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## SENATE BILL NO. 501

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact §§ 4.1-305, 9.1-101, 9.1-902, 18.2-251, 18.2-251.01, 18.2-251.02, 18.2-252, 18.2-254, 18.2-254.1, 18.2-270.1, 18.2-270.2, 18.2-271.1, 18.2-271.2, 19.2-389, 29.1-738.5, and 37.2-310 of the Code of Virginia, relating to changing Virginia Alcohol Safety Action Program from a stand-alone legislative agency to one under the authority of the Department of Criminal Justice Services.*

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Patrons—Watkins; Delegate: Ware, R.L.

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Referred to Committee for Courts of Justice

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**Be it enacted by the General Assembly of Virginia:**

1. That §§ 4.1-305, 9.1-101, 9.1-902, 18.2-251, 18.2-251.01, 18.2-251.02, 18.2-252, 18.2-254, 18.2-254.1, 18.2-270.1, 18.2-270.2, 18.2-271.1, 18.2-271.2, 19.2-389, 29.1-738.5, and 37.2-310 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-305. Purchasing or possessing alcoholic beverages unlawful in certain cases; venue; exceptions; penalty; forfeiture; deferred proceedings; treatment and education programs and services.

A. No person to whom an alcoholic beverage may not lawfully be sold under § 4.1-304 shall consume, purchase or possess, or attempt to consume, purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer when possession of an alcoholic beverage is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the alcohol was possessed or consumed, or in the county or city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows that such consumption or possession was pursuant to subdivision 7 of § 4.1-200.

B. No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious, facsimile or simulated license to operate a motor vehicle, (ii) altered, fictitious, facsimile or simulated document, including, but not limited to a birth certificate or student identification card, or (iii) motor vehicle operator's license, birth certificate or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase or attempt to consume or purchase an alcoholic beverage.

C. Any person found guilty of a violation of this section shall be guilty of a Class 1 misdemeanor; and upon conviction, (i) such person shall be ordered to pay a mandatory minimum fine of \$500 or ordered to perform a mandatory minimum of 50 hours of community service as a condition of probation supervision and (ii) the license to operate a motor vehicle in the Commonwealth of any such person age 18 or older shall be suspended for a period of not less than six months and not more than one year; the license to operate a motor vehicle in the Commonwealth of any juvenile shall be handled in accordance with the provisions of § 16.1-278.9. The court, in its discretion and upon a demonstration of hardship, may authorize an adult convicted of a violation of this section the use of a restricted permit to operate a motor vehicle in accordance with the provisions of subsection E of § 18.2-271.1 or when referred to a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an adult who is issued a restricted permit under the provisions of this subsection to be (a) monitored by an alcohol safety action program, or (b) supervised by a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. The alcohol safety action program or local community-based probation services agency shall report to the court any violation of the terms of the restricted permit, the required alcohol safety action program monitoring or local community-based probation services and any condition related thereto or any failure to remain alcohol-free during the suspension period.

D. Any alcoholic beverage purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

E. Any retail licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-304.

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59 F. When any adult who has not previously been convicted of underaged consumption, purchase or  
60 possession of alcoholic beverages in Virginia or any other state or the United States is before the court,  
61 the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify  
62 a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the  
63 consent of the accused, defer further proceedings and place him on probation subject to appropriate  
64 conditions. Such conditions may include the imposition of the license suspension and restricted license  
65 provisions in subsection C. However, in all such deferred proceedings, the court shall require the  
66 accused to enter a treatment or education program or both, if available, that in the opinion of the court  
67 best suits the needs of the accused. If the accused is placed on local community-based probation, the  
68 program or services shall be located in any of the judicial districts served by the local community-based  
69 probation services agency or in any judicial district ordered by the court when the placement is with an  
70 alcohol safety action program. The services shall be provided by (i) a program licensed by the  
71 Department of Behavioral Health and Developmental Services, (ii) certified by ~~the Commission on~~  
72 VASAP, or (iii) by a program or services made available through a community-based probation services  
73 agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been  
74 established for the locality. When an offender is ordered to a local community-based probation services  
75 rather than the alcohol safety action program, the local community-based probation services agency shall  
76 be responsible for providing for services or referring the offender to education or treatment services as a  
77 condition of probation.

78 Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise  
79 provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the  
80 proceedings against him without an adjudication of guilt. A discharge and dismissal hereunder shall be  
81 treated as a conviction for the purpose of applying this section in any subsequent proceedings.

82 When any juvenile is found to have committed a violation of subsection A, the disposition of the  
83 case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title  
84 16.1.

85 § 9.1-101. Definitions.

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

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

92 "Board" means the Criminal Justice Services Board.

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

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

98 "Criminal history record information" means records and data collected by criminal justice agencies  
99 on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,  
100 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall  
101 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title  
102 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional  
103 status information.

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

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

119 "Criminal justice agency" includes any program certified by ~~the Commission on~~ VASAP pursuant to  
120 § 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 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 employed under § 15.2-632. 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.

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

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

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

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

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

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

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

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

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

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy

182 sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time  
183 required for the completion of such training;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

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

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

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

36. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse, domestic violence, sexual assault and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in § 9.1-1301 and shall by December 1, 2009, submit a report on the status of implementation of these requirements to the chairmen of the House and Senate Courts of Justice Committees;

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

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

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

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

41. [Expired.]

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

43. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing

305 innovative policing curricula and training tools on general community policing philosophy and practice  
306 and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia  
307 organizations with specific community policing needs; facilitating continued development and  
308 implementation of community policing programs statewide through discussion forums for community  
309 policing leaders, development of law-enforcement instructors; promoting a statewide community policing  
310 initiative; and serving as a statewide information source on the subject of community policing including,  
311 but not limited to periodic newsletters, a website and an accessible lending library;

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

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

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

326 47. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

327 48. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal  
328 justice agencies regarding the investigation, registration, and dissemination of information requirements  
329 as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

330 49. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula,  
331 and (iii) certification requirements for campus security officers. Such training standards shall include, but  
332 not be limited to, the role and responsibility of campus security officers, relevant state and federal laws,  
333 school and personal liability issues, security awareness in the campus environment, and disaster and  
334 emergency response. The Department shall provide technical support and assistance to campus police  
335 departments and campus security departments on the establishment and implementation of policies and  
336 procedures, including but not limited to: the management of such departments, investigatory procedures,  
337 judicial referrals, the establishment and management of databases for campus safety and security  
338 information sharing, and development of uniform record keeping for disciplinary records and statistics,  
339 such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an  
340 advisory committee consisting of college administrators, college police chiefs, college security  
341 department chiefs, and local law-enforcement officials to assist in the development of the standards and  
342 certification requirements and training pursuant to this subdivision;

343 50. Establish compulsory training standards and publish a model policy for law-enforcement  
344 personnel regarding death notification;

345 51. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established  
346 pursuant to § 9.1-187;

347 52. Establish, publish, and disseminate a model policy or guideline for law-enforcement personnel for  
348 questioning individuals suspected of driving while intoxicated concerning the physical location of that  
349 individual's last consumption of an alcoholic beverage and for communicating that information to the  
350 Alcoholic Beverage Control Board;

351 53. Establish training standards and publish a model policy for law-enforcement personnel assigned  
352 to vehicle patrol duties that embody current best practices for pursuits and for responding to emergency  
353 calls;

354 54. Establish training standards and publish a model policy for law-enforcement personnel involved  
355 in criminal investigations that embody current best practices for conducting photographic and live  
356 lineups;

357 55. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and  
358 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human  
359 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia; and

360 56. *Administer the operation of the Virginia Alcohol Safety Action Program (VASAP); and*

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

363 § 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance  
364 abuse screening, assessment treatment and education programs or services; drug tests; costs and fees;  
365 violations; discharge.

366 Whenever any person who has not previously been convicted of any offense under this article or

under any statute of the United States or of any state relating to narcotic drugs, marijuana, synthetic cannabinoids, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1, or to possession of synthetic cannabinoids under subsection B of § 18.2-248.1:1, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (i) to successfully complete treatment or education program or services, (ii) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (iii) to make reasonable efforts to secure and maintain employment, and (iv) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

The court shall, unless done at arrest, order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§ 18.2-259.1, 22.1-315 and 46.2-390.1, and the driver's license forfeiture provisions of those sections shall be imposed. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

§ 18.2-251.01. Substance abuse screening and assessment for felony convictions.

A. When a person is convicted of a felony, not a capital offense, committed on or after January 1, 2000, he shall be required to undergo a substance abuse screening and, if the screening indicates a substance abuse or dependence problem, an assessment by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Corrections or by an agency employee under the supervision of such counselor. If the person is determined to have a substance abuse problem, the court shall require him to enter treatment and/or education program or services, if available, which, in the opinion of the court, is best suited to the needs of the person. The program or services may be located in the judicial district in which the conviction was had or in any other judicial district as the court may provide. The treatment and/or education program or services shall be licensed by the Department of Behavioral Health and Developmental Services or shall be a similar program or services which are made available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP. The services agency or program may require the person entering such program or services under the provisions of this section to pay a fee for the education and treatment component, or both, based upon the defendant's ability to pay.

B. As a condition of any suspended sentence and probation, the court shall order the person to undergo periodic testing and treatment for substance abuse, if available, as the court deems appropriate

428 based upon consideration of the substance abuse assessment.

429 § 18.2-251.02. Drug Offender Assessment and Treatment Fund.

430 There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund  
431 which shall consist of moneys received from fees imposed on certain drug offense convictions pursuant  
432 to subdivisions A 10 and A 11 of § 17.1-275 and § 16.1-69.48:3. All interest derived from the deposit  
433 and investment of moneys in the Fund shall be credited to the Fund. Any moneys not appropriated by  
434 the General Assembly shall remain in the Drug Offender Assessment and Treatment Fund and shall not  
435 be transferred or revert to the general fund at the end of any fiscal year. All moneys in the Fund shall  
436 be subject to annual appropriation by the General Assembly to the Department of Corrections, the  
437 Department of Juvenile Justice, and ~~the Commission on~~ VASAP to implement and operate the offender  
438 substance abuse screening and assessment program; the Department of Criminal Justice Services for the  
439 support of community-based probation and local pretrial services agencies; and the Office of the  
440 Executive Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

441 § 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and  
442 treatment or education.

443 The trial judge or court trying the case of any person found guilty of violating any law concerning  
444 the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical  
445 substances and like substances, shall condition any suspended sentence by first requiring such person to  
446 agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic  
447 substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be  
448 conducted by the supervising probation agency or by personnel of any program or agency approved by  
449 the supervising probation agency. The cost of such testing ordered by the court shall be paid by the  
450 Commonwealth and taxed as a part of the costs of such criminal proceedings. The judge or court shall  
451 order the person, as a condition of any suspended sentence, to undergo such treatment or education for  
452 substance abuse, if available, as the judge or court deems appropriate based upon consideration of the  
453 substance abuse assessment. The treatment or education shall be provided by a program or agency  
454 licensed by the Department of Behavioral Health and Developmental Services, by a similar program or  
455 services available through the Department of Corrections if the court imposes a sentence of one year or  
456 more or, if the court imposes a sentence of 12 months or less, by a similar program or services available  
457 through a local or regional jail, a local community-based probation services agency established pursuant  
458 to § 9.1-174, or an ASAP program certified by ~~the Commission on~~ VASAP.

459 § 18.2-254. Commitment of convicted person for treatment for substance abuse.

460 A. Whenever any person who has not previously been convicted of any offense under this article or  
461 under any statute of the United States or of any state relating to narcotic drugs, marijuana, stimulant,  
462 depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of  
463 such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the  
464 use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances,  
465 and like substances, the judge or court shall require such person to undergo a substance abuse screening  
466 pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol  
467 testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by  
468 the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall  
469 also order the person to undergo such treatment or education for substance abuse, if available, as the  
470 judge or court deems appropriate based upon consideration of the substance abuse assessment. The  
471 treatment or education shall be provided by a program or agency licensed by the Department of  
472 Behavioral Health and Developmental Services or by a similar program or services available through the  
473 Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes  
474 a sentence of 12 months or less, by a similar program or services available through a local or regional  
475 jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP  
476 program certified by ~~the Commission on~~ VASAP.

477 B. The court trying the case of any person alleged to have committed any offense designated by this  
478 article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the  
479 commission of the offense was motivated by or closely related to the use of drugs and determined by  
480 the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use  
481 of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon  
482 his conviction, to any facility for the treatment of persons with substance abuse, licensed by the  
483 Department of Behavioral Health and Developmental Services, if space is available in such facility, for a  
484 period of time not in excess of the maximum term of imprisonment specified as the penalty for  
485 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of  
486 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated  
487 as confinement in a penal institution and the person so committed may be convicted of escape if he  
488 leaves the place of commitment without authority. A charge of escape may be prosecuted in either the  
489 jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to



commitment. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

C. The court trying a case in which commission of the offense was related to the defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

§ 18.2-254.1. Drug Treatment Court Act.

A. This section shall be known and may be cited as the "Drug Treatment Court Act."

B. The General Assembly recognizes that there is a critical need in the Commonwealth for effective treatment programs that reduce the incidence of drug use, drug addiction, family separation due to parental substance abuse, and drug-related crimes. It is the intent of the General Assembly by this section to enhance public safety by facilitating the creation of drug treatment courts as means by which to accomplish this purpose.

C. The goals of drug treatment courts include: (i) reducing drug addiction and drug dependency among offenders; (ii) reducing recidivism; (iii) reducing drug-related court workloads; (iv) increasing personal, familial and societal accountability among offenders; and, (v) promoting effective planning and use of resources among the criminal justice system and community agencies.

D. Drug treatment courts are specialized court dockets within the existing structure of Virginia's court system offering judicial monitoring of intensive treatment and strict supervision of addicts in drug and drug-related cases. Local officials must complete a recognized planning process before establishing a drug treatment court program.

E. Administrative oversight for implementation of the Drug Treatment Court Act shall be conducted by the Supreme Court of Virginia. The Supreme Court of Virginia shall be responsible for (i) providing oversight for the distribution of funds for drug treatment courts; (ii) providing technical assistance to drug treatment courts; (iii) providing training for judges who preside over drug treatment courts; (iv) providing training to the providers of administrative, case management, and treatment services to drug treatment courts; and (v) monitoring the completion of evaluations of the effectiveness and efficiency of drug treatment courts in the Commonwealth.

F. A state drug treatment court advisory committee shall be established to (i) evaluate and recommend standards for the planning and implementation of drug treatment courts; (ii) assist in the evaluation of their effectiveness and efficiency; and (iii) encourage and enhance cooperation among agencies that participate in their planning and implementation. The committee shall be chaired by the Chief Justice of the Supreme Court of Virginia or his designee and shall include a member of the Judicial Conference of Virginia who presides over a drug treatment court; a district court judge; the Executive Secretary or his designee; the directors of the following executive branch agencies: Department of Corrections, Department of Criminal Justice Services, Department of Juvenile Justice, Department of Behavioral Health and Developmental Services, Department of Social Services; a representative of the following entities: a local community-based probation and pretrial services agency, the Commonwealth's Attorney's Association, the Virginia Indigent Defense Commission, the Circuit Court Clerk's Association, the Virginia Sheriff's Association, the Virginia Association of Chiefs of Police, the Commission on VASAP, and two representatives designated by the Virginia Drug Court Association.

G. Each jurisdiction or combination of jurisdictions that intend to establish a drug treatment court or continue the operation of an existing one shall establish a local drug treatment court advisory committee. Jurisdictions that establish separate adult and juvenile drug treatment courts may establish an advisory committee for each such court. Each advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the drug treatment court or courts that serve the

jurisdiction or combination of jurisdictions. Advisory committee membership shall include, but shall not be limited to the following people or their designees: (i) the drug treatment court judge; (ii) the attorney for the Commonwealth, or, where applicable, the city or county attorney who has responsibility for the prosecution of misdemeanor offenses; (iii) the public defender or a member of the local criminal defense bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the drug treatment court is located; (v) a representative of the Virginia Department of Corrections, or the Department of Juvenile Justice, or both, from the local office which serves the jurisdiction or combination of jurisdictions; (vi) a representative of a local community-based probation and pretrial services agency; (vii) a local law-enforcement officer; (viii) a representative of the Department of Behavioral Health and Developmental Services or a representative of local drug treatment providers; (ix) the drug court administrator; (x) a representative of the Department of Social Services; (xi) county administrator or city manager; and (xii) any other people selected by the drug treatment court advisory committee.

H. Each local drug treatment court advisory committee shall establish criteria for the eligibility and participation of offenders who have been determined to be addicted to or dependent upon drugs. Subject to the provisions of this section, neither the establishment of a drug treatment court nor anything herein shall be construed as limiting the discretion of the attorney for the Commonwealth to prosecute any criminal case arising therein which he deems advisable to prosecute, except to the extent the participating attorney for the Commonwealth agrees to do so. As defined in § 17.1-805 or 19.2-297.1, adult offenders who have been convicted of a violent criminal offense within the preceding 10 years, or juvenile offenders who previously have been adjudicated not innocent of any such offense within the preceding 10 years, shall not be eligible for participation in any drug treatment court established or continued in operation pursuant to this section.

I. Each drug treatment court advisory committee shall establish policies and procedures for the operation of the court to attain the following goals: (i) effective integration of drug and alcohol treatment services with criminal justice system case processing; (ii) enhanced public safety through intensive offender supervision and drug treatment; (iii) prompt identification and placement of eligible participants; (iv) efficient access to a continuum of alcohol, drug, and related treatment and rehabilitation services; (v) verified participant abstinence through frequent alcohol and other drug testing; (vi) prompt response to participants' noncompliance with program requirements through a coordinated strategy; (vii) ongoing judicial interaction with each drug court participant; (viii) ongoing monitoring and evaluation of program effectiveness and efficiency; (ix) ongoing interdisciplinary education and training in support of program effectiveness and efficiency; and (x) ongoing collaboration among drug treatment courts, public agencies, and community-based organizations to enhance program effectiveness and efficiency.

J. Participation by an offender in a drug treatment court shall be voluntary and made pursuant only to a written agreement entered into by and between the offender and the Commonwealth with the concurrence of the court.

K. Nothing in this section shall preclude the establishment of substance abuse treatment programs and services pursuant to the deferred judgment provisions of § 18.2-251.

L. Each offender shall contribute to the cost of the substance abuse treatment he receives while participating in a drug treatment court pursuant to guidelines developed by the drug treatment court advisory committee.

M. Nothing contained in this section shall confer a right or an expectation of a right to treatment for an offender or be construed as requiring a local drug treatment court advisory committee to accept for participation every offender.

N. The Office of the Executive Secretary shall, with the assistance of the state drug treatment court advisory committee, develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local drug treatment courts. A report of these evaluations shall be submitted to the General Assembly by December 1 of each year. Each local drug treatment court advisory committee shall submit evaluative reports to the Office of the Executive Secretary as requested.

O. Notwithstanding any other provision of this section, no drug treatment court shall be established subsequent to March 1, 2004, unless the jurisdiction or jurisdictions intending or proposing to establish such court have been specifically granted permission under the Code of Virginia to establish such court. The provisions of this subsection shall not apply to any drug treatment court established on or before March 1, 2004, and operational as of July 1, 2004.

P. Subject to the requirements and conditions established by the state Drug Treatment Court Advisory Committee, there shall be established a drug treatment court in the following jurisdictions: the City of Chesapeake and the City of Newport News.

Q. Subject to the requirements and conditions established by the state Drug Treatment Court Advisory Committee, there shall be established a drug treatment court in the Juvenile and Domestic Relations District Court for the County of Franklin, provided that such court is funded solely through local sources.

R. Subject to the requirements and conditions established by the state Drug Treatment Court Advisory Committee, there shall be established a drug treatment court in the City of Bristol and the County of Tazewell, provided that the court is funded within existing state and local appropriations.

§ 18.2-270.1. Ignition interlock systems; penalty.

A. For purposes of this section and § 18.2-270.2:

"Commission" means the Commission on VASAP.

"Department" means the Department of Motor Vehicles.

"Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an analyzer that measures a driver's blood alcohol content; (ii) prevents a motor vehicle ignition from starting if a driver's blood alcohol content exceeds 0.02 percent; and (iii) is equipped with the ability to perform a rolling retest and to electronically log the blood alcohol content during ignition, attempted ignition and rolling retest.

"Rolling retest" means a test of the vehicle operator's blood alcohol content required at random intervals during operation of the vehicle, which triggers the sounding of the horn and flashing of lights if (i) the test indicates that the operator has a blood alcohol content which exceeds 0.02 percent or (ii) the operator fails to take the test.

B. In addition to any penalty provided by law for a conviction under § 18.2-51.4 or 18.2-266 or a substantially similar ordinance of any county, city or town, any court of proper jurisdiction (i) may, for a first offense, (ii) shall, for a second or subsequent offense and, (iii) shall, for an offense where an offender's blood alcohol content equals or exceeds 0.15 percent, as a condition of a restricted license or as a condition of license restoration under subsection C of § 18.2-271.1 or 46.2-391, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements, and shall require that such a system be installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender, in whole or in part, for such period of time. Such condition shall be in addition to any purposes for which a restricted license may be issued pursuant to § 18.2-271.1. The court may order the installation of an ignition interlock system to commence immediately upon conviction. A fee of \$20 to cover court and administrative costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The court shall require the offender to install an electronic log device with the ignition interlock system on a vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and to conditions established by regulation under § 18.2-270.2 by the Commission VASAP during the period for which the court has ordered installation of the ignition interlock system. The offender shall be further required to provide to such program, at least quarterly during the period of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to circumvent or tamper with the equipment.

C. In any case in which the court requires the installation of an ignition interlock system, the court shall direct the offender not to operate any motor vehicle which is not equipped with such a system for the period of time that installation is ordered. The clerk of the court shall file with the Department of Motor Vehicles a copy of the order, which shall become a part of the offender's operator's license record maintained by the Department. The Department shall issue to the offender for the installation period required by the court, a restricted license which shall appropriately set forth the restrictions required by the court under this subsection and any other restrictions imposed upon the offender's driving privilege, and shall also set forth any exception granted by the court under subsection F.

D. The offender shall be ordered to provide the appropriate ASAP program, within 30 days of the effective date of the order of court, proof of the installation of the ignition interlock system. The Program shall require the offender to have the system monitored and calibrated for proper operation at least every 30 days by an entity approved by the Commission VASAP under the provisions of § 18.2-270.2 and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and monitoring and maintaining the ignition interlock system. Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i) timely install such system or (ii) have the system properly monitored and calibrated.

E. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock system. No person shall tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system that has been installed in the motor vehicle of a person under this section. Except as authorized in subsection G, no person shall knowingly furnish a motor vehicle not equipped with a functioning

674 ignition interlock system to any person prohibited under subsection B from operating any motor vehicle  
675 which is not equipped with such system. A violation of this subsection shall be punishable as a Class 1  
676 misdemeanor.

677 F. Any person prohibited from operating a motor vehicle under subsection B may, solely in the  
678 course of his employment, operate a motor vehicle which is owned or provided by his employer without  
679 installation of an ignition interlock system, if the court expressly permits such operation as a condition  
680 of a restricted license at the request of the employer, but such person may not operate a school bus,  
681 school vehicle, or a commercial motor vehicle as defined in § 46.2-341.4. This subsection shall not  
682 apply if such employer is an entity wholly or partially owned or controlled by the person otherwise  
683 prohibited from operating a vehicle without an ignition interlock system.

684 G. ~~The Commission~~ VASAP shall promulgate such regulations and forms as are necessary to  
685 implement the procedures outlined in this section.

686 § 18.2-270.2. Ignition interlock system; certification by VASAP; regulations; sale or lease; monitoring  
687 use; reports.

688 A. The Executive Director of ~~the Commission on~~ VASAP or his designee shall, pursuant to approval  
689 by the ~~Commission Criminal Justice Services Board~~, certify ignition interlock systems for use in this  
690 Commonwealth and adopt regulations and forms for the installation, maintenance and certification of  
691 such ignition interlock systems.

692 The regulations adopted shall include requirements that ignition interlock systems:

693 1. Do not impede the safe operation of the vehicle;

694 2. Minimize opportunities to be bypassed, circumvented or tampered with, and provide evidence  
695 thereof;

696 3. Correlate accurately with established measures of blood alcohol content and be calibrated  
697 according to the manufacturer's specifications;

698 4. Work accurately and reliably in an unsupervised environment;

699 5. Have the capability to provide an accurate written measure of blood alcohol content for each  
700 ignition, attempted ignition, and rolling retest, and record each attempt to circumvent or tamper with the  
701 equipment;

702 6. Minimize inconvenience to other users;

703 7. Be manufactured or distributed by an entity responsible for installation, user training, service, and  
704 maintenance, and meet the safety and operational requirements promulgated by the National Highway  
705 Transportation Safety Administration;

706 8. Operate reliably over the range of motor vehicle environments or motor vehicle manufacturing  
707 standards;

708 9. Be manufactured by an entity which is adequately insured against liability, in an amount  
709 established by the ~~Commission~~ Executive Director of VASAP or his designee pursuant to approval by  
710 the Criminal Justice Services Board, including product liability and installation and maintenance errors;

711 10. Provide for an electronic log of the driver's experience with the system with an information  
712 management system capable of electronically delivering information to the agency supervising the  
713 interlock user within twenty-four hours of the collection of such information from the datalogger; and

714 11. Provide for a rolling retest of the operator's blood alcohol content.

715 Such regulations shall also provide for the establishment of a fund, using a percentage of fees  
716 received by the manufacturer or distributor providing ignition interlock services, to afford persons found  
717 by the court to be indigent all or part of the costs of an ignition interlock system.

718 The ~~Commission~~ Executive Director of VASAP or his designee, pursuant to approval by the Criminal  
719 Justice Services Board, shall design and adopt a warning label to be affixed to an ignition interlock  
720 system upon installation. The warning label shall state that a person tampering with, or attempting to  
721 circumvent the ignition interlock system shall be guilty of a Class 1 misdemeanor and, upon conviction,  
722 shall be subject to a fine or incarceration or both.

723 The ~~Commission~~ Executive Director of VASAP or his designee, pursuant to approval by the Criminal  
724 Justice Services Board, shall publish a list of certified ignition interlock systems and shall ensure that  
725 such systems are available throughout the Commonwealth. The local alcohol safety action program shall  
726 make the list available to eligible offenders, who shall have the responsibility and authority to choose  
727 which certified ignition interlock company will supply the offender's equipment. A manufacturer or  
728 distributor of an ignition interlock system that seeks to sell or lease the ignition interlock system to  
729 persons subject to the provisions of § 18.2-270.1 shall pay the reasonable costs of obtaining the required  
730 certification, as set forth by ~~the Commission~~ VASAP.

731 B. A person may not sell or lease or offer to sell or lease an ignition interlock system to any person  
732 subject to the provisions of § 18.2-270.1 unless:

733 1. The system has been certified by ~~the Commission~~ VASAP; and

734 2. The warning label adopted by ~~the Commission~~ VASAP is affixed to the system.

735 C. A manufacturer or distributor of an ignition interlock system shall provide such services as may

be required at no cost to the Commonwealth. Such services shall include a toll free, twenty-four-hour telephone number for the users of ignition interlock systems.

§ 18.2-271.1. Probation, education and rehabilitation of person charged or convicted; person convicted under law of another state.

A. Any person convicted of a first or second offense of § 18.2-266 (i), (ii), (iii), or (iv), or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to subsection H of this section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense of § 18.2-266 (i), (ii), (iii), or (iv), or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E of this section. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E of this section, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted in another state of the violation of a law of such state substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A of this section and that, upon entry into such program, he be issued an order in accordance with subsection E of this section. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E of this section as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. Such order shall be conditioned upon the successful completion of a program by the

petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense in any state, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, whenever a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine or train in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in a court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; or (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A of this section. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund.

F. The court shall have jurisdiction over any person entering such program under any provision of

this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court which has convicted a person of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 on, after and at any time prior to July 1, 2003.

H. The State Treasurer, ~~the Commission on~~ VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. ~~The Commission on~~ VASAP, or any county, city, town, or any combination thereof may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board chosen in accordance with procedures approved and promulgated by ~~the Commission on~~ VASAP. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. ~~The Commission on~~ VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by ~~the Commission~~ VASAP. ~~The Commission~~ VASAP shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of ~~the Commission on~~ VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by ~~the Commission~~ VASAP. ~~The Commission~~ VASAP shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

§ 18.2-271.2. Virginia Alcohol Safety Action Program (VASAP); purpose; meetings; staffing; chairman's executive summary.

A. There is hereby established in the legislative branch of state government the Commission on the Virginia Alcohol Safety Action Program (VASAP) *is hereby reestablished under the auspices of the Department of Criminal Justice Services. The Commission Criminal Justice Services Board (the Board) shall appoint an Executive Director and shall administer and supervise the state system of local alcohol and safety action programs, develop and maintain operation and performance standards for local alcohol and safety action programs, and allocate funding to such programs. The Commission shall have a total membership of 15 members that shall consist of six legislative members and nine nonlegislative citizen members. Members shall be appointed as follows: four current or former members of the House Committee for Courts of Justice, to be appointed by the Speaker of the House of Delegates; two members of the Senate Committee for Courts of Justice, to be appointed by the Senate Committee on Rules; three sitting or retired judges, one each from the circuit, general district and juvenile and domestic relations district courts, who regularly hear or heard cases involving driving under the*

influence and are familiar with their local alcohol safety action programs, to be appointed by the Chairman of the Committee on District Courts; two directors of local alcohol safety action programs, to be appointed by the legislative members of the Commission; one representative from the law-enforcement profession, to be appointed by the Speaker of the House and one nonlegislative citizen at large, to be appointed by the Senate Committee on Rules; one representative from the Virginia Department of Motor Vehicles whose duties are substantially related to matters to be addressed by the Commission to be appointed by the Commissioner of the Department of Motor Vehicles, and one representative from the Department of Behavioral Health and Developmental Services whose duties also substantially involve such matters, to be appointed by the Commissioner of Behavioral Health and Developmental Services. Legislative members shall serve terms coincident with their terms of office. In accordance with the staggered terms previously established, nonlegislative citizen members shall serve two-year terms. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment.

B. The Commission shall meet at least four times each year at such places as it may from time to time designate. A majority of the members shall constitute a quorum. The Commission shall elect a chairman and vice-chairman from among its membership.

The Commission shall be empowered *VASAP, upon approval by the Board, is authorized* to establish and ensure the maintenance of minimum standards and criteria for program operations and performance, accounting, auditing, public information and administrative procedures for the various local alcohol safety action programs and shall be responsible for overseeing the administration of the statewide VASAP system. Such programs shall be certified by the *Commission Board* in accordance with procedures set forth in the *Commission on VASAP Certification Manual*. The *Commission Board* shall also oversee program plans, operations and performance and a system for allocating funds to cover deficits that may occur in the budgets of local programs.

C. The *Commission Board* shall appoint and employ and, at its pleasure, remove an executive director and such other persons as it may deem necessary, and determine their duties and fix their salaries or compensation.

D. The *Commission Board* shall appoint a Virginia Alcohol Safety Action Program Advisory Board Panel to make recommendations to the *Commission Board* regarding its duties and administrative functions. The membership of such Board *Virginia Alcohol Safety Action Program Advisory Panel* shall be appointed in the discretion of the *Commission Board* and include personnel from (i) local safety action programs; (ii) the State Board of Behavioral Health and Developmental Services, community services boards, or behavioral health authorities; and (iii) other community mental health services organizations. An assistant attorney general who provides counsel in matters relating to driving under the influence shall also be appointed to the *Board Virginia Alcohol Safety Action Program Advisory Panel*.

E. Legislative members of the Commission shall receive compensation as provided in ~~§ 30-19.12~~. Funding for the costs of compensation of legislative members shall be provided by the Commission. All members shall be reimbursed for all reasonable and necessary expenses as provided in ~~§§ 2.2-2813 and 2.2-2825~~ to be paid out of that portion of moneys paid in VASAP defendant entry fees which is forwarded to the Virginia Alcohol Safety Action Program.

F. The chairman of the *Commission Board* shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the *Commission VASAP* no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is



pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 15.2-4500 et seq.) and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company or volunteer rescue squad; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes approved by family day-care systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719 through 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations

1043 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
1044 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to  
1045 the limitations set out in subsection E;

1046 16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers  
1047 for the conduct of investigations of applicants for compensated employment in licensed homes for adults  
1048 pursuant to § 63.2-1720, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed  
1049 adult day-care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

1050 17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in  
1051 § 4.1-103.1;

1052 18. The State Board of Elections and authorized officers and employees thereof in the course of  
1053 conducting necessary investigations with respect to registered voters, limited to any record of felony  
1054 convictions;

1055 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
1056 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
1057 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

1058 20. Any *local* alcohol safety action program certified by the ~~Commission on the Virginia Alcohol~~  
1059 ~~Safety Action Program~~ *Criminal Justice Services Board* for (i) assessments of habitual offenders under  
1060 § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under  
1061 § 18.2-51.4, 18.2-266, or 18.2-266.1;

1062 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
1063 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
1064 purpose of determining applicants' fitness for employment or for providing volunteer or contractual  
1065 services;

1066 22. The Department of Behavioral Health and Developmental Services and facilities operated by the  
1067 Department for the purpose of determining an individual's fitness for employment pursuant to  
1068 departmental instructions;

1069 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or religious  
1070 elementary or secondary schools which are accredited by a statewide accrediting organization  
1071 recognized, prior to January 1, 1996, by the State Board of Education or a private organization  
1072 coordinating such records information on behalf of such governing boards or administrators pursuant to  
1073 a written agreement with the Department of State Police;

1074 24. Public and nonprofit private colleges and universities for the purpose of screening individuals  
1075 who are offered or accept employment;

1076 25. Members of a threat assessment team established by a public institution of higher education  
1077 pursuant to § 23-9.2:10, for the purpose of assessing or intervening with an individual whose behavior  
1078 may present a threat to safety;

1079 26. Executive directors of community services boards or the personnel director serving the  
1080 community services board for the purpose of determining an individual's fitness for employment  
1081 pursuant to §§ 37.2-506 and 37.2-607;

1082 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
1083 determining an individual's fitness for employment pursuant to §§ 37.2-506 and 37.2-607;

1084 28. The Commissioner of the Department of Social Services for the purpose of locating persons who  
1085 owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided  
1086 that only the name, address, demographics and social security number of the data subject shall be  
1087 released;

1088 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
1089 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
1090 purpose of determining if any applicant who accepts employment in any direct consumer care position  
1091 has been convicted of a crime that affects their fitness to have responsibility for the safety and  
1092 well-being of persons with mental illness, mental retardation and substance abuse pursuant to  
1093 §§ 37.2-416, 37.2-506, and 37.2-607;

1094 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
1095 for a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.)  
1096 and 21 (§ 46.2-2100 et seq.) of Title 46.2;

1097 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates  
1098 for the purpose of determining if any person being considered for election to any judgeship has been  
1099 convicted of a crime;

1100 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
1101 determining an individual's fitness for employment in positions designated as sensitive under Department  
1102 of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal  
1103 history record information to the agencies shall be limited to those positions generally described as  
1104 directly responsible for the health, safety and welfare of the general populace or protection of critical

infrastructures;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are members, senior officers, directors, and principals of an applicant for licensure as a mortgage lender or mortgage broker, or a licensed mortgage lender or mortgage broker for the purpose of investigating individuals applying for a position of employment in which the individual may have access to or process personal identifying or financial information from a member of the public, pursuant to Chapter 16 (§ 6.2-1600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application for a mortgage lender or mortgage broker license is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to § 6.2-1605, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department of Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Chapter 5 (§ 51.5-15 et seq.) of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120; and

42. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records

Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.1-189.1 or 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request; provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

§ 29.1-738.5. Participation in rehabilitation program.

A. Any person convicted of a violation of subsection B of § 29.1-738, or any ordinance of a county, city, or town similar to the provisions thereof, or any second offense thereunder, shall, with leave of court or upon court order, enter into an alcohol safety action program ~~certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP)~~ in the judicial district in which the charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. In the determination of the eligibility of such person to enter a program, the court shall consider his prior record of participation in any other rehabilitation program. Suspension of the penalties imposed pursuant to § 29.1-738.4 shall be conditioned upon successful completion of such a program.

B. The court shall require the person entering such program under the provisions of subsection A to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the ~~Commission on VASAP~~ *Criminal Justice Services Board*, but not to exceed ~~ten~~ 10 percent, shall be forwarded quarterly to be deposited with the State Treasurer for expenditure by the ~~Commission on VASAP~~, and the balance shall be held in a separate fund for local administration of alcohol rehabilitation programs. Upon a finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for extended treatment under such program may be charged.

C. Upon such conviction, the court shall impose the sentence authorized. Upon a finding that a person so convicted is eligible for participation in an alcohol rehabilitation program, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to a program. If the court finds that a person is not eligible for a program or subsequently that the person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered. Appeals from any such disposition shall be allowed as provided by law.

The court shall have jurisdiction over any person entering a program under the provisions of this section until such time as the case has been disposed of by either successful completion of the program, or final imposition of sentence upon ineligibility or violation of a condition imposed by the court, whichever occurs first.

D. ~~The Commission on VASAP~~ shall establish standards and criteria for the implementation and operation of water safety alcohol rehabilitation programs. ~~The Commission on VASAP~~ shall also establish criteria for the modalities of administration of such programs, as well as public information, accounting procedures and allocation of funds.

§ 37.2-310. Powers and duties of Department related to substance abuse.

The Department shall have the following powers and duties related to substance abuse:

1. To act as the sole state agency for the planning, coordination, and evaluation of the comprehensive interagency state plan for substance abuse services.

2. To provide staff assistance to the Substance Abuse Services Council pursuant to § 2.2-2696.

3. To (i) develop, implement, and promote, in cooperation with federal, state, local, and other publicly-funded agencies, a comprehensive interagency state plan for substance abuse services, consistent with federal guidelines and regulations, for the long-range development of adequate and coordinated programs, services, and facilities for the research, prevention, and control of substance abuse and the treatment and rehabilitation of persons with substance abuse; (ii) review the plan annually; and (iii)

1228 make revisions in the plan that are necessary or desirable.

1229 4. To report biennially to the General Assembly on the comprehensive interagency state plan for  
1230 substance abuse services and the Department's activities in administering, planning, and regulating  
1231 substance abuse services and specifically on the extent to which the Department's duties as specified in  
1232 this title have been performed.

1233 5. To develop, in cooperation with the Department of Corrections, Virginia Parole Board, Department  
1234 of Juvenile Justice, Department of Criminal Justice Services, ~~Commission on the Virginia Alcohol Safety~~  
1235 ~~Action Program~~, Office of the Executive Secretary of the Supreme Court of Virginia, Department of  
1236 Education, Department of Health, Department of Social Services, and other appropriate agencies, a  
1237 section of the comprehensive interagency state plan for substance abuse services that addresses the need  
1238 for treatment programs for persons with substance abuse who are involved with these agencies.

1239 6. To specify uniform methods for keeping statistical information for inclusion in the comprehensive  
1240 interagency state plan for substance abuse services.

1241 7. To provide technical assistance and consultation services to state and local agencies in planning,  
1242 developing, and implementing services for persons with substance abuse.

1243 8. To review and comment on all applications for state or federal funds or services to be used in  
1244 substance abuse programs in accordance with § 37.2-311 and on all requests by state agencies for  
1245 appropriations from the General Assembly for use in substance abuse programs.

1246 9. To recommend to the Governor and the General Assembly legislation necessary to implement  
1247 programs, services, and facilities for the prevention and control of substance abuse and the treatment and  
1248 rehabilitation of persons with substance abuse.

1249 10. To organize and foster training programs for all persons engaged in the treatment of substance  
1250 abuse.

1251 11. To identify, coordinate, mobilize, and use the research and public service resources of institutions  
1252 of higher education, all levels of government, business, industry, and the community at large in the  
1253 understanding and solution of problems relating to substance abuse.

1254 12. To inspect substance abuse treatment programs at reasonable times and in a reasonable manner.

1255 13. To maintain a current list of substance abuse treatment programs, which shall be made available  
1256 upon request.