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HOUSE BILL NO. 967

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact §§ 9.1-101, 18.2-57, 18.2-308, 18.2-308.2:2, 19.2-81, 19.2-81.3, 23-7.4:1, 52-34.7, 65.2-402, and 65.2-402.1 of the Code of Virginia, relating to law-enforcement officers; campus police officers; definitions.

Patrons—Bell, Robert B. and Yost

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, 18.2-57, 18.2-308, 18.2-308.2:2, 19.2-81, 19.2-81.3, 23-7.4:1, 52-34.7, 65.2-402, and 65.2-402.1 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.) of this chapter, but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or

INTRODUCED

HB967

sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Department of Alcoholic Beverage Control; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the State Lottery Department; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; ~~or~~ (viii) animal protection police ~~officers~~ officer employed under § 15.2-632; *or (ix) campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23.* Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

§ 18.2-57. Assault and battery.

A. Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person shall be guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a law-enforcement officer as defined hereinafter, a correctional officer as defined in § 53.1-1, a person employed by the Department of Corrections directly involved in the care, treatment or supervision of inmates in the custody of the Department, a firefighter as defined in § 65.2-102, or a volunteer firefighter or lifesaving or rescue squad member who is a member of a bona fide volunteer fire department or volunteer rescue or emergency medical squad regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or members as employees, engaged in the performance of his public duties, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties as an emergency health care provider in an emergency room of a hospital or clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore

under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to § 29.1-200, and full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1, and campus police officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23.

"School security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver or school bus aide, while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a teacher, teacher aide, principal, assistant principal, guidance counselor, school security officer, school bus driver, or school bus aide at the time of the event.

§ 18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

Except as provided in subsection J1, this section shall not apply to:

1. Any person while in his own place of business;
2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;
3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;
4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or

182 from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped
183 while being transported;

184 5. Any person carrying such weapons between his place of abode and a place of purchase or repair,
185 provided the weapons are unloaded and securely wrapped while being transported;

186 6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland
187 Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from
188 those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be
189 construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;

190 7. Any State Police officer retired from the Department of State Police, any officer retired from the
191 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control
192 officer retired from a police department or sheriff's office within the Commonwealth, any special agent
193 retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any
194 conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia
195 Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources
196 Commission, and any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23,
197 other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at
198 least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii)
199 who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency
200 or board due to a service-related injury, provided such officer carries with him written proof of
201 consultation with and favorable review of the need to carry a concealed handgun issued by the chief
202 law-enforcement officer of the last such agency from which the officer retired or the agency that
203 employs the officer or, in the case of special agents, issued by the State Corporation Commission or the
204 Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be
205 forwarded by the chief or the Board to the Department of State Police for entry into the Virginia
206 Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such
207 written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An
208 officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a
209 concealed handgun shall surrender such proof of consultation upon return to work or upon termination
210 of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the
211 Department of State Police for entry into the Virginia Criminal Information Network. However, if such
212 officer retires on disability because of the service-related injury, and would be eligible under clause (i)
213 of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the
214 previously issued written proof of consultation. A retired law-enforcement officer who receives proof of
215 consultation and favorable review pursuant to this subdivision is authorized to carry a concealed
216 handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun
217 pursuant to subdivision 2 of this subsection.

218 7a. Any person who is eligible for retirement with at least 20 years of service with a
219 law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from
220 such law-enforcement agency or board to accept a position covered by a retirement system that is
221 authorized under Title 51.1, provided such person carries with him written proof of consultation with
222 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement
223 officer of the agency from which he resigned or, in the case of special agents, issued by the State
224 Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation
225 and favorable review shall be forwarded by the chief, Board or Commission to the Department of State
226 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
227 not without cause withhold such written proof if the law-enforcement officer otherwise meets the
228 requirements of this section.

229 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
230 to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of
231 consultation and favorable review required, shall be deemed to have been issued a concealed handgun
232 permit.

233 For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired
234 or resigned law-enforcement officer who receives proof of consultation and review pursuant to
235 subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or
236 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is
237 required of active law-enforcement officers in the Commonwealth. If such retired or resigned
238 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer
239 shall issue the retired or resigned officer certification, valid one year from the date of issuance,
240 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

241 8. Any State Police officer who is a member of the organized reserve forces of any of the armed
242 services of the United States, national guard, or naval militia, while such officer is called to active
243 military duty, provided such officer carries with him written proof of consultation with and favorable

review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit;

9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such attorney may travel in the Commonwealth; and

10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in the vehicle or vessel.

C. This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail;

2. Officers or guards of any state correctional institution;

3. [Repealed.]

4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in chancery;

5. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29; and

6. Harbormaster of the City of Hopewell.

D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. The clerk shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received. The court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if required by local ordinance in the county or city where the applicant resides and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant, and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. However, no local ordinance shall require an applicant to submit to fingerprinting if the applicant has an existing concealed handgun permit issued pursuant to this section and is applying for a new five-year permit pursuant to subsection I. Where feasible and practical, the local law-enforcement agency may transfer information electronically to the State Police instead of inked fingerprint cards. Upon completion of the criminal history records check, the State Police shall return the fingerprint cards to the submitting local agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then promptly notify the person that he has 21 days from the date of the notice to request return of the fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon completion of the criminal history records check without requiring that the applicant be notified. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does not indicate a disqualification and, after consulting with either the sheriff or police department of the county or city, about which there are no outstanding questions or issues concerning

the application. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the applicant within five business days of the expiration of the 45-day period. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

E. The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 37.2-1012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § 4.1-333.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the Armed Forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief

of police, or attorney for the Commonwealth may submit to the court a sworn written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 ~~of this title~~ or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

F. The making of a materially false statement in an application under this section shall constitute perjury, punishable as provided in § 18.2-434.

G. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

428 A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the
429 instructor, school, club, organization, or group that conducted or taught such course or class attesting to
430 the completion of the course or class by the applicant; or a copy of any document which shows
431 completion of the course or class or evidences participation in firearms competition shall constitute
432 evidence of qualification under this subsection.

433 H. The permit to carry a concealed handgun shall specify only the following information: name,
434 address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee;
435 the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such
436 permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits
437 pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed
438 handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a
439 uniform style prescribed by the Department of State Police. The person issued the permit shall have
440 such permit on his person at all times during which he is carrying a concealed handgun and shall
441 display the permit and a photo-identification issued by a government agency of the Commonwealth or
442 by the United States Department of Defense or United States State Department (passport) upon demand
443 by a law-enforcement officer.

444 H1. If a permit holder is a member of the Virginia National Guard, Armed Forces of the United
445 States, or the Armed Forces reserves of the United States, and his five-year permit expires during an
446 active-duty military deployment outside of the permittee's county or city of residence, such permit shall
447 remain valid for 90 days after the end date of the deployment. In order to establish proof of continued
448 validity of the permit, such a permittee shall carry with him and display, upon request of a
449 law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the
450 permittee's commanding officer that order the permittee to travel outside of his county or city of
451 residence and that indicate the start and end date of such deployment.

452 I. Persons who previously have held a concealed handgun permit shall be issued, upon application as
453 provided in subsection D, and upon receipt by the circuit court of criminal history record information as
454 provided in subsection D, a new five-year permit unless it is found that the applicant is subject to any
455 of the disqualifications set forth in subsection E. Persons who previously have been issued a concealed
456 handgun permit pursuant to subsection D shall not be required to appear in person to apply for a new
457 five-year permit pursuant to this subsection, and the application for the new permit may be submitted
458 via the United States mail. The circuit court that receives the application shall promptly notify an
459 applicant if the application is incomplete or if the fee submitted for the permit pursuant to subsection K
460 is incorrect. If the new five-year permit is issued while an existing permit remains valid, the new
461 five-year permit shall become effective upon the expiration date of the existing permit, provided that the
462 application is received by the court at least 90 days but no more than 180 days prior to the expiration of
463 the existing permit. If the circuit court denies the permit, the specific reasons for the denial shall be
464 stated in the order of the court denying the permit. Upon denial of the application, the clerk shall
465 provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the
466 applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing.
467 The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of
468 evidence shall apply. The final order of the court shall include the court's findings of fact and
469 conclusions of law.

470 J. Any person convicted of an offense that would disqualify that person from obtaining a permit
471 under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and
472 surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the
473 arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a
474 concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the
475 court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of
476 such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this
477 subsection, and shall promptly notify the State Police and the person whose permit was revoked of the
478 revocation.

479 J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or
480 illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 1 misdemeanor.
481 Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the
482 person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1,
483 maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public
484 intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon
485 such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify
486 the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply
487 for a concealed handgun permit for a period of five years.

488 J2. An individual who has a felony charge pending or a charge pending for an offense listed in
489 subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by

the court before which such charge is pending or by the court that issued the permit.

J3. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the Code of Virginia may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

J4. The court shall revoke the permit of any individual for whom it would be unlawful to purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who accepts the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is accepted by the court as a complete application. The order issuing such permit, or the copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection P1, or (b) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

K1. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation of the valid permit and proof of a new address of residence by the permit holder, issue a replacement permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such fees to be paid in one sum to the person who accepts the information for the replacement permit.

K2. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission of a notarized statement by the permit holder that the permit was lost or destroyed, issue a replacement permit. The replacement permit shall have the same expiration date as the permit that was lost or

551 destroyed. The clerk shall issue the replacement permit within 10 business days of receiving the
552 notarized statement, and may charge a fee not to exceed \$5.

553 L. Any person denied a permit to carry a concealed handgun under the provisions of this section
554 may present a petition for review to the Court of Appeals. The petition for review shall be filed within
555 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if
556 an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court
557 following the hearing. The petition shall be accompanied by a copy of the original papers filed in the
558 circuit court, including a copy of the order of the circuit court denying the permit. Subject to the
559 provisions of subsection B of § 17.1-410, the decision of the Court of Appeals or judge shall be final.
560 Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal,
561 taxable costs incurred by the person shall be paid by the Commonwealth.

562 M. For purposes of this section:

563 "Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed,
564 made and intended to fire a projectile by means of an explosion of a combustible material from one or
565 more barrels when held in one hand.

566 "Law-enforcement officer" means those individuals defined as a law-enforcement officer in § 9.1-101,
567 campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23, law-enforcement
568 agents of the Armed Forces of the United States, the Naval Criminal Investigative Service, and federal
569 agents who are otherwise authorized to carry weapons by federal law. "Law-enforcement officer" shall
570 also mean any sworn full-time law-enforcement officer employed by a law-enforcement agency of the
571 United States or any state or political subdivision thereof, whose duties are substantially similar to those
572 set forth in § 9.1-101.

573 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded the
574 privilege of residing permanently in the United States as an immigrant in accordance with the
575 immigration laws, such status not having changed.

576 "Personal knowledge" means knowledge of a fact that a person has himself gained through his own
577 senses, or knowledge that was gained by a law-enforcement officer or prosecutor through the
578 performance of his official duties.

579 N. As used in this article:

580 "Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated
581 mechanism.

582 "Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and
583 forcefully telescopes the weapon to several times its original length.

584 O. The granting of a concealed handgun permit shall not thereby authorize the possession of any
585 handgun or other weapon on property or in places where such possession is otherwise prohibited by law
586 or is prohibited by the owner of private property.

587 P. A valid concealed handgun or concealed weapon permit or license issued by another state shall
588 authorize the holder of such permit or license who is at least 21 years of age to carry a concealed
589 handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous
590 verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a
591 day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be
592 carried, the requirements and qualifications of that state's law are adequate to prevent possession of a
593 permit or license by persons who would be denied a permit in the Commonwealth under this section.
594 The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General
595 determine whether states meet the requirements and qualifications of this section, (b) maintain a registry
596 of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available
597 to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in
598 consultation with the Attorney General, may also enter into agreements for reciprocal recognition with
599 any state qualifying for recognition under this subsection.

600 P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the
601 Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant
602 for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified
603 by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card
604 provided by the Department of State Police for the purpose of obtaining the applicant's state or national
605 criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall
606 submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive
607 information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the
608 Federal Bureau of Investigation for the purpose of obtaining criminal history record information
609 regarding the applicant and obtaining fingerprint identification information from federal records pursuant
610 to criminal investigations by state and local law-enforcement agencies. The application shall be made
611 under oath before a notary or other person qualified to take oaths on a form provided by the Department
612 of State Police, requiring only that information necessary to determine eligibility for the permit. If the

permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to the provisions of this subsection.

The applicant shall demonstrate competence with a handgun by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia Department of Game and Inland Fisheries or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services or a similar agency of another state;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class, an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant, or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program. The Department of State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status are known to law-enforcement personnel accessing the Network for investigative purposes.

The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date. The person to whom the permit is issued shall have such permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and shall display the permit on demand by a law-enforcement officer.

The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the Commonwealth provided; (i) the holder of the permit is licensed in the State of Maryland to perform duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the holder of the permit is 21 years of age or older.

R. For the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government-issued law-enforcement identification card issued to an active-duty law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit under this section shall be deemed a concealed handgun permit.

S. For the purposes of understanding the law relating to the use of deadly and lethal force, the Department of State Police, in consultation with the Supreme Court on the development of the application for a concealed handgun permit under this section, shall include a reference to the Virginia Supreme Court website address or the Virginia Reports on the application.

§ 18.2-308.2:2. Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a

form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; and (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, or been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 of this subsection to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense, and other documentation of residence. Except where the photo-identification was issued by the United States Department of Defense, the other documentation of residence shall show an address identical to that shown on the photo-identification form, such as evidence of currently paid personal property tax or real estate tax, or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; other current identification allowed as evidence of residency by Part 178.124 of Title 27 of the Code of Federal Regulations and ATF Ruling 2001-5; or other documentation of residence determined to be acceptable by the Department of Criminal Justice Services, that corroborates that the prospective purchaser currently resides in Virginia. Where the photo-identification was issued by the Department of Defense, permanent orders assigning the purchaser to a duty post in Virginia, including the Pentagon, shall be the only other required documentation of residence. For the purposes of this section and establishment of residency for firearm purchase, residency shall be deemed to be the permanent duty post of a member of the armed forces. When the photo-identification presented to a dealer by the prospective purchaser is a driver's license or other photo-identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo-identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence. To establish citizenship or lawful admission for a permanent residence for purposes of purchasing an assault firearm, a dealer shall require a prospective purchaser to present a certified birth certificate or a certificate of birth abroad issued by the United States State Department, a certificate of citizenship or a certificate of naturalization issued by the United States Citizenship and Immigration Services, an unexpired U.S. passport, a United States citizen identification card, a current voter registration card, a current selective service registration card, or an immigrant visa or other documentation of status as a person lawfully admitted for permanent residence issued by the United States Citizenship and Immigration Services.

Upon receipt of the request for a criminal history record information check, the State Police shall (1) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (2) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (3) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request, or

by return call without delay. If the criminal history record information check indicates the prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the Commissioner of Behavioral Health and Developmental Services, the State Police shall have until the end of the dealer's next business day to advise the dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has fulfilled the requirements of subdivision 1 of this subsection may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the State Police shall, as soon as possible but in no event later than the end of the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. A dealer who fulfills the requirements of subdivision 1 of this subsection and is told by the State Police that a response will not be available by the end of the dealer's next business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with proof of citizenship or status as a person lawfully admitted for permanent residence and one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's next business day" shall not include December 25.

C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5 to any person who is not a resident of Virginia unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within 24 hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within 10 days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of the Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer in Virginia by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30 days of such denial.

F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

G. For purposes of this section:

797 "Actual buyer" means a person who executes the consent form required in subsection B or C, or
798 other such firearm transaction records as may be required by federal law.

799 "Antique firearm" means:

800 1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of
801 ignition system) manufactured in or before 1898;

802 2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not
803 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire
804 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that
805 is not readily available in the ordinary channels of commercial trade;

806 3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use
807 black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this
808 subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame
809 or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon
810 that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any
811 combination thereof; or

812 4. Any curio or relic as defined in this subsection.

813 "Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple
814 projectiles by action of an explosion of a combustible material and is equipped at the time of the
815 offense with a magazine which will hold more than 20 rounds of ammunition or designed by the
816 manufacturer to accommodate a silencer or equipped with a folding stock.

817 "Curios or relics" means firearms that are of special interest to collectors by reason of some quality
818 other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To
819 be recognized as curios or relics, firearms must fall within one of the following categories:

820 1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or
821 conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is
822 not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

823 2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits
824 firearms to be curios or relics of museum interest; and

825 3. Any other firearms that derive a substantial part of their monetary value from the fact that they
826 are novel, rare, bizarre, or because of their association with some historical figure, period, or event.
827 Proof of qualification of a particular firearm under this category may be established by evidence of
828 present value and evidence that like firearms are not available except as collectors' items, or that the
829 value of like firearms available in ordinary commercial channels is substantially less.

830 "Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

831 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be
832 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

833 "Handgun" means any pistol or revolver or other firearm originally designed, made and intended to
834 fire single or multiple projectiles by means of an explosion of a combustible material from one or more
835 barrels when held in one hand.

836 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded the
837 privilege of residing permanently in the United States as an immigrant in accordance with the
838 immigration laws, such status not having changed.

839 H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity,
840 confidentiality and security of all records and data provided by the Department of State Police pursuant
841 to this section.

842 I. The provisions of this section shall not apply to (i) transactions between persons who are licensed
843 as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii)
844 purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth
845 or any local government, *or any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of*
846 *Title 23*; or (iii) antique firearms, curios or relics.

847 J. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a
848 resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another
849 state, in which case the laws and regulations of that state and the United States governing the purchase,
850 trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS)
851 check shall be performed prior to such purchase, trade or transfer of firearms.

852 J1. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal
853 history record information check is required pursuant to this section, except that a fee of \$5 shall be
854 collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the
855 Department of State Police by the last day of the month following the sale for deposit in a special fund
856 for use by the State Police to offset the cost of conducting criminal history record information checks
857 under the provisions of this section.

858 K. Any person willfully and intentionally making a materially false statement on the consent form

required in subsection B or C or on such firearm transaction records as may be required by federal law, shall be guilty of a Class 5 felony.

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the performance of his official duties, or other person under his direct supervision.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 5 felony. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class 5 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

P. Except as provided in subdivisions 1, 2, and 3 of this subsection, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day period. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an enhanced background check, as described herein, by special application to the Department of State Police listing the number and type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the Bureau of Alcohol, Tobacco and Firearms (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above the limit.

Upon being satisfied that these requirements have been met, the Department of State Police shall forthwith issue to the applicant a nontransferable certificate, which shall be valid for seven days from the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the Department of State Police, issue certificates forthwith pursuant to this subsection. Applications and certificates issued under this subsection shall be maintained as records as provided in subdivision B 3. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subsection and all records provided for in subdivision B 3.

2. The provisions of this subsection shall not apply to:

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. State and local correctional facilities;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms as herein defined;
- f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, the description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or

920 summary thereof to the original copy of the Virginia firearms transaction report completed for the
921 transaction and retain it for the period prescribed by the Department of State Police;

922 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of
923 the same transaction, provided that no more than one transaction of this nature is completed per day;

924 h. A person who holds a valid Virginia permit to carry a concealed handgun;

925 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, a private
926 sale means purchase from a person who makes occasional sales, exchanges or purchases of firearms for
927 the enhancement of a personal collection of curios or relics as herein defined, or who sells all or part of
928 such collection of curios and relics; or

929 j. A law-enforcement officer. For purposes of this subdivision, a law-enforcement officer means any
930 employee of a police department or sheriff's office that is part of or administered by the Commonwealth
931 or any political subdivision thereof, *or any campus police officer appointed under Chapter 17 (§ 23-232*
932 *et seq.) of Title 23*, and who is responsible for the prevention and detection of crime and the
933 enforcement of the penal, traffic or highway laws of the Commonwealth.

934 3. For the purposes of this subsection, "purchase" shall not include the exchange or replacement of a
935 handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange
936 or replacement within the 30-day period immediately preceding the date of exchange or replacement.

937 § 19.2-81. Arrest without warrant authorized in certain cases.

938 A. The following officers shall have the powers of arrest as provided in this section:

939 1. Members of the State Police force of the Commonwealth;

940 2. Sheriffs of the various counties and cities, and their deputies;

941 3. Members of any county police force or any duly constituted police force of any city or town of
942 the Commonwealth;

943 4. The Commissioner, members and employees of the Marine Resources Commission granted the
944 power of arrest pursuant to § 28.2-900;

945 5. Regular conservation police officers appointed pursuant to § 29.1-200;

946 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and
947 petty officers authorized under § 29.1-205 to make arrests;

948 7. The special policemen of the counties as provided by § 15.2-1737, provided such officers are in
949 uniform, or displaying a badge of office;

950 8. Conservation officers appointed pursuant to § 10.1-115;

951 9. Full-time sworn members of the enforcement division of the Department of Motor Vehicles
952 appointed pursuant to § 46.2-217; ~~and~~

953 10. Special agents of the Department of Alcoholic Beverage Control; *and*

954 11. *Campus police officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23.*

955 B. Such officers may arrest without a warrant any person who commits any crime in the presence of
956 the officer and any person whom he has reasonable grounds or probable cause to suspect of having
957 committed a felony not in his presence.

958 Such officers may arrest without a warrant any person whom the officer has probable cause to
959 suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of
960 § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii)
961 in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the
962 person arrested to another officer, who may obtain a warrant based upon statements made to him by the
963 arresting officer.

964 C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as
965 defined in § 29.1-712 or motorboat, or at any hospital or medical facility to which any person involved
966 in such accident has been transported, or in the apprehension of any person charged with the theft of
967 any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to
968 believe, based upon personal investigation, including information obtained from eyewitnesses, that a
969 crime has been committed by any person then and there present, apprehend such person without a
970 warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable
971 location where a vehicle or person involved in an accident has been moved at the direction of a
972 law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring
973 public.

974 D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any
975 location any person whom the officer has probable cause to suspect of driving or operating a motor
976 vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or
977 subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the
978 Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may,
979 within three hours of the alleged offense, arrest without a warrant at any location any person whom the
980 officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order
981 issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

§ 19.2-81.3. Arrest without a warrant authorized in cases of assault and battery against a family or household member and stalking and for violations of protective orders; procedure, etc.

A. Any ~~law-enforcement officer, as defined in~~ *with the powers of arrest under subsection A of* § 19.2-81, may arrest without a warrant for an alleged violation of § 18.2-57.2, 18.2-60.4, or 16.1-253.2 regardless of whether such violation was committed in his presence, if such arrest is based on probable cause or upon personal observations or the reasonable complaint of a person who observed the alleged offense or upon personal investigation.

B. A law-enforcement officer having probable cause to believe that a violation of § 18.2-57.2 or 16.1-253.2 has occurred shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of family and household members, (iii) prior complaints of family abuse by the allegedly abusing person involving the family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

C. A law-enforcement officer having probable cause to believe that a violation of § 18.2-60.4 has occurred that involves physical aggression shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than an arrest. The standards for determining who is the predominant physical aggressor shall be based on the following considerations: (i) who was the first aggressor, (ii) the protection of the health and safety of the person to whom the protective order was issued and the person's family and household members, (iii) prior acts of violence, force, or threat, as defined in § 19.2-152.7:1, by the person against whom the protective order was issued against the person protected by the order or the protected person's family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.

D. Regardless of whether an arrest is made, the officer shall file a written report with his department, which shall state whether any arrests were made, and if so, the number of arrests, specifically including any incident in which he has probable cause to believe family abuse has occurred, and, where required, including a complete statement in writing that there are special circumstances that would dictate a course of action other than an arrest. The officer shall provide the allegedly abused person or the person protected by an order issued pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, both orally and in writing, information regarding the legal and community resources available to the allegedly abused person or person protected by the order. Upon request of the allegedly abused person or person protected by the order, the department shall make a summary of the report available to the allegedly abused person or person protected by the order.

E. In every case in which a law-enforcement officer makes an arrest under this section for a violation of § 18.2-57.2, he shall petition for an emergency protective order as authorized in § 16.1-253.4 when the person arrested and taken into custody is brought before the magistrate, except if the person arrested is a minor, a petition for an emergency protective order shall not be required. Regardless of whether an arrest is made, if the officer has probable cause to believe that a danger of acts of family abuse exists, the law-enforcement officer shall seek an emergency protective order under § 16.1-253.4, except if the suspected abuser is a minor, a petition for an emergency protective order shall not be required.

1043 F. A law-enforcement officer investigating any complaint of family abuse, including but not limited
1044 to assault and battery against a family or household member shall, upon request, transport, or arrange
1045 for the transportation of an abused person to a hospital or safe shelter, or to appear before a magistrate.
1046 Any local law-enforcement agency may adopt a policy requiring an officer to transport or arrange for
1047 transportation of an abused person as provided in this subsection.

1048 G. The definition of "family or household member" in § 16.1-228 applies to this section.

1049 H. As used in this section, a "law-enforcement officer" means (i) any full-time or part-time employee
1050 of a police department or sheriff's office which is part of or administered by the Commonwealth or any
1051 political subdivision thereof, *and any campus police officer appointed under Chapter 17 (§ 23-232 et*
1052 *seq.) of Title 23*, and who is responsible for the prevention and detection of crime and the enforcement
1053 of the penal, traffic or highway laws of this Commonwealth and (ii) any member of an auxiliary police
1054 force established pursuant to subsection B of § 15.2-1731. Part-time employees are compensated officers
1055 who are not full-time employees as defined by the employing police department or sheriff's office.

1056 § 23-7.4:1. Waiver of tuition and certain charges and fees for eligible children and spouses of certain
1057 military service members, eligible children and spouses of certain public safety personnel, and certain
1058 foreign students.

1059 A. There is hereby established the Virginia Military Survivors and Dependents Education Program.
1060 Qualified survivors and dependents of military service members, who have been admitted to any public
1061 institution of higher education or other public accredited postsecondary institution granting a degree,
1062 diploma, or certificate in the Commonwealth of Virginia, upon certification to the Commissioner of the
1063 Department of Veterans Services of eligibility under this subsection, shall be admitted free of tuition and
1064 all required fees.

1065 The Virginia Military Survivors and Dependents Education Program shall be implemented pursuant
1066 to the following:

1067 1. For the purposes of this subsection, "qualified survivors and dependents" means the spouse or a
1068 child between the ages of 16 and 29 of a military service member who, while serving as an active duty
1069 member in the United States Armed Forces, United States Armed Forces Reserves, the Virginia National
1070 Guard, or Virginia National Guard Reserve, during military operations against terrorism, on a
1071 peacekeeping mission, as a result of a terrorist act, or in any armed conflict subsequent to December 6,
1072 1941, was killed or is missing in action or is a prisoner of war, or of a veteran who, due to such
1073 service, has been rated by the United States Department of Veterans Affairs as totally and permanently
1074 disabled or at least 90% disabled, and has been discharged or released under conditions other than
1075 dishonorable. However, the Commissioner of the Department of Veterans Services may certify
1076 dependents above the age of 29 in those cases in which extenuating circumstances prevented the
1077 dependent child from using his benefits before the age of 30.

1078 2. Such qualified survivors and dependents shall be eligible for the benefits conferred by this
1079 subsection if the military service member who was killed, is missing in action, is a prisoner of war, or
1080 is disabled (i) was a bona fide domiciliary of Virginia at the time of entering such active military
1081 service or called to active duty as a member of the Armed Forces Reserves or Virginia National Guard
1082 Reserve; (ii) is and has been a bona fide domiciliary of Virginia for at least five years immediately prior
1083 to the date on which the admission application was submitted by or on behalf of such qualified survivor
1084 or dependent for admission to such institution of higher education or other public accredited
1085 postsecondary institution; (iii) if deceased, was a bona fide domiciliary of Virginia on the date of his
1086 death and had been a bona fide domiciliary of Virginia for at least five years immediately prior to his
1087 death; (iv) in the case of a qualified child, is deceased and the surviving parent had been, at some time
1088 previous to marrying the deceased parent, a bona fide domiciliary of Virginia for at least five years or is
1089 and has been a bona fide domiciliary of Virginia for at least five years immediately prior to the date on
1090 which the admission application was submitted by or on behalf of such child; or (v) in the case of a
1091 qualified spouse, is deceased and the surviving spouse had been, at some time previous to marrying the
1092 deceased spouse, a bona fide domiciliary of Virginia for at least five years or is and has been a bona
1093 fide domiciliary of Virginia for at least five years prior to the date on which the admission application
1094 was submitted by such qualified spouse.

1095 3. From such funds as may be appropriated and from such gifts, bequests and any gifts, grants, or
1096 donations from public or private sources, there is hereby established the Virginia Military Survivors and
1097 Dependents Education Fund for the sole purpose of providing financial assistance for board and room
1098 charges, books and supplies, and other expenses at any public institution of higher education or other
1099 public accredited postsecondary institution granting a degree, diploma, or certificate in the
1100 Commonwealth of Virginia for the use and benefit of qualified survivors and dependents.

1101 Each year, from the funds available in the Virginia Military Survivors and Dependents Education
1102 Fund, the State Council of Higher Education for Virginia and its member institutions shall determine the
1103 amount and the manner in which financial assistance shall be made available to beneficiaries and shall
1104 make that information available to the Commissioner of the Department of Veterans Services for

distribution.

The State Council of Higher Education for Virginia shall be responsible for disbursing to the institutions the funds appropriated or otherwise made available by the Commonwealth of Virginia to support the Virginia Military Survivors and Dependents Education Fund and shall report to the Commissioner of the Department of Veterans Services the beneficiaries' completion rate.

The maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs related to the survivor's or dependent's educational expenses allowed under this subsection.

4. The Commissioner of the Department of Veterans Services shall designate a senior-level official who shall be responsible for developing and implementing the agency's strategy for disseminating information about the Military Survivors and Dependents Education Program to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the United States Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of the Department of Veterans Services shall report annually to the Governor and the General Assembly as to the agency's policies and strategies relating to dissemination of information about the Program. The report shall also include the number of current beneficiaries, the educational institutions attended by beneficiaries, and the completion rate of the beneficiaries.

B. The surviving spouse and any child between the ages of 16 and 25 whose parent or whose spouse has been killed in the line of duty while employed or serving as a law-enforcement officer, *including as a campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23*, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, member of a rescue squad, special agent of the Department of Alcoholic Beverage Control, state correctional, regional or local jail officer, regional jail or jail farm superintendent, sheriff, or deputy sheriff, member of the Virginia National Guard while serving on official state duty or federal duty under Title 32 of the United States Code, or member of the Virginia Defense Force while serving on official state duty, and any person whose spouse was killed in the line of duty while employed or serving in any of such occupations, shall be entitled to free undergraduate tuition and the payment of required fees at any public institution of higher education or other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia under the following conditions:

1. The chief administrative officer of the Alcoholic Beverage Control Board, emergency medical services agency, law-enforcement agency, or other appropriate agency or the Superintendent of State Police certifies that the deceased parent or spouse was employed or serving as a law-enforcement officer, sworn law-enforcement officer, firefighter, special forest warden pursuant to § 10.1-1135, or member of a rescue squad or in any other capacity as specified in this section and was killed in the line of duty while serving or living in the Commonwealth; and

2. The child or spouse shall have been offered admission to such public institution of higher education or other public accredited postsecondary institution. Any child or spouse who believes he is eligible shall apply to the public institution of higher education or other accredited postsecondary institution to which he has been admitted for the benefits provided by this subsection. The institution shall determine the eligibility of the applicant for these benefits and shall also ascertain that the recipients are in attendance and are making satisfactory progress. The amounts payable for tuition, institutional charges and required fees, and books and supplies for the applicants shall be waived by the institution accepting the students.

C. For the purposes of subsection B, user fees, such as room and board charges, shall not be included in this authorization to waive tuition and fees. However, all required educational and auxiliary fees shall be waived along with tuition.

D. Tuition and required fees may be waived for a student from a foreign country enrolled in a public institution of higher education through a student exchange program approved by such institution, provided the number of foreign students does not exceed the number of students paying full tuition and required fees to the institution under the provisions of the exchange program for a given three-year period.

E. Each public institution of higher education and other public accredited postsecondary institution granting a degree, diploma, or certificate in Virginia shall include in its catalogue or equivalent publication a statement describing the benefits provided by subsections A and B.

§ 52-34.7. Definitions.

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

"Law-enforcement agency" means a law-enforcement agency with jurisdiction over the search for a suspect in a case involving the death or serious injury of a law-enforcement officer or an agency employing a law-enforcement officer who is missing in the line of duty.

"Law-enforcement officer" means any full-time or part-time employee of the Department of State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth

1166 or any political subdivision thereof, *and any campus police officer appointed under Chapter 17*
1167 *(§ 23-232 et seq.) of Title 23*, who is responsible for the prevention and detection of crime and the
1168 enforcement of the penal, traffic, or highway laws of the Commonwealth.

1169 § 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart
1170 disease, cancer.

1171 A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of
1172 Emergency Management hazardous materials officers or (ii) any health condition or impairment of such
1173 firefighters or Department of Emergency Management hazardous materials officers resulting in total or
1174 partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are
1175 covered by this title unless such presumption is overcome by a preponderance of competent evidence to
1176 the contrary.

1177 B. Hypertension or heart disease causing the death of, or any health condition or impairment
1178 resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State
1179 Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv)
1180 sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers,
1181 (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police
1182 officers, (viii) conservation police officers who are full-time sworn members of the enforcement division
1183 of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) special agents of the
1184 Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et
1185 seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily
1186 subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force
1187 established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the
1188 police force established and maintained by the Norfolk Airport Authority, ~~and~~ (xiii) sworn officers of
1189 the police force established and maintained by the Virginia Port Authority, *and (xiv) campus police*
1190 *officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 and employed by any public*
1191 *institution of higher education*, shall be presumed to be occupational diseases, suffered in the line of
1192 duty, that are covered by this title unless such presumption is overcome by a preponderance of
1193 competent evidence to the contrary.

1194 C. Leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer causing the death of, or
1195 any health condition or impairment resulting in total or partial disability of, any volunteer or salaried
1196 firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle
1197 enforcement officer or motor carrier safety trooper employed by the Department of State Police, or
1198 full-time sworn member of the enforcement division of the Department of Motor Vehicles having
1199 completed twelve years of continuous service who has a contact with a toxic substance encountered in
1200 the line of duty shall be presumed to be an occupational disease, suffered in the line of duty, that is
1201 covered by this title, unless such presumption is overcome by a preponderance of competent evidence to
1202 the contrary. For the purposes of this section, a "toxic substance" is one which is a known or suspected
1203 carcinogen, as defined by the International Agency for Research on Cancer, and which causes, or is
1204 suspected to cause, leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer.

1205 D. The presumptions described in subsections A, B, and C of ~~this section~~ shall only apply if persons
1206 entitled to invoke them have, if requested by the private employer, appointing authority or governing
1207 body employing them, undergone preemployment physical examinations that (i) were conducted prior to
1208 the making of any claims under this title that rely on such presumptions, (ii) were performed by
1209 physicians whose qualifications are as prescribed by the private employer, appointing authority or
1210 governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic
1211 studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv)
1212 found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such
1213 examinations.

1214 E. Persons making claims under this title who rely on such presumptions shall, upon the request of
1215 private employers, appointing authorities or governing bodies employing such persons, submit to
1216 physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or
1217 their representatives and (ii) consisting of such tests and studies as may reasonably be required by such
1218 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the
1219 election of such claimant, be present at such examination.

1220 F. Whenever a claim for death benefits is made under this title and the presumptions of this section
1221 are invoked, any person entitled to make such claim shall, upon the request of the appropriate private
1222 employer, appointing authority or governing body that had employed the deceased, submit the body of
1223 the deceased to a postmortem examination as may be directed by the Commission. A qualified
1224 physician, selected and compensated by the person entitled to make the claim, may, at the election of
1225 such claimant, be present at such postmortem examination.

1226 G. Volunteer lifesaving and rescue squad members, volunteer law-enforcement chaplains, auxiliary
1227 and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this

section.

H. For purposes of this section, the term "firefighter" shall include special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of any (i) salaried or volunteer firefighter, paramedic or emergency medical technician, (ii) member of the State Police Officers' Retirement System, (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officer, (x) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, ~~or~~ (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority, *or (xv) any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 and employed by any public institution of higher education*, who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer.

B. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

C. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

D. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

E. The presumptions described in subsection A ~~of this section~~ shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any

1289 claims under this title that rely on such presumptions, (ii) were performed by physicians whose
1290 qualifications are as prescribed by the appointing authority or governing body employing such persons,
1291 (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or
1292 governing bodies may have prescribed, and (iv) found such persons free of hepatitis, meningococcal
1293 meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in
1294 subsection A of this section shall not be effective until six months following such examinations, unless
1295 such persons entitled to invoke such presumption can demonstrate a documented exposure during the
1296 six-month period.

1297 F. Persons making claims under this title who rely on such presumption shall, upon the request of
1298 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)
1299 conducted by physicians selected by such appointing authorities or governing bodies or their
1300 representatives and (ii) consisting of such tests and studies as may reasonably be required by such
1301 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the
1302 election of such claimant, be present at such examination.

1303 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
1304 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is**
1305 **\$200,311 for periods of imprisonment in state adult correctional facilities and cannot be**
1306 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**