

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-82 of the Code of Virginia, relating to arrest of illegal aliens.*

3 [H 2580]

4 Approved

5 **Be it enacted by the General Assembly of Virginia:**6 **1. That § 19.2-82 of the Code of Virginia is amended and reenacted as follows:**

7 § 19.2-82. Procedure upon arrest without warrant.

8 A. A person arrested without a warrant shall be brought forthwith before a magistrate or other  
9 issuing authority having jurisdiction who shall proceed to examine the officer making the arrest under  
10 oath. If the magistrate or other issuing authority having jurisdiction has lawful probable cause upon  
11 which to believe that a criminal offense has been committed, and that the person arrested has committed  
12 such offense, he shall issue either a warrant under the provisions of § 19.2-72 or a summons under the  
13 provisions of § 19.2-73.14 As used in this section the term "brought before a magistrate or other issuing authority having  
15 jurisdiction" shall include a personal appearance before such authority or any two-way electronic video  
16 and audio communication meeting the requirements of § 19.2-3.1, in order that the accused and the  
17 arresting officer may simultaneously see and speak to such magistrate or authority. If electronic means  
18 are used, any documents filed may be transmitted in accordance with § 19.2-3.1.19 If a warrant is issued the case shall thereafter be disposed of under the provisions of §§ 19.2-183  
20 through 19.2-190, if the issuing officer is a judge; under the provisions of §§ 19.2-119 through 19.2-134,  
21 if the issuing officer is a magistrate or other issuing officer having jurisdiction.

22 If such warrant or summons is not issued, the person so arrested shall be released.

23 B. A warrant may be issued pursuant to this section, where the person has been arrested in  
24 accordance with § 19.2-81.6, and the magistrate or other issuing authority examines the officer making  
25 the arrest under oath, and finds lawful probable cause to believe the arrested individual meets the  
26 conditions of clauses (i) and (ii) of § 19.2-81.6. If such warrant is issued, it shall recite § 19.2-81.6 and  
27 the applicable violation of federal criminal law previously confirmed with ~~the Bureau of~~ Immigration  
28 and Customs Enforcement. Upon the person being taken into federal custody, such state warrant shall be  
29 dismissed. Any warrant issued under this subsection shall expire within 72 hours, or when the person is  
30 taken into federal custody, whichever occurs first. Recurrent applications for a warrant under this  
31 subsection shall not be permitted within a six-month period *except where confirmation has been received*  
32 *from Immigration and Customs Enforcement that the arrested person will be taken into federal custody.*