

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 19.2-390, 53.1-149, and 53.1-162 of the Code of Virginia, relating to information entered into VCIN.

[H 585]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-390, 53.1-149, and 53.1-162 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on capias or warrant for failure to appear, and the service of a warrant for another jurisdiction, on any of the following charges:

a. Treason;

b. Any felony;

c. Any offense punishable as a misdemeanor under Title 54.1; or

d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, except an arrest for a violation of § 18.2-119, Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database.

2. For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court dismisses the proceeding pursuant to § 18.2-251; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

B. Within 72 hours following the receipt of (i) a warrant or capias for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or capias may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

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57 *B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant*
 58 *to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his*
 59 *post-release supervision or probation, the law-enforcement agency that received the written statement*
 60 *shall enter, or cause to be entered, the person's name and other appropriate information required by the*
 61 *Department of State Police into the "information systems" known as the Virginia Criminal Information*
 62 *Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.)*
 63 *of Title 52.*

64 C. The clerk of each circuit court and district court shall make an electronic report to the Central
 65 Criminal Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still
 66 pending due to mental incompetency or incapacity, nolle prosequi, acquittal, or conviction of, including
 67 any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an
 68 offense listed in subsection A, including any action which may have resulted from an indictment,
 69 presentment or information, and (ii) any adjudication of delinquency based upon an act which, if
 70 committed by an adult, would require fingerprints to be filed pursuant to subsection A. In the case of
 71 offenses not required to be reported to the Exchange by subsection A, the reports of any of the
 72 foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest
 73 record required to be maintained by § 15.2-1722. Upon conviction of any person, including juveniles
 74 tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or
 75 juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within
 76 seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The
 77 report to the Registry shall include the name of the person convicted and all aliases which he is known
 78 to have used, the date and locality of the conviction for which registration is required, his date of birth,
 79 social security number, last known address, and specific reference to the offense for which he was
 80 convicted. No report of conviction or adjudication in a district court shall be filed unless the period
 81 allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the
 82 office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall
 83 also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each
 84 clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the
 85 Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses
 86 not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case
 87 may be, any reversal or other amendment to a prior sentence or disposition previously reported. When
 88 criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the
 89 law-enforcement agency that entered the warrant or capias into the VCIN.

90 D. In addition to those offenses enumerated in subsection A of this section, the Central Criminal
 91 Records Exchange may receive, classify and file any other fingerprints, photographs, and records of
 92 arrest or confinement submitted to it by any law-enforcement agency or any correctional institution.

93 E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining
 94 correctional status information, as required by the regulations of the Department of Criminal Justice
 95 Services, with respect to individuals about whom reports have been made under the provisions of this
 96 chapter shall make reports of changes in correctional status information to the Central Criminal Records
 97 Exchange. The reports to the Exchange shall include any commitment to or release or escape from a
 98 state or local correctional facility, including commitment to or release from a parole or probation
 99 agency.

100 F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to
 101 the Exchange by the office of the Secretary of the Commonwealth.

102 G. Officials responsible for reporting disposition of charges, and correctional changes of status of
 103 individuals under this section, including those reports made to the Registry, shall adopt procedures
 104 reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible
 105 by the most expeditious means and in no instance later than 30 days after occurrence of the disposition
 106 or correctional change of status; and (ii) to report promptly any correction, deletion, or revision of the
 107 information.

108 H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records
 109 Exchange shall notify all criminal justice agencies known to have previously received the information.

110 As used in this section:

111 "Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of
 112 counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by
 113 appropriate resolution or ordinance, in which case the local designation shall be controlling.

114 "Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal
 115 Records Exchange in an electronic format approved by the Exchange. The report shall contain the name
 116 of the person convicted and all aliases which he is known to have used, the date and locality of the
 117 conviction, his date of birth, social security number, last known address, and specific reference to the

118 offense including the Virginia Code section and any subsection, the Virginia crime code for the offense,
119 and the offense tracking number for the offense for which he was convicted.

120 § 53.1-149. Arrest of probationer without warrant; written statement.

121 Any probation officer appointed pursuant to this chapter may arrest a probationer without a warrant,
122 or may deputize any other officer with power to arrest to do so, by a written statement setting forth that
123 the probationer has, in the judgment of the probation officer, violated one or more of the terms or
124 conditions upon which the probationer was released on probation. Such a written statement by a
125 probation officer delivered to the officer in charge of any local jail or lockup shall be sufficient warrant
126 for the detention of the probationer. *Any officer deputized upon receipt of the written statement shall, in*
127 *accordance with § 19.2-390, enter, or cause to be entered, the person's name and other appropriate*
128 *information required by the Department of State Police into the "information systems" known as the*
129 *Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant*
130 *to Chapter 2 (§ 52-12 et seq.) of Title 52. Such information shall be deemed a warrant authorizing the*
131 *arrest of the person anywhere in the Commonwealth.*

132 § 53.1-162. Arrest of parolee or felon serving a period of postrelease supervision without warrant;
133 written statement.

134 Any probation and parole officer may arrest a parolee or felon serving a period of postrelease
135 supervision without a warrant or may deputize any other officer with power of arrest to do so by a
136 written statement setting forth that the parolee or felon serving a period of postrelease supervision has,
137 in the judgment of the probation and parole officer, violated one or more of the terms or conditions of
138 his parole or postrelease period of supervision. Such a written statement by a probation and parole
139 officer delivered to the officer in charge of any state or local correctional facility shall be sufficient
140 warrant for the detention of the parolee or felon serving a period of postrelease supervision. *Any officer*
141 *deputized upon receipt of the written statement shall, in accordance with § 19.2-390, enter, or cause to*
142 *be entered, the person's name and other appropriate information required by the Department of State*
143 *Police into the "information systems" known as the Virginia Criminal Information Network (VCIN),*
144 *established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Such*
145 *information shall be deemed a warrant authorizing the arrest of the person anywhere in the*
146 *Commonwealth.*