

2012 SESSION

LEGISLATION NOT PREPARED BY DLS  
INTRODUCED

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SB612

12104442D

SENATE BILL NO. 612

Offered January 19, 2012

A BILL to amend and reenact § 18.2-308.2:2 and § 16.1-305 of the Code of Virginia, and enact § 16.1-253.5 of the code of Virginia, relating to the transfer of rifles and shotguns.

Patron—Black

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.2:2 of the Code of Virginia is amended and reenacted as follows effective November 1, 2012:

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

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

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

59 date of issue of the driver's license was more than 30 days prior to the attempted purchase.

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

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

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

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

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

106 5. Notwithstanding any other provisions of this section, *residents and non-residents of the*  
107 *Commonwealth may purchase rifles and shotguns from dealers. A National Instant Criminal Background*  
108 *Check System (NICS) check shall be performed prior to such purchase, trade or transfer of firearms.*  
109 ~~may be purchased by persons who are citizens of the United States or persons lawfully admitted for~~  
110 ~~permanent residence but residents of other states under the terms of subsections A and B upon~~  
111 ~~furnishing the dealer with proof of citizenship or status as a person lawfully admitted for permanent~~  
112 ~~residence and one photo-identification form issued by a governmental agency of the person's state of~~  
113 ~~residence and one other form of identification determined to be acceptable by the Department of~~  
114 ~~Criminal Justice Services.~~

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

117 C. No dealer shall sell, rent, trade or transfer from his inventory any *handgun* firearm, ~~except when~~  
118 ~~the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of~~  
119 ~~subdivision B 5 to any person who is not a resident of Virginia unless he has first obtained from the~~  
120 ~~Department of State Police a report indicating that a search of all available criminal history record~~

121 information has not disclosed that the person is prohibited from possessing or transporting a firearm  
 122 under state or federal law. The dealer shall obtain the required report by mailing or delivering the  
 123 written consent form required under subsection A to the State Police within 24 hours of its execution. If  
 124 the dealer has complied with the provisions of this subsection and has not received the required report  
 125 from the State Police within 10 days from the date the written consent form was mailed to the  
 126 Department of State Police, he shall not be deemed in violation of this section for thereafter completing  
 127 the sale or transfer. D. Nothing herein shall prevent a resident of the Commonwealth, at his option, from  
 128 buying, renting or receiving a *handgun firearm* from a dealer in Virginia by obtaining a criminal history  
 129 record information check through the dealer as provided in subsection C.

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

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

138 G. For purposes of this section:

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

141 "Antique firearm" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

181 H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity,

182 confidentiality and security of all records and data provided by the Department of State Police pursuant  
183 to this section.

184 I. The provisions of this section shall not apply to (i) transactions between persons who are licensed  
185 as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii)  
186 purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth  
187 or any local government; or (iii) antique firearms, curios or relics.

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

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

199 K. Any person willfully and intentionally making a materially false statement on the consent form  
200 required in subsection B or C or on such firearm transaction records as may be required by federal law,  
201 shall be guilty of a Class 5 felony.

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

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

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

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

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

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

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

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

244 concerning certificates issued pursuant to this subsection and all records provided for in subdivision B 3.

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

246 a. A law-enforcement agency;

247 b. An agency duly authorized to perform law-enforcement duties;

248 c. State and local correctional facilities;

249 d. A private security company licensed to do business within the Commonwealth;

250 e. The purchase of antique firearms as herein defined;

251 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
252 be replaced immediately. Such person may purchase another handgun, even if the person has previously

253 purchased a handgun within a 30-day period, provided (i) the person provides the firearms dealer with a  
254 copy of the official police report or a summary thereof, on forms provided by the Department of State

255 Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the  
256 official police report or summary thereof contains the name and address of the handgun owner, the

257 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date  
258 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as

259 reflected on the official police report or summary thereof occurred within 30 days of the person's  
260 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or

261 summary thereof to the original copy of the Virginia ~~handgun~~ ~~firearms~~ transaction report completed for  
262 the transaction and retain it for the period prescribed by the Department of State Police;

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

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

266 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, a private  
267 sale means purchase from a person who makes occasional sales, exchanges or purchases of firearms for

268 the enhancement of a personal collection of curios or relics as herein defined, or who sells all or part of  
269 such collection of curios and relics; or

270 j. A law-enforcement officer. For purposes of this subdivision, a law-enforcement officer means any  
271 employee of a police department or sheriff's office that is part of or administered by the Commonwealth

272 or any political subdivision thereof, and who is responsible for the prevention and detection of crime  
273 and the enforcement of the penal, traffic or highway laws of the Commonwealth.

274 3. For the purposes of this subsection, "purchase" shall not include the exchange or replacement of a  
275 handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange

276 or replacement within the 30-day period immediately preceding the date of exchange or replacement.

277 (1989, c. 745; 1990, cc. 594, 692; 1991, cc. 515, 525, 716; 1992, cc. 637, 872; 1993, cc. 451, 461,

278 486, 493, 674; 1994, c. 624; 1997, c. 341; 1998, c. 844; 2002, c. 695; 2003, cc. 833, 976; 2004, cc.

279 354, 461, 837, 904, 922; 2005, cc. 578, 859; 2007, c. 509; 2008, cc. 854, 869; 2009, cc. 813, 840;  
280 2011, c. 235.)

281 2. That § 16.1-253.5 <http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+16.1-253.4> of the Code of  
282 Virginia is enacted as follows:

283 § 16.1-253.5. *Protective order forwarded to CCRE; firearm background check.*

284 A. Upon receipt of the return of service or other proof of service pursuant to subsection C of  
285 § 16.1-264 on any person who is subject to (i) a protective order entered pursuant to § 16.1-253.1,

286 16.1-253.4, 16.1-278.2, 16.1-279.1, 19.2-152.8, 19.2-152.9, or 19.2-152.10; (ii) an order issued pursuant  
287 to subsection B of § 20-103; (iii) an order entered pursuant to subsection D of § 18.2-60.3; or (iv) a

288 preliminary protective order entered pursuant to subsection F of § 16.1-253 where a petition alleging  
289 abuse or neglect has been filed, the clerk of court shall, as soon as practicable but not later than the

290 close of business on the next following business day, certify and forward to the Central Criminal  
291 Records Exchange (CCRE), on a form provided by the Exchange, a copy of the order. If the order is

292 later dissolved or modified, a copy of the dissolution or modification order shall also be certified and  
293 forwarded to the CCRE, on a form provided by the Exchange

294 B. The Attorney General shall inform the United States Attorney General that Virginia law prohibits  
295 any person subject (i) a protective order entered pursuant to § 16.1-253.1, 16.1-253.4, 16.1-278.2,

296 16.1-279.1, 19.2-152.8, 19.2-152.9, or 19.2-152.10; (ii) an order issued pursuant to subsection B of  
297 § 20-103; (iii) an order entered pursuant to subsection D of § 18.2-60.3; or (iv) a preliminary protective

298 order entered pursuant to subsection F of § 16.1-253 where a petition alleging abuse or neglect has  
299 been filed from purchasing or transporting a firearm.

300 In addition, the Attorney General shall inform the United States Attorney General that copies of  
301 protective orders entered pursuant to § 16.1-253.1, 16.1-253.4, 16.1-278.2, 16.1-279.1, 19.2-152.8,

302 19.2-152.9, or 19.2-152.10; (ii) an order issued pursuant to subsection B of § 20-103; (iii) an order  
303 entered pursuant to subsection D of § 18.2-60.3; and (iv) a preliminary protective order entered  
304 pursuant to subsection F of § 16.1-253 where a petition alleging abuse or neglect has been filed will be

305 forwarded to the CCRE for use in in the National Instant Criminal Background Check System (NICS).

306 **3. That § 16.1-305 of the Code of Virginia is amended and reenacted as follows:§ 16.1-305.**  
307 **Confidentiality of court records; firearm background check.**

308 A. Social, medical and psychiatric or psychological records, including reports or preliminary  
309 inquiries, predisposition studies and supervision records, of neglected and abused children, children in  
310 need of services, children in need of supervision and delinquent children shall be filed with the other  
311 papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and  
312 records of the court and shall be open for inspection only to the following:

313 1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic  
314 relations district courts;

315 2. Representatives of a public or private agency or department providing supervision or having legal  
316 custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

317 3. The attorney for any party, including the attorney for the Commonwealth;

318 4. Any other person, agency or institution, by order of the court, having a legitimate interest in the  
319 case or in the work of the court. However, for the purposes of an investigation conducted by a local  
320 community-based probation services agency, preparation of a pretrial investigation report, or of a  
321 presentence or postsentence report upon a finding of guilty in a circuit court or for the preparation of a  
322 background report for the Parole Board, adult probation and parole officers, including United States  
323 Probation and Pretrial Services Officers, any officer of a local pretrial services agency established or  
324 operated pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2, and any officer of a  
325 local community-based probation services agency established or operated pursuant to the Comprehensive  
326 Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) shall have access to an  
327 accused's or inmate's records in juvenile court without a court order and for the purpose of preparing the  
328 discretionary sentencing guidelines worksheets and related risk assessment instruments as directed by the  
329 court pursuant to subsection C of § 19.2-298.01, the attorney for the Commonwealth and any pretrial  
330 services or probation officer shall have access to the defendant's records in juvenile court without a  
331 court order;

332 5. Any attorney for the Commonwealth and any local pretrial services or community-based probation  
333 officer or state adult probation or parole officer shall have direct access to the defendant's juvenile court  
334 delinquency records maintained in an electronic format by the court for the strictly limited purposes of  
335 preparing a pretrial investigation report, including any related risk assessment instrument, any  
336 presentence report, any discretionary sentencing guidelines worksheets, including related risk assessment  
337 instruments, any post-sentence investigation report or preparing for any transfer or sentencing hearing.

338 A copy of the court order of disposition in a delinquency case shall be provided to a probation  
339 officer or attorney for the Commonwealth, when requested for the purpose of calculating sentencing  
340 guidelines. The copies shall remain confidential, but reports may be prepared using the information  
341 contained therein as provided in §§ 19.2-298.01 and 19.2-299.

342 6. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for  
343 purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

344 A1. Any person, agency, or institution that may inspect juvenile case files pursuant to subdivisions A  
345 1 through A 4 shall be authorized to have copies made of such records, subject to any restrictions,  
346 conditions, or prohibitions that the court may impose.

347 B. All or any part of the records enumerated in subsection A, or information secured from such  
348 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also  
349 be made available to the parties to the proceedings and their attorneys.

350 B1. If a juvenile 14 years of age or older at the time of the offense is adjudicated delinquent on the  
351 basis of an act which would be a felony if committed by an adult, all court records regarding that  
352 adjudication and any subsequent adjudication of delinquency, other than those records specified in  
353 subsection A, shall be open to the public. However, if a hearing was closed, the judge may order that  
354 certain records or portions thereof remain confidential to the extent necessary to protect any juvenile  
355 victim or juvenile witness.

356 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a  
357 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by  
358 those persons and agencies designated in subsections A and B of this section. However, a licensed bail  
359 bondsman shall be entitled to know the status of a bond he has posted or provided surety on for a  
360 juvenile under § 16.1-258. This shall not authorize a bail bondsman to have access to or inspect any  
361 other portion of his principal's juvenile court records.

362 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for  
363 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,  
364 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney  
365 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney  
366 that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding

367 and that such papers will be only used for such evidentiary purpose.

368 D1. Attested copies of papers filed in connection with an adjudication of guilt for a delinquent act  
369 that would be a felony if committed by an adult, which show the charge, finding, disposition, name of  
370 the attorney for the juvenile, or waiver of attorney by the juvenile, shall be furnished to an attorney for  
371 the Commonwealth upon his certification that such papers are needed as evidence in a pending criminal  
372 prosecution for a violation of § 18.2-308.2 and that such papers will be only used for such evidentiary  
373 purpose.

374 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to  
375 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an  
376 award to the victim of a crime, and such information shall not be disseminated or used by the  
377 Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

378 F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the  
379 disposition in a case involving a juvenile who is committed to state care after being adjudicated for a  
380 criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the  
381 victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a  
382 written request, the Department of Juvenile Justice shall provide advance notice of such juvenile  
383 offender's anticipated date of release from commitment.

384 G. Any record in a juvenile case file which is open for inspection by the professional staff of the  
385 Department of Juvenile Justice pursuant to subsection A and is maintained in an electronic format by the  
386 court, may be transmitted electronically to the Department of Juvenile Justice. Any record so transmitted  
387 shall be subject to the provisions of § 16.1-300.

388 *H. Notwithstanding any other provision of law, the clerk of court shall also, as soon as practicable  
389 but no later than the close of business on the next following business day, forward upon receipt to the  
390 Central Criminal Records Exchange (CCRE), on a form provided by the Exchange, certification of any  
391 person who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense  
392 of a delinquent act which would be a felony if committed by an adult.*

393 *I. The copy of the forms and orders sent to the CCRE pursuant to subsection H shall be kept  
394 confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or  
395 transfer a firearm. No medical records shall be forwarded to the CCRE with any form, order, or  
396 certification required by subsection H. The Department of State Police shall forward only a person's  
397 eligibility pursuant to § 18.2-308.2 to possess or transport a firearm to the National Instant Criminal  
398 Background Check System (NICS).*

399 *J. The Attorney General shall inform the United States Attorney General that, pursuant to  
400 § 18.2-308.2, Virginia law prohibits certain persons who were adjudicated delinquent as a juvenile 14  
401 years of age or older at the time of the offense of a delinquent act which would be a felony if committed  
402 by an adult from possessing or transporting a firearm.*

403 *In addition, the Attorney General shall inform the United States Attorney General that information  
404 regarding the eligibility of persons to possess or transport a firearm pursuant to § 18.2-308.2 will be  
405 forwarded to the CCRE for use in NICS.*

406 (Code 1950, § 16.1-162; 1956, c. 555; 1958, c. 353; 1971, Ex. Sess., c. 228; 1975, c. 334; 1977, c.  
407 559; 1979, c. 605; 1983, c. 389; 1984, c. 34; 1988, c. 541; 1989, c. 182; 1990, c. 258; 1992, c. 547;  
408 1994, c. 603; 1995, c. 430; 1996, cc. 755, 870, 914; 1998, cc. 278, 521; 2002, cc. 701, 735, 741; 2003,  
409 c. 143; 2004, c. 446; 2007, c. 133; 2009, cc. 138, 308, 740.)