offense reportable under §§ 46.2-382, 46.2-382.1, and 46.2-383. However, in no case shall there be any waiver of the vision examination for applicants for renewal of a commercial driver's license or of the knowledge test required by the Virginia Commercial Driver's License Act for the hazardous materials endorsement on a commercial driver's license. No driver's license or learner's permit issued to any person who is 80 years old or older shall be renewed unless the applicant for renewal appears in person and either (i) passes a vision examination or (ii) presents a report of a vision examination, made within 90 days prior thereto by an ophthalmologist or optometrist, indicating that the applicant's vision meets or exceeds the standards contained in § 46.2-311.

D. Every applicant for renewal of a driver's license, whether renewal shall or shall not be dependent on any examination of the applicant, shall appear in person before the Department to apply for renewal, unless specifically notified by the Department that renewal may be accomplished in another manner as provided in the notice.

E. This section shall not modify the provisions of § 46.2-221.2.

F. (Effective January 1, 2007) The Department shall electronically transmit application information

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

§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person provided:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; sex; and residence address;

2. The applicant presents a birth certificate or other evidence acceptable to the Department of his name and date of birth;

3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit.

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original or renewal special identification card is $5. The fee for the issuance of a duplicate or reissue of a special identification card is $5. Persons 21 years old or older may be issued a scenic special identification card for an additional fee of $5.

C. Every special identification card shall expire on the last day of the month of birth of the applicant in years in which the applicant attains an age exactly divisible by five. At no time shall any special identification card be issued for less than three nor more than seven years, except under the provisions of subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday, thereafter the special identification card may be renewed on or before the last day of the month of birth of the applicant and shall be valid for five years, expiring in the next year in which the applicant's age is exactly divisible by five, except under the provisions of subsection B of § 46.2-328.1.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a color photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle.

E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. Special identification cards for persons under age 15 shall bear a full face photograph. The special identification card issued to persons under age 15 shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. A valid Virginia driver's license may be surrendered for a special identification card without the applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card shall be considered a reissue and the expiration date shall be the last day of the month of the surrendered driver's license's month of expiration.

H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

I. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or

otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

J. The Department may promulgate regulations necessary for the effective implementation of the provisions of this section.

K. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

L. (Effective January 1, 2007) The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application for the special identification card.

§ 46.2-348. Fraud or false statements in applications for license; penalties.

Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a driver's license, or any renewal or duplicate thereof, or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in his application shall be guilty of a Class 2 misdemeanor. However, where the license is used, or the fact concealed, or fraud is done, with the intent to purchase a firearm *or use as proof of residency under § 9.1-903*, a violation of this section shall be punishable as a Class 4 felony.

§ 53.1-23.2. Department to give notice of the receipt of certain prisoners.

A. At the time of receipt of any prisoner for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the Department shall obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police. A person required to register shall register and submit to be photographed as part of the registration. The Department shall forthwith forward the registration information and photograph to the Department of State Police on the date of the receipt of the prisoner.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the Department shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was received. The Department shall notify the State Police forthwith of such actions taken pursuant to this section.

§ 53.1-115.1. Superintendents of regional jails and regional jail-farms to make daily reports to Compensation Board.

(Effective October 1, 2006) The superintendent of every regional jail and every regional jail-farm shall report ~~on the first~~ *each* day ~~of each month~~ to the Compensation Board, giving the record of each prisoner received during the preceding ~~month on blank forms to be furnished~~ *day in an electronic format approved* by the Compensation Board, stating whether the offense for each prisoner is for violation of state law or of *a* city or town ordinance. The *computer-generated* report shall be ~~signed~~ *authenticated* by both the superintendent and chairman of the regional jail-farm board. Either ~~signer found guilty of~~ *person who authenticates such report and* willfully ~~falsifying~~ *falsifies* the information contained in such report ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

If any superintendent fails to send such report ~~within ten business days after the date when the report should be forwarded~~, the Compensation Board shall notify the superintendent of such failure. If the superintendent fails to make the report within ten days ~~from that date~~, then the Compensation Board shall cause the report to be prepared from the books of the superintendent and shall certify the cost thereof to the Comptroller. The Comptroller shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be due the superintendent by the Commonwealth.

§ 53.1-116.1. Jailer to give notice of release of certain prisoners.

A. Prior to the release or discharge of any prisoner ~~serving a sentence for an offense for which~~ *–for whom* registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the sheriff, jail superintendent or other jail administrator shall give notice to the prisoner of his duty to register with the State Police. *A person required to register shall register, submit to be photographed as part of the registration, and provide information regarding*

place of employment, if available, to the sheriff, jail superintendent or other jail administrator. The sheriff, jail superintendent or other jail administrator shall also obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police; inform the person of his duties regarding reregistration and change of address; and inform the person of his duty to register. The sheriff, jail superintendent or other jail administrator shall *forthwith* forward the registration information to the Department of State Police ~~within seven days of receipt~~ *on the date of the prisoner's release.*

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the sheriff, jail superintendent or other jail administrator shall promptly investigate or request the State Police to promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was discharged. The sheriff, jail superintendent or other jail administrator shall notify the State Police forthwith of such actions taken pursuant to this section.

§ 53.1-116.1:01. Jailer to give notice of intake of certain prisoners.

A. At the time of intake of any prisoner, for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the sheriff, jail superintendent or other jail administrator shall also obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police. A person required to register shall register, and submit to be photographed as part of the registration. The sheriff, jail superintendent or other jail administrator shall forthwith forward the registration information to the Department of State Police on the date of the prisoner's intake.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the sheriff, jail superintendent or other jail administrator shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was discharged. The sheriff, jail superintendent or other jail administrator shall notify the State Police forthwith of such actions taken pursuant to this section.

§ 53.1-121. Sheriffs to make daily reports to Compensation Board; failure to send report.

(Effective October 1, 2006) The sheriff shall report ~~on the first~~ *each* day ~~of each month~~ to the Compensation Board, giving the record of each prisoner received during the preceding ~~month on blank forms to be furnished~~ *day in an electronic format approved* by the Compensation Board, stating whether the offense is for violation of state law or of city or town ordinance.

If any sheriff fails to send such report ~~within ten business days after the date when the report should be forwarded~~, the Compensation Board shall notify the sheriff of such failure. If the sheriff fails to make the report within ten days ~~from that date~~, then the Compensation Board shall cause the report to be prepared from the books of the sheriff and shall certify the cost thereof to the Comptroller. The Comptroller shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be due the sheriff by the Commonwealth.

The *computer-generated* report shall be ~~signed~~ *authenticated* by both the chief jailer and the sheriff who shall certify the accuracy of the report. Either ~~signer~~ *authenticator* found guilty of willfully falsifying the information contained in such report shall be guilty of a Class 1 misdemeanor.

§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review;

2. (a) Release on parole for such time and upon such terms and conditions as the Board shall prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility in Virginia when those persons become eligible and are found suitable for parole, according to those rules adopted pursuant to subdivision 1;

(b) Establish the conditions of postrelease supervision authorized pursuant to §§ 18.2-10 and 19.2-295.2 A;

(c) Notify by certified mail at least 21 business days prior to release on discretionary parole of any inmate convicted of a felony and sentenced to a term of 10 or more years, the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced. In the case of parole granted for medical reasons, where death is imminent, the Commonwealth's Attorney may be notified by telephone or other electronic means prior to release. Nothing in this subsection shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release;

(d) In any case where a person who is released on parole or postrelease supervision has been committed to the Department of Mental Health, Mental Retardation and Substance Abuse Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of his parole or postrelease

supervision shall include the requirement that the person comply with all conditions given him by the Department of Mental Health, Mental Retardation and Substance Abuse Services, and that he follow all of the terms of his treatment plan;

3. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole, postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

4. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society;

5. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine or penalty when requested by the Governor; and

6. Publish monthly a statement regarding the action taken by the Board on the parole of prisoners. The statement shall list the name of each prisoner considered for parole and indicate whether parole was granted or denied, as well as the basis for denial of parole as described in subdivision 2 (a).

§ 53.1-145. Powers and duties of probation and parole officers.

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation and instruct him therein; *if any such person has been committed to the Department of Mental Health, Mental Retardation and Substance Abuse Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation shall include the requirement that the person comply with all conditions given him by the Department of Mental Health, Mental Retardation and Substance Abuse Services, and that he follow all of the terms of his treatment plan;*

3. Supervise and assist all persons within his territory released on parole or postrelease supervision, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole, postrelease supervision, or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he was authorized;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the officer's exercise of this authority shall be promulgated by the Board; and

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the Board and upon the certification of appropriate training and specific authorization by a judge of a circuit court.

Nothing in this article shall require probation and parole officers to investigate or supervise cases before general district or juvenile and domestic relations district courts.

§ 53.1-160.1. Department to give notice of Sex Offender and Crimes Against Minors Registry requirements to certain prisoners.

A. Prior to the release or discharge of any prisoner ~~serving a sentence for an offense~~ for ~~which~~ *whom* registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the Department shall give notice to the prisoner of his duty to register with the State Police. *A person required to register shall register, submit to be photographed as part of the registration, and provide information regarding place of employment, if available, to the*

Department. The Department shall also obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police, inform the person of his duties regarding reregistration and change of address, and inform the person of his duty to register. The Department shall forward the registration information to the Department of State Police ~~within seven days of receipt~~ *on the date of the prisoner's release or discharge*.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the Department shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was released or discharged. The Department shall notify the State Police forthwith of such actions taken pursuant to this section.

§ 63.2-105. Confidential records and information concerning social services; child-protective services and child-placing agencies.

A. The local department may disclose the contents of records and information learned during the course of a child-protective services investigation or during the provision of child-protective services to a family, without a court order and without the consent of the family, to a person having a legitimate interest when in the judgment of the local department such disclosure is in the best interest of the child who is the subject of the records. Persons having a legitimate interest in child-protective services records of local departments include, but are not limited to, (i) any person who is responsible for investigating a report of known or suspected abuse or neglect or for providing services to a child or family that is the subject of a report, including multidisciplinary teams and family assessment and planning teams referenced in subsections J and K of § 63.2-1503, law-enforcement agencies and attorneys for the Commonwealth; (ii) child welfare or human services agencies of the Commonwealth or its political subdivisions when those agencies request information to determine the compliance of any person with a child-protective services plan or an order of any court; (iii) personnel of the school or child day program as defined in § 63.2-100 attended by the child so that the local department can receive information from such personnel on an ongoing basis concerning the child's health and behavior, and the activities of the child's custodian; ~~and~~ (iv) a parent, grandparent, or any other person when such parent, grandparent or other person would be considered by the local department as a potential caretaker of the child in the event the local department has to remove the child from his custodian*; and (v) the Commitment Review Committee and the Office of the Attorney General for the purposes of sexually violent predator civil commitments pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2*.

Whenever a local department exercises its discretion to release otherwise confidential information to any person who meets one or more of these descriptions, the local department shall be presumed to have exercised its discretion in a reasonable and lawful manner.

B. Any person who has not been legally adopted in accordance with the provisions of this title and who was a child for whom all parental rights and responsibilities have been terminated, shall not have access to any information from a child-placing agency with respect to the identity of the biological family, except (i) upon application of the child who is 18 or more years of age, (ii) upon order of a circuit court entered upon good cause shown, and (iii) after notice to and opportunity for hearing by the applicant for such order and the child-placing agency or local board that had custody of the child.

An eligible person who is a resident of Virginia may apply for the court order provided for herein to (a) the circuit court of the county or city where the person resides or (b) the circuit court of the county or city where the principal office of the child-placing agency or local board that controls the information sought by the person is located. An eligible person who is not a resident of Virginia shall apply for such a court order to the circuit court of the county or city where the principal office of the child-placing agency or local board that controls the information sought by the person is located.

If the identity and whereabouts of the biological family are known to the agency or local board, the court may require the agency or local board to advise the biological parents of the pendency of the application for such order. In determining good cause for the disclosure of such information, the court shall consider the relative effects of such action upon the applicant for such order and upon the biological parents.

2. That the amendments to §§ 53.1-115.1 and 53.1-121 shall become effective on October 1, 2006.

3. That the amendments to §§ 46.2-323, 46.2-324, 46.2-330 and 46.2-345 shall become effective on January 1, 2007.

4. That the provisions of § 37.2-900 shall become effective on January 1, 2007.

5. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least $2,419,496 for periods of imprisonment in state adult correctional facilities and is $0 for periods of commitment to the custody of the Department of Juvenile Justice.