

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 218

An Act to amend and reenact § 18.2-472.1 of the Code of Virginia, relating to affidavit as evidence of failure of sex offender to register; custodian of records as witness.

[H 830]

Approved March 3, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-472.1 of the Code of Virginia is amended and reenacted as follows:

§ 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.

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. The accused in any hearing or trial in which an affidavit from the State Police issued as required in § 9.1-907 is admitted into evidence pursuant to this section shall have the right to call the custodian of records issuing the affidavit and examine him in the same manner as if he had been called as an adverse witness. Such witness shall be summoned and appear at the cost of the Commonwealth.

§ F. 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, or (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.