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SENATE BILL NO. 630

Offered January 20, 2012

A *BILL to amend and reenact §§ 1-212, 2.2-511, 2.2-2905, 2.2-3114, 4.1-224, 4.1-227, 8.01-20, 8.01-113, 8.01-267.8, 8.01-429, 8.01-626, 8.01-645, 8.01-649, 8.01-651, 8.01-665, 8.01-669 through 8.01-671, 8.01-675.3, 8.01-675.4, 8.01-676.1, 10.1-603.12:5, 10.1-603.13:1, 10.1-1319, 15.2-1639, 16.1-106, 16.1-131.1, 16.1-242.1, 16.1-248.1, 16.1-296, 16.1-298, 17.1-106, 17.1-112, 17.1-132, 17.1-221, 17.1-283, 17.1-285, 17.1-319, 17.1-330, 17.1-331, 17.1-604, 17.1-700, 17.1-703, 17.1-706, 17.1-802, 17.1-900, 18.2-31, 18.2-308, 19.2-11.2, 19.2-119, 19.2-163.3, 19.2-266, 19.2-317, 19.2-318 through 19.2-321, 19.2-321.2, 19.2-322.1, 19.2-325, 19.2-327, 19.2-327.10 through 19.2-327.13, 19.2-368.8, 19.2-398, 19.2-400, 19.2-402 through 19.2-405, 19.2-409, 28.2-220, 29.1-824, 30-5, 33.1-358, 37.2-1105, 38.2-3405, 38.2-5011, 40.1-49.5, 40.1-51.38, 46.2-321, 46.2-341.34, 46.2-362, 46.2-410, 46.2-1578, 46.2-1988, 46.2-1992.82, 46.2-1993.79, 46.2-2825.3, 49-13, 49-22, 53.1-40.1, 53.1-78, 54.1-3935, 54.1-3937, 57-2.02, 57-67, 58.1-2282, 58.1-4027, 60.2-500, 60.2-625, 60.2-631, 62.1-44.24, 62.1-44.30, 62.1-111, 63.2-1216, 65.2-101, 65.2-701, and 65.2-706 and to repeal § 8.01-677.1, Chapter 4 (§§ 17.1-400 through 17.1-418) of Title 17.1, and §§ 19.2-321.1, 19.2-407, and 19.2-408 of the Code of Virginia, relating to abolishing the Court of Appeals.*

Patron—Deeds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 1-212, 2.2-511, 2.2-2905, 2.2-3114, 4.1-224, 4.1-227, 8.01-20, 8.01-113, 8.01-267.8, 8.01-429, 8.01-626, 8.01-645, 8.01-649, 8.01-651, 8.01-665, 8.01-669 through 8.01-671, 8.01-675.3, 8.01-675.4, 8.01-676.1, 10.1-603.12:5, 10.1-603.13:1, 10.1-1319, 15.2-1639, 16.1-106, 16.1-131.1, 16.1-242.1, 16.1-248.1, 16.1-296, 16.1-298, 17.1-106, 17.1-112, 17.1-132, 17.1-221, 17.1-283, 17.1-285, 17.1-319, 17.1-330, 17.1-331, 17.1-604, 17.1-700, 17.1-703, 17.1-706, 17.1-802, 17.1-900, 18.2-31, 18.2-308, 19.2-11.2, 19.2-119, 19.2-163.3, 19.2-266, 19.2-317, 19.2-318 through 19.2-321, 19.2-321.2, 19.2-322.1, 19.2-325, 19.2-327, 19.2-327.10 through 19.2-327.13, 19.2-368.8, 19.2-398, 19.2-400, 19.2-402 through 19.2-405, 19.2-409, 28.2-220, 29.1-824, 30-5, 33.1-358, 37.2-1105, 38.2-3405, 38.2-5011, 40.1-49.5, 40.1-51.38, 46.2-321, 46.2-341.34, 46.2-362, 46.2-410, 46.2-1578, 46.2-1988, 46.2-1992.82, 46.2-1993.79, 46.2-2825.3, 49-13, 49-22, 53.1-40.1, 53.1-78, 54.1-3935, 54.1-3937, 57-2.02, 57-67, 58.1-2282, 58.1-4027, 60.2-500, 60.2-625, 60.2-631, 62.1-44.24, 62.1-44.30, 62.1-111, 63.2-1216, 65.2-101, 65.2-701, and 65.2-706 of the Code of Virginia are amended and reenacted as follows:

§ 1-212. Courts of record.

"Courts of record" means the Supreme Court of Virginia; the Court of Appeals of Virginia; and the circuit courts.

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9

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59 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the
60 Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the
61 concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of
62 § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state
63 correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth,
64 assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

65 In all other criminal cases in the circuit courts, except where the law provides otherwise, the
66 authority of the Attorney General to appear or participate in the proceedings shall not attach unless and
67 until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted
68 by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which
69 the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent
70 the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of
71 Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a
72 case from the Court of Appeals to the Supreme Court.

73 B. The Attorney General shall, upon request of a person who was the victim of a crime and subject
74 to such reasonable procedures as the Attorney General may require, ensure that such person is given
75 notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus
76 proceeding involving the cases in which such person was a victim. For the purposes of this section, a
77 victim is an individual who has suffered physical, psychological or economic harm as a direct result of
78 the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim;
79 or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall
80 confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas
81 corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages
82 against the Commonwealth or any of its political subdivisions, the Attorney General or any of his
83 employees or agents, any other officer, employee or agent of the Commonwealth or any of its political
84 subdivisions, or any officer of the court.

85 § 2.2-2905. Certain officers and employees exempt from chapter.

86 The provisions of this chapter shall not apply to:

- 87 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
- 88 2. Officers and employees of the Supreme Court and the Court of Appeals;
- 89 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
90 house thereof is required or not;
- 91 4. Officers elected by popular vote or by the General Assembly or either house thereof;
- 92 5. Members of boards and commissions however selected;
- 93 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
94 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
95 notaries public;
- 96 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
97 special inquiries, investigations, or examinations on its behalf;
- 98 8. The presidents, and teaching and research staffs of state educational institutions;
- 99 9. Commissioned officers and enlisted personnel of the National Guard and the naval militia;
- 100 10. Student employees in institutions of learning, and patient or inmate help in other state
101 institutions;
- 102 11. Upon general or special authorization of the Governor, laborers, temporary employees and
103 employees compensated on an hourly or daily basis;
- 104 12. County, city, town and district officers, deputies, assistants and employees;
- 105 13. The employees of the Virginia Workers' Compensation Commission;
- 106 14. The officers and employees of the Virginia Retirement System;
- 107 15. Employees whose positions are identified by the State Council of Higher Education and the
108 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the
109 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of
110 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The
111 Library of Virginia, and approved by the Director of the Department of Human Resource Management
112 as requiring specialized and professional training;
- 113 16. Employees of the State Lottery Department;
- 114 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;
- 115 18. Employees of the Virginia Commonwealth University Health System Authority;
- 116 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for
117 such employees shall be subject to the review and approval of the Board of Visitors of the University of
118 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
119 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
120 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;

21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

22. Officers and employees of the Virginia Port Authority;

23. Employees of the Virginia College Savings Plan;

24. Directors of state facilities operated by the Department of Behavioral Health and Developmental Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

25. The Director of the Virginia Office for Protection and Advocacy;

26. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as state employees for purposes of participation in the Virginia Retirement System, health insurance, and all other employee benefits offered by the Commonwealth to its classified employees;

27. Employees of the Virginia Indigent Defense Commission; and

28. Any chief of a campus police department that has been designated by the governing body of a public institution of higher education as exempt, pursuant to § 23-232.

§ 2.2-3114. Disclosure by state officers and employees.

A. The Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, and members of the State Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor or, in the case of officers or employees of the legislative branch, by the Joint Rules Committee of the General Assembly, shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is specified on the form set forth in § 2.2-3117 and thereafter shall file such a statement annually on or before January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday.

B. Nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, and the State Lottery Board, shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is specified on the form set forth in § 2.2-3118 and thereafter shall file such form annually on or before January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that set forth in § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be provided by the Secretary of the Commonwealth to each officer and employee so designated, including officers appointed by legislative authorities, not later than November 30 of each year. Disclosure forms shall be filed and maintained as public records for five years in the Office of the Secretary of the Commonwealth.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subdivision A 1 of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision A 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a

182 member of a business, profession, occupation, or group the members of which are affected by the
183 transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public
184 interest. The officer or employee shall either make his declaration orally to be recorded in written
185 minutes for his agency or file a signed written declaration with the clerk or administrative head of his
186 governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for
187 public inspection such declaration for a period of five years from the date of recording or receipt. If
188 reasonable time is not available to comply with the provisions of this subsection prior to participation in
189 the transaction, the officer or employee shall prepare and file the required declaration by the end of the
190 next business day.

191 G. An officer or employee of state government who is required to declare his interest pursuant to
192 subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a
193 party to the transaction is a client of his firm, (iii) that he does not personally represent or provide
194 services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in
195 the public interest. The officer or employee shall either make his declaration orally to be recorded in
196 written minutes for his agency or file a signed written declaration with the clerk or administrative head
197 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make
198 available for public inspection such declaration for a period of five years from the date of recording or
199 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to
200 participation in the transaction, the officer or employee shall prepare and file the required declaration by
201 the end of the next business day.

202 § 4.1-224. Notice and hearings for refusal to grant licenses; Administrative Process Act; exceptions.

203 A. The action of the Board in granting or in refusing to grant any license shall be subject to review
204 in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), except as provided in
205 subsections B and C. Review shall be limited to the evidential record of the proceedings provided by the
206 Board. Both the petitioner and the Board shall have the right to *petition for an appeal to the Court of*
207 *Appeals Supreme Court* from any order of the court.

208 B. The Board may refuse a hearing on any application for the granting of any retail alcoholic
209 beverage or mixed beverage license, including a banquet license, provided such:

210 1. License for the applicant has been refused or revoked within a period of twelve months;
211 2. License for any premises has been refused or revoked at that location within a period of twelve
212 months;

213 3. Applicant, within a period of twelve months immediately preceding, has permitted a license
214 granted by the Board to expire for nonpayment of license tax, and at the time of expiration of such
215 license, there was a pending and unadjudicated charge, either before the Board or in any court, against
216 the licensee alleging a violation of this title; or

217 4. Applicant has received a restricted license and reapplies for a lesser-restricted license at the same
218 location within twelve months of the date of the issuance of the restricted license.

219 C. If an applicant has permitted a license to expire for nonpayment of license tax, and at the time of
220 expiration there remained unexecuted any period of suspension imposed upon the licensee by the Board,
221 the Board may refuse a hearing on an application for a new license until after the date on which the
222 suspension period would have been executed had the license not have been permitted to expire.

223 § 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.

224 A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery
225 licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action
226 shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative
227 Process Act (§ 2.2-4000 et seq.).

228 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,
229 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the
230 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or
231 present employee of the licensee to any law-enforcement officer, the existence of which is known by the
232 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
233 chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
234 places, or copies or portions thereof, that are within the possession, custody, or control of the Board and
235 upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter
236 against the licensee. In addition, any subpoena for the production of documents issued to any person at
237 the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the
238 documents sought within ten working days, notwithstanding anything to the contrary in § 4.1-103.

239 If the Board fails to provide for inspection or copying under this section for the licensee after a
240 written request, the Board shall be prohibited from introducing into evidence any items the licensee
241 would have lawfully been entitled to inspect or copy under this section.

242 The action of the Board in suspending or revoking any license or in imposing a civil penalty against
243 the holder of a brewery license shall be subject to judicial review in accordance with the Administrative

Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the ~~Court of Appeals~~ *Supreme Court* from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the ~~Court of Appeals~~ *Supreme Court*. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose a civil penalty not to exceed \$1,000 for the first violation, \$2,500 for the second violation and \$5,000 for the third violation in lieu of such suspension or any portion thereof, or both. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated or interdicted persons, the Board may impose a civil penalty not to exceed \$2,500 for the first violation and \$5,000 for a subsequent violation in lieu of such suspension or any portion thereof, or both.

C. Following notice to the licensee of a hearing which may result in the suspension or revocation of his license, the Board may accept from the licensee an offer in compromise to pay a civil charge not exceeding \$5,000, either in lieu of suspension or in addition thereto, or in lieu of revocation.

D. In case of an offense by the holder of a brewery license, the Board may require that such holder pay the costs incurred by the Board in investigating the licensee, and it may impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation:

1. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;

2. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;

3. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and

4. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this title or Board regulations.

F. A licensee receiving notice of a hearing on an alleged violation meeting the requirements of subsection E shall be advised of the option of (a) accepting the suspension authorized by the Board's schedule, (b) paying a civil charge authorized by the Board's schedule in lieu of suspension, or (c) proceeding to a hearing.

§ 8.01-20. Effect of marriage, change of name or death on appeal.

If at any time after verdict or judgment in the trial court during the pendency of an appeal or before the appeal is granted, the marriage, change of name or death of a party, or any other fact which might otherwise be relied on in abatement occurs, and such fact is suggested or relied on in abatement in the ~~Court of Appeals~~ or the Supreme Court, the court may, in its discretion, take or retain jurisdiction and enter judgment or decree in the case as if such event had not occurred.

§ 8.01-113. When title of purchaser at judicial sale not to be disturbed.

If a sale of property is made under a decree of a court, and such sale is confirmed, the title of the purchaser at such sale shall not be disturbed unless within ~~twelve~~ 12 months from such confirmation the sale is set aside by the trial court or an appeal is ~~taken to the Court of Appeals~~ or allowed by the Supreme Court, and a decree is therein afterwards entered requiring such sale to be set aside. This limitation shall not affect any right of restitution of the proceeds of sale.

§ 8.01-267.8. Interlocutory appeal.

A. The Supreme Court ~~or the Court of Appeals~~, in its discretion, may permit an appeal to be taken from an order of a circuit court although the order is not a final order where the circuit court has ordered a consolidated trial of claims joined or consolidated pursuant to this chapter.

B. The Supreme Court ~~or the Court of Appeals~~, in its discretion, may permit an appeal to be taken from any other order of a circuit court in an action combined pursuant to this chapter although the order is not a final order provided the written order of the circuit court states that the order involves a

controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.

C. Application for an appeal pursuant to this section shall be made within ~~ten~~ 10 days after the entry of the order and shall not stay proceedings in the circuit court unless the circuit court or the appellate court shall so order.

§ 8.01-429. Action of appellate court when there might be redress under § 8.01-428.

No appeal shall be allowed by ~~the Court of Appeals or~~ the Supreme Court or any judge or justice thereof for any matter for which a judgment or decree is liable to be reversed or amended, on motion as aforesaid, by the court which rendered it, or the judge thereof, until such motion is made and overruled in whole or in part. And when ~~the Court of Appeals or~~ the Supreme Court hears a case on appeal, if it appears that, either before or since the appeal, the judgment or decree has been so amended, ~~the Court of Appeals or~~ the Supreme Court shall affirm the judgment or decree, unless there is other error. If it appears that the amendment ought to be, and has not been made, ~~the Court of Appeals or~~ the Supreme Court may make such amendment, and affirm in like manner the judgment or decree, unless there is other error.

§ 8.01-626. When court grants or refuses injunction, justice of Supreme Court may review it.

Wherein a circuit court (i) grants an injunction or (ii) refuses an injunction or (iii) having granted an injunction, dissolves or refuses to enlarge it, an aggrieved party may, within fifteen days of the court's order, present a petition for review to a justice of the Supreme Court; however, if the issue concerning the injunction arose in a case over which the Court of Appeals would have appellate jurisdiction under § 17.1-405 or § 17.1-406, the petition for review shall be initially presented to a judge of the Court of Appeals within fifteen days of the court's order. The petition shall be accompanied by a copy of the proceedings, including the original papers and the court's order respecting the injunction. The justice or judge may take such action thereon as he considers appropriate under the circumstances of the case.

When a judge of the Court of Appeals has initially acted upon a petition for review of an order of a circuit court respecting an injunction, a party aggrieved by such action of the judge of the Court of Appeals may, within fifteen days of the order of the judge of the Court of Appeals, present a petition for review of such order to a justice of the Supreme Court if the case would otherwise be appealable to the Supreme Court in accordance with § 17.1-410. The petition shall be accompanied by a copy of the proceedings before the circuit court, including the original papers and the circuit court's order respecting the injunction, and a copy of the order of the judge of the Court of Appeals from which review is sought. The justice may take such action thereon as he considers appropriate under the circumstances of the case.

§ 8.01-645. What petition to state; where presented.

The petition shall state plainly and concisely the grounds of the application, concluding with a prayer for the writ, and shall be presented to the court having jurisdiction, unless the application is to the Court of Appeals or the Supreme Court.

§ 8.01-649. Proceedings when application is to Supreme Court.

If the application is to ~~the Court of Appeals or~~ the Supreme Court, the procedure shall be in accordance with the provisions of Rules of Court.

§ 8.01-651. Suspension of proceedings by justice of Supreme Court.

Whenever a court having jurisdiction refuses to suspend proceedings as provided in § 8.01-650 of this chapter, a copy of the proceedings in court, with any orders entered in the proceedings, may be presented to a judge of the Court of Appeals, if an application for a writ of prohibition is pending in that court, or to a justice of the Supreme Court if the application for a writ of prohibition is pending there. Such judge or justice may thereupon award a suspension of the proceedings sought to be prohibited until the final decision of the cause.

§ 8.01-665. When execution of judgment suspended; when prisoner admitted to bail.

When the prisoner is remanded, the execution of the judgment shall not be suspended by a petition for appeal or by a writ of error, or for the purpose of applying for such writ. When he is ordered to be discharged, and the execution of the judgment is suspended for the purpose of petitioning for appeal to the Court of Appeals or applying for a writ of error from the Supreme Court, the court making such suspending order may admit the prisoner to bail until the expiration of the time allowed for filing a petition for appeal or applying for the writ of error, or, in case the petition for appeal is filed or the writ of error is allowed, until the decision of ~~the Court of Appeals or~~ the Supreme Court thereon is duly certified.

§ 8.01-669. Definitions.

As used in Chapters 26, 26.1 and 26.2, unless the context otherwise requires, the term:

"Judgment" includes a decree, order, finding, or award.

"Petitioner" means a party who petitions to ~~the Court of Appeals or~~ the Supreme Court for an appeal.

"Appellant" means any aggrieved party who has an appeal of right or who has been granted an appeal by ~~the Court of Appeals or~~ the Supreme Court.

"Appellate court" means either the Court of Appeals or the Supreme Court, or both as the context may indicate.

§ 8.01-670. In what cases awarded.

A. Except as provided by § 17.1-405, any Any person may present a petition for an appeal to the Supreme Court if he believes himself aggrieved:

1. By any judgment in a controversy concerning:

a. The title to or boundaries of land,

b. The condemnation of property,

c. The probate of a will,

d. The appointment or qualification of a personal representative, guardian, conservator, committee, or curator,

e. A mill, roadway, ferry, wharf, or landing,

f. The right of the Commonwealth, or a county, or municipal corporation to levy tolls or taxes, or

g. The construction of any statute, ordinance, or county proceeding imposing taxes; or

2. By the order of a court refusing a writ of quo warranto or by the final judgment on any such writ;

or

3. By a final judgment in any other civil case.

B. Except as provided by § 17.1-405, any Any party may present a petition for an appeal to the Supreme Court in any case on an equitable claim wherein there is an interlocutory decree or order:

1. Granting, dissolving or denying an injunction; or

2. Requiring money to be paid or the possession or title of property to be changed; or

3. Adjudicating the principles of a cause.

C. Except in cases where appeal from a final judgment lies in the Court of Appeals, as provided in § 17.1-405, any Any party may present a petition pursuant to § 8.01-670.1 for appeal to the Supreme Court.

§ 8.01-670.1. Appeal of interlocutory orders and decrees by permission.

When, prior to the commencement of trial, the circuit court has entered in any pending civil action; except any matters appealable to the Court of Appeals pursuant to § 17.1-405, an order or decree that is not otherwise appealable, any party may file in the circuit court a statement of the reasons why an immediate interlocutory appeal should be permitted.

The statement shall include a concise analysis of the statutes, rules or cases believed to be determinative of the issues and request that the court certify in writing that the order or decree involves a question of law as to which (i) there is substantial ground for difference of opinion, (ii) there is no clear, controlling precedent on point in the decisions of the Supreme Court of Virginia or the Court of Appeals of Virginia, (iii) determination of the issues will be dispositive of a material aspect of the proceeding currently pending before the court, and (iv) the court and the parties agree it is in the parties' best interest to seek an interlocutory appeal.

Within ten days of such certification by the circuit court, a petition for appeal may be filed with the appellate court that would have jurisdiction in an appeal from a final judgment in the proceeding Supreme Court. If the appellate court Supreme Court determines that the certification by the circuit court has sufficient merit, it may, in its discretion, permit an appeal to be taken from the interlocutory order or decree and shall notify the certifying circuit court and counsel for the parties of its decision. No petitions or appeals under this section shall stay proceedings in the circuit court unless the circuit court or appellate court so orders.

The consideration of any petition and appeal by the appellate court shall be in accordance with the applicable provisions of the Rules of the Supreme Court and shall not take precedence on the docket unless the court so orders.

§ 8.01-671. Time within which petition must be presented.

A. In cases where an appeal is permitted from the trial court to the Supreme Court, no petition shall be presented for an appeal to the Supreme Court from any final judgment whether the Commonwealth be a party or not, (i) which shall have been rendered more than three months before the petition is presented, provided, that in criminal cases, a ~~thirty-day~~ 30-day extension may be granted, in the discretion of the court, in order to attain the ends of justice, or (ii) if it be an appeal from a final decree refusing a bill of review to a decree rendered more than four months prior thereto, unless the petition is presented within three months from the date of such decree.

B. When an appeal from an interlocutory decree or order is permitted, the petition for appeal shall be presented within the appropriate time limitation set forth in subsection A hereof.

C. No appeal to the Supreme Court from a decision of the Court of Appeals shall be granted unless a petition for appeal is filed within thirty days after the date of the decision appealed from.

§ 8.01-675.3. Time within which appeal must be taken; notice.

Except as provided in § 19.2-400 for pretrial appeals by the Commonwealth in criminal cases and in

§ 19.2-401 for cross appeals by the defendant in such pretrial appeals a notice of appeal to the ~~Court of Appeals~~ *Supreme Court* shall be filed within 30 days from the date of any final judgment order, decree or conviction. When an appeal from an interlocutory decree or order is permitted, the appeal shall be filed within 30 days from the date of such decree or order, except for pretrial appeals pursuant to § 19.2-398.

For purposes of this section, § 17.1-408, and an appeal pursuant to § 19.2-398, a petition for appeal in a criminal case or a notice of appeal to the ~~Court of Appeals~~, shall be deemed to be timely filed if (i) it is mailed postage prepaid by registered or certified mail and (ii) the official postal receipt, showing mailing within the prescribed time limits, is exhibited upon demand of the clerk or any party.

§ 8.01-675.4. Inspection and return of records; certiorari when part of record is omitted; retention of records.

When a case has previously been in an appellate court, the ~~Court of Appeals~~ *Supreme Court* may inspect the record of the former appeal. The court may, in any case, after reasonable notice to counsel in the appellate court, award a writ of certiorari to the clerk of the trial court and have brought before it, when part of a record is omitted, the whole or any part of such record. As soon as a case is decided, the clerk of the ~~Court of Appeals~~ *Supreme Court* shall cause the appendix, if any, and briefs of counsel to be recorded and preserved in any manner which meets archival standards as recommended by the Archives and Records Division of The Library of Virginia.

§ 8.01-676.1. Security for appeal.

A. Security for costs of appeal of right to ~~Court of Appeals~~ *Supreme Court*. - A party filing a notice of an appeal of right to the ~~Court of Appeals~~ *Supreme Court* shall simultaneously file an appeal bond or irrevocable letter of credit in the penalty of \$500, or such sum as the trial court may require, subject to subsection E, conditioned upon paying all costs and fees incurred in the ~~Court of Appeals~~ and the *Supreme Court* if it takes cognizance of the claim. If the appellant wishes suspension of execution, the security shall also be conditioned and shall be in such sum as the trial court may require as provided in subsection C.

B. Security for costs on petition for appeal to the ~~Court of Appeals~~ or *Supreme Court*. - An appellant whose petition for appeal is granted by the ~~Court of Appeals~~ or the *Supreme Court* shall (if he has not done so) within 15 days from the date of the Certificate of Appeal file an appeal bond or irrevocable letter of credit in the same penalty as provided in subsection A, conditioned on the payment of all damages, costs, and fees incurred in the ~~Court of Appeals~~ and in the *Supreme Court*.

C. Security for suspension of execution. - An appellant who wishes execution of the judgment or award from which an appeal is sought to be suspended during the appeal shall, subject to the provisions of subsection J, file an appeal bond or irrevocable letter of credit conditioned upon the performance or satisfaction of the judgment and payment of all damages incurred in consequence of such suspension, and except as provided in subsection D, execution shall be suspended upon the filing of such security and the timely prosecution of such appeal. Such security shall be continuing and additional security shall not be necessary except as to any additional amount which may be added or to any additional requirement which may be imposed by the courts.

D. Suspension of execution in decrees for support and custody; injunctions. - The court from which an appeal is sought may refuse to suspend the execution of decrees for support and custody, and may also refuse suspension when a judgment refuses, grants, modifies, or dissolves an injunction.

E. Increase or decrease in penalty or other modification of security. - The ~~Court of Appeals~~ or the *Supreme Court*, when it considers a petition for appeal, may order that the penalty or any other terms or requirements of the security for the appeal or of the security for the suspension of execution of a judgment be modified for good cause shown if such request is made in the brief of any party filed in the ~~Court of Appeals~~, or in the Petition for Appeal or the appellee's Brief in Opposition filed in the *Supreme Court* or the ~~Court of Appeals~~. Affidavits and counter-affidavits may be filed by the parties containing facts pertinent to such request. Any increase or decrease in the amount of or other modification of the security so ordered shall be effected in the clerk's office of the trial court within 15 days of the order of the ~~Court of Appeals~~ or the *Supreme Court*. If an increase so ordered is not effected within 15 days, the appeal shall be dismissed, in the case of the security required under subsection A, or the suspension of execution of a judgment shall be discontinued, in the case of the security required under subsection C. Such increase or decrease in the penalty of or other modification of the security may also be considered and ordered by the trial court for good cause shown, on motion of either party, at any time until the ~~Court of Appeals~~ or the *Supreme Court* acts upon any similar motion, and failure to increase such penalty as hereinabove provided shall also cause the appeal to be dismissed, in the case of the security required under subsection A, or the suspension of execution of a judgment to be discontinued, in the case of the security required under subsection C.

F. By whom executed. - Each bond filed shall be executed by a party or another on his behalf, and by surety approved by the clerk of the court from which appeal is sought, or by the clerk of the *Supreme Court* or the clerk of the ~~Court of Appeals~~ if the bond is ordered by such Court. Any letter of

credit posted as security for an appeal shall be in a form acceptable to the clerk of the court from which appeal is sought, or by the clerk of the Supreme Court ~~or the Court of Appeals~~ if the security is ordered by such court. The letter of credit shall be from a bank incorporated or authorized to conduct banking business under the laws of ~~this the~~ Commonwealth or authorized to do business in ~~this the~~ Commonwealth under the banking laws of the United States, or a federally insured savings institution located in ~~this the~~ Commonwealth.

G. Appeal from State Corporation Commission; security for costs. - When an appeal of right is entered from the State Corporation Commission to the Supreme Court, and no suspension of the order, judgment, or decree appealed from is requested, such appeal bond or letter of credit shall be filed when and in the amount required by the clerk of the Supreme Court, whose action shall be subject to review by the Supreme Court.

H. Appeal from State Corporation Commission; suspension. - Any judgment, order, or decree of the State Corporation Commission subject to appeal to the Supreme Court may be suspended by the Commission or by the Supreme Court pending decision of the appeal if the Commission or the Supreme Court deems such suspension necessary for the proper administration of justice but only upon the written application of an appellant after reasonable notice to all other parties in interest and the filing of a suspending bond or irrevocable letter of credit with such conditions, in such penalty, and with such surety thereon as the Commission or the Supreme Court may deem sufficient. But no surety shall be required if the appellant is any county, city or town of ~~this the~~ Commonwealth, or the Commonwealth.

I. Forms of bonds; letters of credit; where filed. - The Clerk of the Supreme Court shall prescribe separate forms for appeal bonds, one for costs alone, one for suspension of execution, and one for both and a form for irrevocable letters of credit, to which the bond or bonds or irrevocable letters of credit given shall substantially conform. The forms for each bond and the letter of credit shall be published in the Rules of Court. It shall be sufficient if the bond or letter of credit, when executed as required, is filed with the trial court, clerk of the Virginia Workers' Compensation Commission, or the clerk of the State Corporation Commission, whichever is applicable, and no personal appearance in the trial court, Virginia Workers' Compensation Commission, or State Corporation Commission by the principal, the surety on the bond or the bank issuing the letter of credit shall be required as a condition precedent to its filing.

J. In any civil litigation under any legal theory, the amount of the appeal bond or irrevocable letter of credit to be furnished during the pendency of all appeals or discretionary reviews of any judgment granting legal, equitable, or any other form of relief in order to stay the execution thereon during the entire course of appellate review by any courts shall be set in accordance with applicable laws or court rules, except that the total appeal bond or irrevocable letter of credit that is required of an appellant and all of its affiliates shall not exceed \$25 million, regardless of the value of the judgment.

J1. Any objection to or motion for modification of the form, amount, or issuer of any letter of credit or bond may be made to, and decided by, ~~the Court of Appeals or~~ the Supreme Court. Any objection to or motion for modification of the form, amount, or issuer of any letter of credit or bond may also be made to, and decided by, the court or commission whose decision is being appealed at any time until ~~the Court of Appeals or~~ the Supreme Court acts upon any similar motion.

K. Dissipation of assets. - If the appellee proves by a preponderance of the evidence that a party bringing an appeal, for whom the appeal bond or irrevocable letter of credit requirement has been limited or waived pursuant to subsection J, is purposefully dissipating its assets or diverting assets outside the jurisdiction of the United States courts for the purpose of evading the judgment, the limitation or waiver granted pursuant to subsection J shall be rescinded and a court may require the appellant to post a bond or irrevocable letter of credit in an amount up to the full amount of the judgment. Dissipation of assets shall not include those ongoing expenditures made from assets of the kind that the appellant made in the regular course of business prior to the judgment being appealed, such as the payment of stock dividends and other financial incentives to the shareholders of publicly owned companies, continued participation in charitable and civic activities, and other expenditures consistent with the exercise of good business judgment.

L. For good cause shown, a court may otherwise waive the filing of an appeal bond or irrevocable letter of credit as to the damages in excess of, or other than, the compensatory damages.

M. Exemption. - When an appeal is proper to protect the estate of a decedent or person under disability, or to protect the interest of the Commonwealth or any county, city, or town of ~~this the~~ Commonwealth, no security for appeal shall be required.

N. Indigents. - No person who is an indigent shall be required to post security for an appeal bond.

O. Virginia Workers' Compensation Commission. - No claimant who files an appeal from a final decision of the Virginia Workers' Compensation Commission with the ~~Court of Appeals~~ Supreme Court shall be required to post security for costs as provided in subsection A or B ~~of this section~~ if such claimant has not returned to his employment or by reason of his disability is unemployed. Such claimant

551 shall file an affidavit describing his disability and employment status with the ~~Court of Appeals~~ *Supreme*
552 *Court* together with a motion to waive the filing of the security under subsection A or B of this section.

553 P. Time for filing security for appeal. - The appeal bond or letter of credit prescribed in subsections
554 A and B is not jurisdictional and the time for filing such security in cases before the ~~Court of Appeals~~
555 ~~or~~ the Supreme Court may be extended by a judge ~~or~~ justice of the court before which the case is
556 pending on motion for good cause shown and to attain the ends of justice.

557 Q. Consideration of appeal bond or letter of credit by ~~Court of Appeals~~ *or* Supreme Court. - A
558 determination on an issue affecting an appeal bond or letter of credit in a case before the ~~Court of~~
559 ~~Appeals~~ *or* the Supreme Court may be considered by an individual judge *justice* of such court rather
560 than by a panel of judges *justices*.

561 § 10.1-603.12:5. Testing validity of regulations; judicial review.

562 A. The validity of any regulation adopted by the Board pursuant to this article may be determined
563 through judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000
564 et seq.).

565 B. An appeal may be taken from the decision of the court to the ~~Court of Appeals~~ *Supreme Court* as
566 provided by law.

567 § 10.1-603.13:1. Appeal to Supreme Court.

568 From the final decision of the circuit court an appeal may be taken to the ~~Court of Appeals~~ *as*
569 *provided in § 17.1-405 Supreme Court.*

570 § 10.1-1319. Appeal to Supreme Court.

571 The Commonwealth or any party aggrieved by any final decision of the judge shall have, regardless
572 of the amount involved, the right to appeal to the ~~Court of Appeals~~ *Supreme Court*. The procedure shall
573 be the same as that provided by law concerning appeals and supersedeas.

574 § 15.2-1639. Providing offices for various officers, judges, etc.

575 The governing body of each county and city shall, if there are offices in the courthouses of the
576 respective counties and cities available for such purposes, provide offices for the treasurer, attorney for
577 the Commonwealth, sheriff, commissioner of the revenue, commissioner of accounts and division
578 superintendent of schools for such county or city. Any such governing body may, if there are offices in
579 their respective courthouses available for such purposes, provide offices for the judge of any court
580 sitting in the county or city, and any judge ~~of the Court of Appeals~~ *or* justice of the Supreme Court who
581 may reside in the county or city, and if such offices are not available in the courthouse, offices may be
582 provided by the governing body, if they deem it proper, elsewhere than in the courthouse of the county
583 or city.

584 § 16.1-106. Appeals from courts not of record in civil cases.

585 From any order entered or judgment rendered in a court not of record in a civil case in which the
586 matter in controversy is of greater value than fifty dollars, exclusive of interest, any attorney's fees
587 contracted for in the instrument, and costs, or when the case involves the constitutionality or validity of
588 a statute of the Commonwealth, or of an ordinance or bylaw of a municipal corporation, or of the
589 enforcement of rights and privileges conferred by the Virginia Freedom of Information Act (§ 2.2-3700
590 et seq.), or of a protective order pursuant to § 19.2-152.10, there shall be an appeal of right, if taken
591 within ten days after such order or judgment, to a court of record. Such appeal shall be to a court of
592 record having jurisdiction within the territory of the court from which the appeal is taken and shall be
593 heard de novo.

594 The court from which an appeal is sought may refuse to suspend the execution of a judgment which
595 refuses, grants, modifies, or dissolves an injunction in a case brought pursuant to § 2.2-3713 of the
596 Virginia Freedom of Information Act. A protective order issued pursuant to § 19.2-152.10 shall remain
597 in effect upon petition for or the pendency of an appeal or writ of error unless ordered suspended by the
598 judge of a circuit court or so directed in a writ of supersedeas by the ~~Court of Appeals~~ *or* the Supreme
599 Court.

600 § 16.1-131.1. Procedure when constitutionality of a statute is challenged in a court not of record.

601 In any criminal or traffic case in a court not of record, if the court rules that a statute or local
602 ordinance is unconstitutional, it shall upon motion of the Commonwealth, or the locality if a local
603 ordinance is the subject of the ruling, stay the proceedings and issue a written statement of its findings
604 of law and relevant facts, if any, in support of its ruling and shall transmit the case, together with all
605 papers, documents, and evidence connected therewith, to the circuit court for a determination of
606 constitutionality. Either party may file a brief with the circuit court. Either party may request oral
607 argument before the circuit court. The circuit court shall give the issue priority on its docket. If the
608 circuit court rules that the statute or local ordinance is unconstitutional, the Commonwealth or the
609 locality may appeal such interlocutory order to the ~~Court of Appeals~~ *and thereafter* to the Supreme
610 Court; however, if the circuit court rules that the statute or local ordinance is constitutional, the circuit
611 court shall remand the case to the court not of record for trial consistent with the ruling of the circuit
612 court.

§ 16.1-242.1. Retention of jurisdiction; appeals involving children in foster care.

Upon appeal to the circuit court of any case involving a child placed in foster care and in any appeal to the ~~Court of Appeals or~~ Supreme Court of Virginia, the juvenile court shall retain jurisdiction to continue to hear petitions filed pursuant to §§ 16.1-282 and 16.1-282.1. Orders of the juvenile court in such cases shall continue to be reviewed and enforced by the juvenile court until the circuit court, ~~Court of Appeals or~~ Supreme Court rules otherwise.

§ 16.1-248.1. Criteria for detention or shelter care.

A. A juvenile taken into custody whose case is considered by a judge, intake officer or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such juvenile's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such juvenile, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, at any time prior to an order of final disposition, a juvenile may be detained in a secure facility, pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the juvenile committed the act alleged, and that at least one of the following conditions is met:

1. The juvenile is alleged to have (a) violated the terms of his probation or parole when the charge for which he was placed on probation or parole would have been a felony or Class 1 misdemeanor if committed by an adult; (b) committed an act that would be a felony or Class 1 misdemeanor if committed by an adult; or (c) violated any of the provisions of § 18.2-308.7, and there is clear and convincing evidence that:

a. Considering the seriousness of the current offense or offenses and other pending charges, the seriousness of prior adjudicated offenses, the legal status of the juvenile and any aggravating and mitigating circumstances, the liberty of the juvenile, constitutes a clear and substantial threat to the person or property of others;

b. The liberty of the juvenile would present a clear and substantial threat of serious harm to such juvenile's life or health; or

c. The juvenile has threatened to abscond from the court's jurisdiction during the pendency of the instant proceedings or has a record of willful failure to appear at a court hearing within the immediately preceding 12 months.

2. The juvenile has absconded from a detention home or facility where he has been directed to remain by the lawful order of a judge or intake officer.

3. The juvenile is a fugitive from a jurisdiction outside the Commonwealth and subject to a verified petition or warrant, in which case such juvenile may be detained for a period not to exceed that provided for in § 16.1-323 while arrangements are made to return the juvenile to the lawful custody of a parent, guardian or other authority in another state.

4. The juvenile has failed to appear in court after having been duly served with a summons in any case in which it is alleged that the juvenile has committed a delinquent act or that the child is in need of services or is in need of supervision; however, a child alleged to be in need of services or in need of supervision may be detained for good cause pursuant to this subsection only until the next day upon which the court sits within the county or city in which the charge against the child is pending, and under no circumstances longer than 72 hours from the time he was taken into custody. If the 72-hour period expires on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

5. The juvenile failed to adhere to the conditions imposed upon him by the court, intake officer or magistrate following his release upon a Class 1 misdemeanor charge or a felony charge.

When a juvenile is placed in secure detention, the detention order shall state the offense for which the juvenile is being detained, and, to the extent practicable, other pending and previous charges.

B. Any juvenile not meeting the criteria for placement in a secure facility shall be released to a parent, guardian or other person willing and able to provide supervision and care under such conditions as the judge, intake officer or magistrate may impose. However, a juvenile may be placed in shelter care if:

1. The juvenile is eligible for placement in a secure facility;

2. The juvenile has failed to adhere to the directions of the court, intake officer or magistrate while on conditional release;

3. The juvenile's parent, guardian or other person able to provide supervision cannot be reached within a reasonable time;

4. The juvenile does not consent to return home;

5. Neither the juvenile's parent or guardian nor any other person able to provide proper supervision can arrive to assume custody within a reasonable time; or

674 6. The juvenile's parent or guardian refuses to permit the juvenile to return home and no relative or
675 other person willing and able to provide proper supervision and care can be located within a reasonable
676 time.

677 C. When a juvenile is detained in a secure facility, the juvenile's probation officer may review such
678 placement for the purpose of seeking a less restrictive alternative to confinement in that secure facility.

679 D. The criteria for continuing the juvenile in detention or shelter care as set forth in this section shall
680 govern the decisions of all persons involved in determining whether the continued detention or shelter
681 care is warranted pending court disposition. Such criteria shall be supported by clear and convincing
682 evidence in support of the decision not to release the juvenile.

683 E. Nothing in this section shall be construed to deprive the court of its power to punish a juvenile
684 summarily for contempt for acts set forth in § 18.2-456, other than acts of disobedience of the court's
685 dispositional order which are committed outside the presence of the court.

686 F. A detention order may be issued pursuant to subdivision 2 of subsection A by the committing
687 court or by the court in the jurisdiction from which the juvenile fled or where he was taken into
688 custody.

689 G. The court is authorized to detain a juvenile based upon the criteria set forth in subsection A at
690 any time after a delinquency petition has been filed, both prior to adjudication and after adjudication
691 pending final disposition subject to the time limitations set forth in § 16.1-277.1.

692 H. If the intake officer or magistrate releases the juvenile, either on bail or recognizance or under
693 such conditions as may be imposed, no motion to revoke bail, or change such conditions may be made
694 unless (i) the juvenile has violated a term or condition of his release, or is convicted of or taken into
695 custody for an additional offense, or (ii) the attorney for the Commonwealth presents evidence that
696 incorrect or incomplete information regarding the factors in subsection A was relied upon by the intake
697 officer or magistrate establishing the initial terms of release. If the juvenile court releases the juvenile,
698 either on bail or recognizance or under such conditions as may be imposed, over the objection of the
699 attorney for the Commonwealth, the attorney for the Commonwealth may appeal such decision to the
700 circuit court. The order of the juvenile court releasing the juvenile shall remain in effect until the circuit
701 court, Court of Appeals or Supreme Court rules otherwise.

702 § 16.1-296. Jurisdiction of appeals; procedure.

703 A. From any final order or judgment of the juvenile court affecting the rights or interests of any
704 person coming within its jurisdiction, an appeal may be taken to the circuit court within 10 days from
705 the entry of a final judgment, order or conviction and shall be heard de novo. However, in a case
706 arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal
707 pursuant to this section within 30 days from entry of a final order or judgment. Protective orders issued
708 pursuant to § 16.1-279.1 in cases of family abuse and orders entered pursuant to § 16.1-278.2 are final
709 orders from which an appeal may be taken.

710 B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney
711 for the Commonwealth a report incorporating the results of any investigation conducted pursuant to
712 § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney
713 for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the
714 court has made its findings on the issues subject to appeal. After final determination of the case, the
715 report and all copies thereof shall be forthwith returned to such juvenile court.

716 C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition
717 pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act
718 may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the
719 alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall
720 be entitled to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury
721 in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of
722 § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237
723 or 16.1-273.

724 C1. In any hearing held upon an appeal taken by a child on a finding that he is delinquent and on a
725 disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except in
726 the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to
727 this subsection, any records or portions thereof relating to such closed proceedings shall remain
728 confidential.

729 C2. Where an appeal is taken by a juvenile on a finding that he is delinquent and on a disposition
730 pursuant to § 16.1-278.8 and the juvenile is in a secure facility pending the appeal, the circuit court,
731 when practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the
732 appeal. Upon receipt of the notice of appeal from the juvenile court, the circuit court shall provide a
733 copy of the order and a copy of the notice of appeal to the attorney for the Commonwealth within seven
734 days after receipt of notice of an appeal. The time limitations shall be tolled during any period in which
735 the juvenile has escaped from custody. A juvenile held continuously in secure detention shall be released

from confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon good cause shown, provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal. An appeal of the case to the ~~Court of Appeals~~ *Supreme Court* shall take precedence on the docket of the Court.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In all other cases on appeal, proceedings in the circuit court shall be heard without a jury; however, hearing of an issue by an advisory jury may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts, but shall otherwise be docketed and processed as other civil cases.

G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the circuit court, except that the appeal to circuit court of any case in which a fee either was or could have been assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.

H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic relations district court except for that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall be allowed until the party applying for the same or someone for him gives bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the court in which it was rendered. Upon appeal from a conviction for failure to support or from a finding of civil or criminal contempt involving a failure to support, the juvenile and domestic relations district court may require the party applying for the appeal or someone for him to give bond, with or without surety, to insure his appearance and may also require bond in an amount and with sufficient surety to secure the payment of prospective support accruing during the pendency of the appeal. An appeal will not be perfected unless such appeal bond as may be required is filed within 30 days from the entry of the final judgment or order. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the interest of a county, city or town.

If bond is furnished by or on behalf of any party against whom judgment has been rendered for money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against the party on appeal, and for the payment of all damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery, the bond shall be conditioned for the payment of any damages as may be awarded against him on the appeal. The provisions of § 16.1-109 shall apply to bonds required pursuant to this subsection.

This subsection shall not apply to release on bail pursuant to other subsections of this section or § 16.1-298.

I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers and authority granted by the chapter to the juvenile and domestic relations district court. Unless otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint counsel for the parties and compensate such counsel in accordance with the provisions of Article 6 (§ 16.1-266 et seq.) of this chapter.

J. In any case which has been referred or transferred from a circuit court to a juvenile court and an appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit court in the same locality as the juvenile court to which the case had been referred or transferred.

§ 16.1-298. Effect of petition for or pendency of appeal; bail.

A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not suspend any judgment, order or decree of the juvenile court nor operate to discharge any child concerned or involved in the case from the custody of the court or other person, institution or agency to which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a circuit court or directed in a writ of supersedeas by the ~~Court of Appeals~~ *Supreme Court* or a judge or justice thereof.

B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the

797 pendency of an appeal or writ of error:

798 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision 8,
799 9, 10, 12, 14, or 15 of § 16.1-278.8.

800 2. In cases involving a child and any local ordinance.

801 3. In cases involving any person over the age of ~~eighteen~~ 18 years.

802 Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a
803 spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order
804 disposing of a motion to reconsider relating to participation in continuing programs pursuant to
805 § 16.1-289.1, (iii) a protective order in cases of family abuse issued pursuant to § 16.1-279.1 or a
806 protective order entered in conjunction with a disposition pursuant to § 16.1-278.2, 16.1-278.4,
807 16.1-278.5, 16.1-278.6 or 16.1-278.8, (iv) a protective order issued pursuant to § 19.2-152.10, or (v) an
808 order pertaining to the custody, visitation, or placement of a minor child, unless so ordered by the judge
809 of a circuit court or directed in a writ of supersedeas by ~~the Court of Appeals or the Supreme Court~~.

810 C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or by
811 order of the juvenile court or the circuit court, bail may be required as provided for in § 16.1-135.

812 D. If an appeal to the circuit court is withdrawn in accordance with § 16.1-106.1, the judgment,
813 order, or decree rendered by the juvenile court shall have the same legal effect as if no appeal had been
814 noted, except as to the disposition of any bond in circuit court or as modified by the circuit court
815 pursuant to subsection F of § 16.1-106.1. If an appeal is withdrawn, any court-appointed counsel or
816 court-appointed guardian ad litem shall, absent further order of the court, be relieved of any further
817 obligation respecting the matter for which they were appointed.

818 E. Except as to matters pending on the docket of a circuit court as of July 1, 2008, all orders that
819 were entered by a juvenile and domestic relations district court prior to July 1, 2008, and appealed to a
820 circuit court, where the appeal was withdrawn, shall have the same effect as if no appeal had been
821 noted.

822 § 17.1-106. Temporary recall of retired judges.

823 A. The Chief Justice of the Supreme Court may call upon and authorize any justice or judge of a
824 court of record who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) or who is
825 retired under the Virginia Retirement System following transfer from the Judicial Retirement System
826 under the provisions of subsection C of § 51.1-303 either to (i) hear a specific case or cases pursuant to
827 the provisions of § 17.1-105 such designation to continue in effect for the duration of the case or cases
828 or (ii) perform for a period of time not to exceed ninety days at any one time, such judicial duties in
829 any court of record as the Chief Justice shall deem in the public interest for the expeditious disposition
830 of the business of the courts of record.

831 B. It shall be the obligation of any retired judge or justice who is recalled to temporary service under
832 this section and who has not attained age seventy to accept the recall and perform the duties assigned. It
833 shall be within the discretion of any justice or judge who has attained age seventy to accept such recall.

834 C. Any justice or judge recalled to duty under this section shall have all the powers, duties, and
835 privileges attendant on the position he is recalled to serve.

836 D. A retired justice of the Supreme Court ~~or judge of the Court of Appeals~~ recalled to active service
837 shall be furnished an office, office supplies, and stenographer while performing such active service.

838 § 17.1-112. Sheriff to attend court as its officer.

839 ~~Neither the~~The Supreme Court ~~nor the Court of Appeals~~ shall *not* be attended by any sheriff in the
840 City of Richmond. In all other cases, the sheriff of the county or city in which any court is held shall
841 attend it and act as its officer.

842 § 17.1-132. Courts Technology Fund.

843 A. There is hereby established the Courts Technology Fund as a special nonreverting fund to be
844 administered by the Supreme Court of Virginia. A portion of the sums collected pursuant to
845 §§ 16.1-69.48:2, 17.1-275, *and* 17.1-328; ~~and 17.1-418~~ as specified in each section shall be deposited
846 into the state treasury to the credit of the Fund.

847 B. The Fund shall be established on the books of the Comptroller. Any funds remaining in the Fund
848 at the end of the biennium shall not revert to the general fund, but shall remain in the Fund. Interest
849 earned on the Fund shall be credited to the Fund. Except for transfers pursuant to this section, there
850 shall be no transfers out of the Fund, including transfers to the general fund.

851 C. Money in the Fund shall be allocated at the direction of the Supreme Court of Virginia to staff,
852 advance, update, maintain, replace, repair, and support the telecommunications and technology systems
853 of the judicial system. The revenue raised in support of the Fund shall not be used to supplant current
854 funding to the judicial branch.

855 § 17.1-221. Reports by clerks of the business of courts of record.

856 The clerk of each court of record in ~~this the~~ Commonwealth, ~~including the clerk of the Court of~~
857 ~~Appeals~~, within ~~fifteen~~ 15 days from the end of each calendar month, shall make to the Supreme Court
858 a report of the business disposed of by his court during the month just ended. The report shall be made

upon a form furnished by the Executive Secretary and shall contain such information as the Supreme Court deems proper to enable it to gain a fair knowledge of the business of the several courts of the Commonwealth.

The reports shall be filed in the office of the Executive Secretary and the General Assembly or any other body or officer of ~~this~~ *the* Commonwealth shall have access thereto.

§ 17.1-283. Statements required of clerks of courts of record; exceptions.

A. Every clerk of a court of record, except the ~~Clerks~~ *Clerk* of the Supreme Court ~~and the Court of Appeals~~, shall file monthly with the Compensation Board a full and accurate statement showing all such fees, allowances, commissions, salaries or other compensation or emolument of office, derived from the Commonwealth or any political subdivision thereof, or from any other source whatever, collected or received by him. The statements shall include the date of collection and sources from which the collections were made, and shall be verified by a procedure agreed upon by the Compensation Board and the Auditor of Public Accounts. The statements shall be open to public inspection at all times.

B. The statements shall show in detail all sums actually paid for necessary office expenses, premiums on official bond of the principal and deputies, name and amount of compensation to each deputy or assistant, and a detailed statement of every other expense in connection with the administration of the office actually paid out.

§ 17.1-285. Payment of excess.

A. The Commonwealth shall be entitled to one-third of the excess fees collected by clerks as required to be reported under § 17.1-283 and the governing body of the county or city shall be entitled to two-thirds of the excess fees collected unless otherwise provided by law. The Compensation Board shall determine on an annual basis by June 30 of each year the methods by which excess fees shall be disbursed.

B. All of the excess paid into the state treasury by the ~~clerks~~ *Clerk* of the Supreme Court of Virginia ~~and the Court of Appeals~~ shall be retained therein.

§ 17.1-319. Custody and distribution of reports of Supreme Court.

A. The Executive Secretary of the Supreme Court of Virginia shall be charged with the custody, disposal and sale of the published reports of the decisions of the Supreme Court ~~and the Court of Appeals~~. One copy of each volume of the reports hereafter published shall be furnished either in print or in electronic format to each of the following for their use and the use of their successors in office:

1. The Clerk and the Executive Secretary of the Supreme Court;
2. The reporter of the Supreme Court;
3. The judges and retired judges of each circuit court of ~~this~~ *the* Commonwealth;
4. The clerk of each such court;
5. Each judge of a general district court and each judge of a juvenile and domestic relations district court, and such district courts as shall be designated by the Executive Secretary of the Supreme Court of Virginia not to exceed 250 copies;
6. The Clerk of the House of Delegates;
7. The Clerk of the Senate;
8. The Division of Legislative Services;
9. The Virginia Workers' Compensation Commission;
10. The Secretary of the Virginia State Bar;
11. The clerk of each of the district courts of the United States held in ~~this~~ *the* Commonwealth for the use of the courts and the members of the bar practicing therein;
12. The attorney for the Commonwealth in counties and cities; and the county attorney in those counties which created the office of the county attorney;
13. The Attorney General, his deputies and assistants upon written application to the Executive Secretary of the Supreme Court of Virginia.

B. Two copies of each volume of the reports hereafter published shall be furnished to each of the justices of the Supreme Court, ~~to each of the judges of the Court of Appeals~~ and to each of the members of the State Corporation Commission for their use and for the use of their successors in office, except that each justice, ~~judge~~ or member shall be entitled to retain for personal use one copy of each volume in which appear any opinions authored by him. Eight copies of each volume of the reports hereafter published shall be furnished to each university and college in the Commonwealth in which a law school approved by the American Bar Association is established. Fifteen copies of each such volume shall be placed in the State Law Library at Richmond.

C. He shall place in the Law Library at Richmond such additional copies of all of the decisions of the Supreme Court as are available, so as to make up 15 complete sets of the Virginia Reports for the justices' private offices, conference rooms and the Law Library.

§ 17.1-330. Declaration of judicial emergency.

A. A judicial emergency may be declared as provided in this section when a disaster, as defined in

§ 44-146.16, substantially endangers or impedes the operation of a court, the ability of persons to avail themselves of the court, or the ability of litigants or others to have access to the court or to meet schedules or time deadlines imposed by court order, rule, or statute. Notwithstanding any other provision of law, the Chief Justice of the Supreme Court or, if the Chief Justice is unavailable, the justice longest in continuous service who is available, shall have the power to declare by order a judicial emergency (i) for any court upon the request of the Governor, (ii) for the Supreme Court sua sponte, *or* (iii) ~~for the Court of Appeals, upon the request of the chief judge of the Court of Appeals or, if the chief judge is unavailable, the judge of the Court of Appeals longest in continuous service who is available, or~~ (iv) for any circuit or district court upon the request of the chief judge of the affected circuit or district court or, if the chief judge is unavailable, the judge from the affected circuit or district court longest in continuous service who is available.

B. Any order declaring a judicial emergency shall specify (i) the court or courts and facilities affected by the order; (ii) the nature of the disaster necessitating the order; (iii) the time period or duration of the judicial emergency; and (iv) any other information relevant to the suspension or restoration of court operations, including but not limited to extension of deadlines. The order shall become effective for each affected court upon the date set forth in the order or, if no date is set forth in the order, upon the date the order is signed.

C. Notwithstanding any other provision of law, an order declaring a judicial emergency may designate a neighboring city or county not affected by the disaster for the temporary relocation of the affected circuit or district court. Locations designated under this section may be outside the geographical limits of the affected court's circuit or district.

If an affected circuit or district court conducts sessions in a city or county not affected by the disaster pursuant to this section, the unaffected city or county shall be a proper venue for civil and criminal actions to the same extent as if the affected court were operating in its original city or county. An affected circuit court may, upon motion of either party, and for good cause shown, summon jurors from the jurisdiction where the affected circuit court has been temporarily relocated.

D. Notwithstanding any other provision of law, such order may suspend, toll, extend, or otherwise grant relief from deadlines, time schedules, or filing requirements imposed by otherwise applicable statutes, rules, or court orders in any court processes and proceedings, including all appellate court time limitations.

E. The duration of the order shall be for the shortest period of time necessary under the circumstances of the emergency, but in no event shall the period exceed 21 calendar days. Any such order may be extended for additional periods not to exceed 21 calendar days by a majority of the justices of the Supreme Court, and any order of extension shall include the information required by subsection B for the issuance of an initial order. In the event of a communicable disease of public health threat, as defined in § 44-146.16, a majority of the justices of the Supreme Court may extend such order for the duration of the threat.

§ 17.1-331. Notice.

Any order declaring a judicial emergency shall be recorded in the order book maintained by the clerk of the Supreme Court, and notice shall be provided to ~~the clerk of the Court of Appeals and~~ all judges and clerks of the courts within any affected circuit or district. Notice to the public shall be given by any means reasonably calculated to inform interested persons and may, without limitation, include publication in a newspaper of local or state-wide distribution, posting of written notices at courthouses and other public facilities, and announcements on television, radio, and the Internet.

§ 17.1-604. Costs in Supreme Court.

In every case in the Supreme Court ~~or the Court of Appeals~~, costs shall be recovered in such court by the party substantially prevailing.

§ 17.1-700. Composition of Council; committees.

The Judicial Council shall be established in the judiciary branch of state government and composed of ~~14~~ 13 members consisting of the Chief Justice of the Supreme Court, ~~one judge of the Court of Appeals,~~ six circuit court judges, one general district court judge, one juvenile and domestic relations district court judge, two attorneys qualified to practice in the Supreme Court, and the Chairmen of the Committees for Courts of Justice of the Senate and the House of Delegates or their designees who shall be members of the Courts of Justice committees. The Council may appoint committees to aid it in the performance of its duties, and members of such committees need not be members of the Council.

§ 17.1-703. Presiding officer; study of procedure.

The Chief Justice of the Supreme Court, or the other justice summoning the Council, shall be its presiding officer.

The Council shall, during each of its meetings, make a continuous study of the organization and the rules and methods of procedure and practice of the judicial system of the Commonwealth, the work accomplished and the results produced by the system and its various parts; and shall make studies of the need, or lack of need, of additional judges or justices of the Supreme Court of Virginia; ~~the Court of~~

Appeals of Virginia, and the circuit courts.

On the request of the presiding officer, the Attorney General shall attend the Council and confer with the members thereof, more particularly on the Commonwealth's business in the courts, and for the purpose of devising methods for the prevention of undue delay in the trial of such cases.

§ 17.1-706. Establishment and membership.

There is hereby established the Judicial Conference of Virginia, which shall have as its active members the Chief Justice and justices of the Supreme Court of Virginia, ~~the chief judge and judges of the Court of Appeals~~, all other judges of the circuit courts of the Commonwealth, and all retired justices and judges of such courts. The honorary membership shall consist of the Attorney General of Virginia, the Chairmen of the Courts of Justice Committees of the Senate and House of Delegates or their designees who shall be members of the Courts of Justice committees, the president and secretary of the Virginia State Bar, the president and secretary of the Virginia Bar Association, the president and secretary of the Virginia Trial Lawyers Association, the president and secretary of the Virginia Association of Defense Attorneys, the president and secretary of the Old Dominion Bar Association, the president and secretary of the Virginia Women Attorneys Association, the deans of the law schools of the College of William and Mary, University of Richmond, University of Virginia, Washington and Lee University, George Mason University, and Regent University, and the two attorneys appointed by the Chief Justice of the Supreme Court as members of the Judicial Council. The honorary members shall not have voting privileges.

§ 17.1-802. Membership; terms; compensation and expenses.

A. The Commission shall be composed of 17 members as follows:

1. Six judges or justices, who may be judges of a circuit court who regularly hear criminal cases or ~~judges or justices of the Supreme Court or the Court of Appeals~~, to be appointed by the Chief Justice of the Supreme Court of Virginia;

2. One person who is not an active member of the judiciary, to be appointed as Chairman by the Chief Justice of the Supreme Court of Virginia for a term of four years subject to confirmation by the General Assembly. The Chairman shall designate a vice-chairman from among the other members to serve a term commensurate with that of the Chairman;

3. The Chairman of the House Committee for Courts of Justice or his designee who shall be a member of the committee and two persons to be appointed by the Speaker of the House of Delegates;

4. The Chairman of the Senate Committee for Courts of Justice or his designee who shall be a member of the committee and one person to be appointed by the Senate Committee on Rules;

5. Four persons to be appointed by the Governor, at least one of whom shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01; and

6. The Attorney General of Virginia or his designee for a term commensurate with his term of office.

All members shall be citizens of the Commonwealth.

B. Except for legislative members and gubernatorial appointments, appointments to the Commission made on and after January 1, 2001, shall be for terms of four years. Legislative members shall serve terms coincident with their terms of office. Appointments to the Commission made by the Governor on and after January 1, 2006, shall be for terms of four years. Members initially appointed to the Commission prior to January 1, 1998, may serve no more than three consecutive terms. Members initially appointed on and after January 1, 1998, shall not be eligible to serve more than two consecutive terms except for the Attorney General who shall serve by virtue of his office. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. The remainder of any term to which a member is appointed to fill a vacancy or the service of an initial term of three years or less shall not constitute a term in determining the member's eligibility for reappointment.

C. Legislative members of the Commission shall receive compensation as provided in § 30-19.12 and nonlegislative citizen members of the Commission shall receive compensation as provided in § 2.2-2813 and all members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Sentencing Commission.

§ 17.1-900. Definitions and application of chapter.

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

"Commission" means the Judicial Inquiry and Review Commission provided for in Article VI, Section 10 of the Constitution of Virginia.

"Judge" means a justice of the Supreme Court, ~~judge of the Court of Appeals~~, judge of a circuit or district court, member of the State Corporation Commission, or a member of the Virginia Workers' Compensation Commission and includes (i) persons who have been elected or appointed to be judges but have not taken the oath of office as judge as well as persons who have taken such oath, (ii) judges

designated under § 17.1-105, (iii) judges under temporary recall under § 17.1-106, (iv) judges pro tempore under § 17.1-109 and (v) special justices appointed pursuant to § 37.2-803, all of whom shall be subject to investigations and proceedings under the provisions of this chapter.

"Term" means (i) the period of time between either election or appointment of service as a judge and the first taking of the oath of office, (ii) each period of time for which the person was either elected or appointed as a judge, and (iii) any period of time after retirement during which the person hears cases as a retired judge.

§ 18.2-31. Capital murder defined; punishment.

The following offenses shall constitute capital murder, punishable as a Class 1 felony:

1. The willful, deliberate, and premeditated killing of any person in the commission of abduction, as defined in § 18.2-48, when such abduction was committed with the intent to extort money or a pecuniary benefit or with the intent to defile the victim of such abduction;

2. The willful, deliberate, and premeditated killing of any person by another for hire;

3. The willful, deliberate, and premeditated killing of any person by a prisoner confined in a state or local correctional facility as defined in § 53.1-1, or while in the custody of an employee thereof;

4. The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery;

5. The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape, forcible sodomy or attempted forcible sodomy or object sexual penetration;

6. The willful, deliberate, and premeditated killing of a law-enforcement officer as defined in § 9.1-101, a fire marshal appointed pursuant to § 27-30 or a deputy or an assistant fire marshal appointed pursuant to § 27-36, when such fire marshal or deputy or assistant fire marshal has police powers as set forth in §§ 27-34.2 and 27-34.2:1, an auxiliary police officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, an auxiliary deputy sheriff appointed pursuant to § 15.2-1603, or any law-enforcement officer of another state or the United States having the power to arrest for a felony under the laws of such state or the United States, when such killing is for the purpose of interfering with the performance of his official duties;

7. The willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction;

8. The willful, deliberate, and premeditated killing of more than one person within a three-year period;

9. The willful, deliberate, and premeditated killing of any person in the commission of or attempted commission of a violation of § 18.2-248, involving a Schedule I or II controlled substance, when such killing is for the purpose of furthering the commission or attempted commission of such violation;

10. The willful, deliberate, and premeditated killing of any person by another pursuant to the direction or order of one who is engaged in a continuing criminal enterprise as defined in subsection I of § 18.2-248;

11. The willful, deliberate, and premeditated killing of a pregnant woman by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth;

12. The willful, deliberate, and premeditated killing of a person under the age of ~~fourteen~~14 by a person age ~~twenty-one~~21 or older;

13. The willful, deliberate, and premeditated killing of any person by another in the commission of or attempted commission of an act of terrorism as defined in § 18.2-46.4;

14. The willful, deliberate, and premeditated killing of a justice of the Supreme Court, a ~~judge of the Court of Appeals~~, a judge of a circuit court or district court, a retired judge sitting by designation or under temporary recall, or a substitute judge appointed under § 16.1-69.9:1 when the killing is for the purpose of interfering with his official duties as a judge; and

15. The willful, deliberate, and premeditated killing of any witness in a criminal case after a subpoena has been issued for such witness by the court, the clerk, or an attorney, when the killing is for the purpose of interfering with the person's duties in such case.

If any one or more subsections, sentences, or parts of this section shall be judged unconstitutional or invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

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

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may

be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

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

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

1. Any person while in his own place of business;

2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;

3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

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

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

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

7a. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from such law-enforcement agency or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Board or Commission to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall

1166 not without cause withhold such written proof if the law-enforcement officer otherwise meets the
1167 requirements of this section.

1168 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
1169 to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of
1170 consultation and favorable review required, shall be deemed to have been issued a concealed handgun
1171 permit.

1172 For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired
1173 or resigned law-enforcement officer who receives proof of consultation and review pursuant to
1174 subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or
1175 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is
1176 required of active law-enforcement officers in the Commonwealth. If such retired or resigned
1177 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer
1178 shall issue the retired or resigned officer certification, valid one year from the date of issuance,
1179 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

1180 8. Any State Police officer who is a member of the organized reserve forces of any of the armed
1181 services of the United States, national guard, or naval militia, while such officer is called to active
1182 military duty, provided such officer carries with him written proof of consultation with and favorable
1183 review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof
1184 of consultation and favorable review shall be valid as long as the officer is on active military duty and
1185 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
1186 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
1187 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
1188 good standing and is qualified to carry a weapon while on active law-enforcement duty.

1189 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
1190 to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and
1191 favorable review required, shall be deemed to have been issued a concealed handgun permit;

1192 9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such
1193 attorney may travel in the Commonwealth; and

1194 10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal,
1195 private motor vehicle or vessel and such handgun is secured in a container or compartment in the
1196 vehicle or vessel.

1197 C. This section shall also not apply to any of the following individuals while in the discharge of
1198 their official duties, or while in transit to or from such duties:

1199 1. Carriers of the United States mail;

1200 2. Officers or guards of any state correctional institution;

1201 3. [Repealed.]

1202 4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for
1203 the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following
1204 conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a
1205 permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or
1206 other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in
1207 chancery;

1208 5. Noncustodial employees of the Department of Corrections designated to carry weapons by the
1209 Director of the Department of Corrections pursuant to § 53.1-29; and

1210 6. Harbormaster of the City of Hopewell.

1211 D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the
1212 county or city in which he resides, or if he is a member of the United States Armed Forces, the county
1213 or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no
1214 requirement regarding the length of time an applicant has been a resident or domiciliary of the county or
1215 city. The application shall be made under oath before a notary or other person qualified to take oaths
1216 and shall be made only on a form prescribed by the Department of State Police, in consultation with the
1217 Supreme Court, requiring only that information necessary to determine eligibility for the permit. The
1218 clerk shall enter on the application the date on which the application and all other information required
1219 to be submitted by the applicant is received. The court shall consult with either the sheriff or police
1220 department of the county or city and receive a report from the Central Criminal Records Exchange. As a
1221 condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if
1222 required by local ordinance in the county or city where the applicant resides and provide personal
1223 descriptive information to be forwarded with the fingerprints through the Central Criminal Records
1224 Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record
1225 information regarding the applicant, and obtaining fingerprint identification information from federal
1226 records pursuant to criminal investigations by state and local law-enforcement agencies. However, no
1227 local ordinance shall require an applicant to submit to fingerprinting if the applicant has an existing

concealed handgun permit issued pursuant to this section and is applying for a new five-year permit pursuant to subsection I. Where feasible and practical, the local law-enforcement agency may transfer information electronically to the State Police instead of inked fingerprint cards. Upon completion of the criminal history records check, the State Police shall return the fingerprint cards to the submitting local agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then promptly notify the person that he has 21 days from the date of the notice to request return of the fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon completion of the criminal history records check without requiring that the applicant be notified. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does not indicate a disqualification and, after consulting with either the sheriff or police department of the county or city, about which there are no outstanding questions or issues concerning the application. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the applicant within five business days of the expiration of the 45-day period. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

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

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

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

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

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

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

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

7. An individual who has been convicted of two or more misdemeanors within the five-year period

1289 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the
1290 judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1.
1291 Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this
1292 disqualification.

1293 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
1294 cannabinoids, or any controlled substance.

1295 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
1296 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
1297 state, the District of Columbia, the United States, or its territories within the three-year period
1298 immediately preceding the application, or who is a habitual drunkard as determined pursuant to
1299 § 4.1-333.

1300 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

1301 11. An individual who has been discharged from the Armed Forces of the United States under
1302 dishonorable conditions.

1303 12. An individual who is a fugitive from justice.

1304 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by
1305 the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
1306 of police, or attorney for the Commonwealth may submit to the court a sworn written statement
1307 indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based
1308 upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is
1309 likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief
1310 of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such
1311 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the
1312 specific acts, or upon a written statement made under oath before a notary public of a competent person
1313 having personal knowledge of the specific acts.

1314 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
1315 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation
1316 of § 18.2-282 within the three-year period immediately preceding the application.

1317 15. An individual who has been convicted of stalking.

1318 16. An individual whose previous convictions or adjudications of delinquency were based on an
1319 offense which would have been at the time of conviction a felony if committed by an adult under the
1320 laws of any state, the District of Columbia, the United States or its territories. For purposes of this
1321 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the
1322 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or
1323 adjudication shall be deemed to be "previous convictions."

1324 17. An individual who has a felony charge pending or a charge pending for an offense listed in
1325 subdivision 14 or 15.

1326 18. An individual who has received mental health treatment or substance abuse treatment in a
1327 residential setting within five years prior to the date of his application for a concealed handgun permit.

1328 19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period
1329 immediately preceding the application for the permit, was found guilty of any criminal offense set forth
1330 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 or of a criminal offense of illegal possession or
1331 distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any
1332 state, the District of Columbia, or the United States or its territories.

1333 20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the
1334 three-year period immediately preceding the application, upon a charge of any criminal offense set forth
1335 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or upon a charge of illegal possession or
1336 distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any
1337 state, the District of Columbia, or the United States or its territories, the trial court found that the facts
1338 of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the
1339 substantially similar law of any other state, the District of Columbia, or the United States or its
1340 territories.

1341 F. The making of a materially false statement in an application under this section shall constitute
1342 perjury, punishable as provided in § 18.2-434.

1343 G. The court shall require proof that the applicant has demonstrated competence with a handgun and
1344 the applicant may demonstrate such competence by one of the following, but no applicant shall be
1345 required to submit to any additional demonstration of competence, nor shall any proof of demonstrated
1346 competence expire:

1347 1. Completing any hunter education or hunter safety course approved by the Department of Game
1348 and Inland Fisheries or a similar agency of another state;

1349 2. Completing any National Rifle Association firearms safety or training course;

1350 3. Completing any firearms safety or training course or class available to the general public offered

by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;

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

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

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

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

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

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

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

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

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

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

J. Any person convicted of an offense that would disqualify that person from obtaining a permit under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the

1412 arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a
1413 concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the
1414 court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of
1415 such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this
1416 subsection, and shall promptly notify the State Police and the person whose permit was revoked of the
1417 revocation.

1418 J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or
1419 illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 1 misdemeanor.
1420 Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the
1421 person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1,
1422 maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public
1423 intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon
1424 such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify
1425 the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply
1426 for a concealed handgun permit for a period of five years.

1427 J2. An individual who has a felony charge pending or a charge pending for an offense listed in
1428 subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by
1429 the court before which such charge is pending or by the court that issued the permit.

1430 J3. No person who carries a concealed handgun onto the premises of any restaurant or club as
1431 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises
1432 consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the
1433 Code of Virginia may consume an alcoholic beverage while on the premises. A person who carries a
1434 concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is
1435 guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or
1436 local law-enforcement officer.

1437 J4. The court shall revoke the permit of any individual for whom it would be unlawful to purchase,
1438 possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State
1439 Police and the person whose permit was revoked of the revocation.

1440 K. No fee shall be charged for the issuance of such permit to a person who has retired from service
1441 (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control
1442 Board or as a law-enforcement officer with the Department of State Police, the Department of Game and
1443 Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the
1444 Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement
1445 officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and
1446 Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and
1447 Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals
1448 Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching
1449 age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United
1450 States, the District of Columbia or any of the territories of the United States, after completing 15 years
1451 of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii)
1452 through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or
1453 boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching
1454 age 55. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit,
1455 including his costs associated with the consultation with law-enforcement agencies. The local
1456 law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to
1457 cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any
1458 amount assessed by the Federal Bureau of Investigation for providing criminal history record
1459 information, and the local law-enforcement agency shall forward the amount assessed by the Federal
1460 Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State
1461 Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application.
1462 The total amount assessed for processing an application for a permit shall not exceed \$50, with such
1463 fees to be paid in one sum to the person who accepts the application. Payment may be made by any
1464 method accepted by that court for payment of other fees or penalties. No payment shall be required until
1465 the application is accepted by the court as a complete application. The order issuing such permit, or the
1466 copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall
1467 be provided to the State Police and the law-enforcement agencies of the county or city. The State Police
1468 shall enter the permittee's name and description in the Virginia Criminal Information Network so that
1469 the permit's existence and current status will be made known to law-enforcement personnel accessing the
1470 Network for investigative purposes. The State Police shall withhold from public disclosure permittee
1471 information submitted to the State Police for purposes of entry into the Virginia Criminal Information
1472 Network, except that such information shall not be withheld from any law-enforcement agency, officer,
1473 or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such

information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection P1, or (b) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

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

K2. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission of a notarized statement by the permit holder that the permit was lost or destroyed, issue a replacement permit. The replacement permit shall have the same expiration date as the permit that was lost or destroyed. The clerk shall issue the replacement permit within 10 business days of receiving the notarized statement, and may charge a fee not to exceed \$5.

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

M. For purposes of this section:

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

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

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

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

N. As used in this article:

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

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

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

P. A valid concealed handgun or concealed weapon permit or license issued by another state shall authorize the holder of such permit or license who is at least 21 years of age to carry a concealed handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state's law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this section. The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General determine whether states meet the requirements and qualifications of this section, (b) maintain a registry

1535 of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available
1536 to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in
1537 consultation with the Attorney General, may also enter into agreements for reciprocal recognition with
1538 any state qualifying for recognition under this subsection.

1539 P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the
1540 Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant
1541 for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified
1542 by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card
1543 provided by the Department of State Police for the purpose of obtaining the applicant's state or national
1544 criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall
1545 submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive
1546 information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the
1547 Federal Bureau of Investigation for the purpose of obtaining criminal history record information
1548 regarding the applicant and obtaining fingerprint identification information from federal records pursuant
1549 to criminal investigations by state and local law-enforcement agencies. The application shall be made
1550 under oath before a notary or other person qualified to take oaths on a form provided by the Department
1551 of State Police, requiring only that information necessary to determine eligibility for the permit. If the
1552 permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked
1553 and the person shall return the permit after being so notified by the Department of State Police. The
1554 permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to
1555 the provisions of this subsection.

1556 The applicant shall demonstrate competence with a handgun by one of the following:

1557 1. Completing a hunter education or hunter safety course approved by the Virginia Department of
1558 Game and Inland Fisheries or a similar agency of another state;

1559 2. Completing any National Rifle Association firearms safety or training course;

1560 3. Completing any firearms safety or training course or class available to the general public offered
1561 by a law-enforcement agency, junior college, college, or private or public institution or organization or
1562 firearms training school utilizing instructors certified by the National Rifle Association or the
1563 Department of Criminal Justice Services or a similar agency of another state;

1564 4. Completing any law-enforcement firearms safety or training course or class offered for security
1565 guards, investigators, special deputies, or any division or subdivision of law enforcement or security
1566 enforcement;

1567 5. Presenting evidence of equivalent experience with a firearm through participation in organized
1568 shooting competition approved by the Department of State Police or current military service or proof of
1569 an honorable discharge from any branch of the armed services;

1570 6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a
1571 locality thereof, unless such license has been revoked for cause;

1572 7. Completing any firearms training or safety course or class, including an electronic, video, or
1573 on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

1574 8. Completing any governmental police agency firearms training course and qualifying to carry a
1575 firearm in the course of normal police duties; or

1576 9. Completing any other firearms training that the Virginia Department of State Police deems
1577 adequate.

1578 A photocopy of a certificate of completion of any such course or class, an affidavit from the
1579 instructor, school, club, organization, or group that conducted or taught such course or class attesting to
1580 the completion of the course or class by the applicant, or a copy of any document which shows
1581 completion of the course or class or evidences participation in firearms competition shall satisfy the
1582 requirement for demonstration of competence with a handgun.

1583 The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the
1584 background check and issuance of the permit. Any fees collected shall be deposited in a special account
1585 to be used to offset the costs of administering the nonresident concealed handgun permit program. The
1586 Department of State Police shall enter the permittee's name and description in the Virginia Criminal
1587 Information Network so that the permit's existence and current status are known to law-enforcement
1588 personnel accessing the Network for investigative purposes.

1589 The permit to carry a concealed handgun shall contain only the following information: name,
1590 address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the
1591 permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee;
1592 the date of issuance; and the expiration date. The person to whom the permit is issued shall have such
1593 permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and
1594 shall display the permit on demand by a law-enforcement officer.

1595 The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative
1596 Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a

nonresident concealed handgun permit.

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

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

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

§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.

Upon request of any witness in a criminal prosecution under § 18.2-46.2 or 18.2-46.3, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim, a law-enforcement agency may not disclose to the public information which directly or indirectly identifies the victim of a crime involving any sexual assault, sexual abuse or family abuse, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law, (iii) necessary for law-enforcement purposes, or (iv) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

§ 19.2-119. Definitions.

As used in this chapter:

"Bail" means the pretrial release of a person from custody upon those terms and conditions specified by order of an appropriate judicial officer.

"Bond" means the posting by a person or his surety of a written promise to pay a specific sum, secured or unsecured, ordered by an appropriate judicial officer as a condition of bail to assure performance of the terms and conditions contained in the recognizance.

"Criminal history" means records and data collected by criminal justice agencies or persons consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations or other formal charges, and any deposition arising therefrom.

"Judicial officer" means, unless otherwise indicated, any magistrate serving the jurisdiction, any judge of a district court and the clerk or deputy clerk of any district court or circuit court within their respective cities and counties, any judge of a circuit court, any judge of the Court of Appeals and any justice of the Supreme Court of Virginia.

"Person" means any accused, or any juvenile taken into custody pursuant to § 16.1-246.

"Recognizance" means a signed commitment by a person to appear in court as directed and to adhere to any other terms ordered by an appropriate judicial officer as a condition of bail.

§ 19.2-163.3. Duties of public defenders.

Public defenders shall carry out the following duties in accordance with the guidance, policies, and authorizations of the Indigent Defense Commission:

(a) To assist the executive director of the Commission in securing office space, to employ a staff, to fix salaries and to do such other things necessary to carry out the duties imposed upon them with the approval of the Commission.

(b) To represent or supervise assistants in representing within their respective jurisdictions as set out in § 19.2-163.04 indigent persons charged with a crime or offense when such persons are entitled to be represented by law by court-appointed counsel in a court of record or a court not of record.

(c) To represent or supervise assistants in representing indigent persons who are entitled to be represented by court-appointed counsel in an appeal of their conviction to the Court of Appeals or the

1658 Supreme Court of Virginia.

1659 (d) To submit such reports as required by the Commission.

1660 § 19.2-266. Exclusion of persons from trial; photographs and broadcasting permitted under designated
1661 guidelines; exceptions.

1662 In the trial of all criminal cases, whether the same be felony or misdemeanor cases, the court may, in
1663 its discretion, exclude from the trial any persons whose presence would impair the conduct of a fair
1664 trial, provided that the right of the accused to a public trial shall not be violated.

1665 A court may solely in its discretion permit the taking of photographs in the courtroom during the
1666 progress of judicial proceedings and the broadcasting of judicial proceedings by radio or television and
1667 the use of electronic or photographic means for the perpetuation of the record or parts thereof in
1668 criminal and in civil cases, but only in accordance with the rules set forth hereunder. In addition to such
1669 rules, the Supreme Court and the Court of Appeals shall have the authority to promulgate any other
1670 rules they deem necessary to govern electronic media and still photography coverage in their respective
1671 courts. The following rules shall serve as guidelines, and a violation of these rules may be punishable as
1672 contempt:

1673 Coverage Allowed.

1674 1. The presiding judge shall at all times have authority to prohibit, interrupt or terminate electronic
1675 media and still photography coverage of public judicial proceedings. The presiding judge shall advise
1676 the parties of such coverage in advance of the proceedings and shall allow the parties to object thereto.
1677 For good cause shown, the presiding judge may prohibit coverage in any case and may restrict coverage
1678 as he deems appropriate to meet the ends of justice.

1679 2. Coverage of the following types of judicial proceedings shall be prohibited: adoption proceedings,
1680 juvenile proceedings, child custody proceedings, divorce proceedings, temporary and permanent spousal
1681 support proceedings, proceedings concerning sexual offenses, proceedings for the hearing of motions to
1682 suppress evidence, proceedings involving trade secrets, and in camera proceedings.

1683 3. Coverage of the following categories of witnesses shall be prohibited: police informants, minors,
1684 undercover agents and victims and families of victims of sexual offenses.

1685 4. Coverage of jurors shall be prohibited expressly at any stage of a judicial proceeding, including
1686 that portion of a proceeding during which a jury is selected. The judge shall inform all potential jurors
1687 at the beginning of the jury selection process of this prohibition.

1688 5. To protect the attorney-client privilege and the right to counsel, there shall be no recording or
1689 broadcast of sound from such conferences which occur in a court facility between attorneys and their
1690 clients, between co-counsel of a client, between adverse counsel, or between counsel and the presiding
1691 judge held at the bench or in chambers.

1692 Location of Equipment and Personnel.

1693 1. The location of recording and camera equipment shall be strictly regulated so as not to be
1694 intrusive.

1695 2. Media personnel shall not enter or leave the courtroom once the proceedings are in session except
1696 during a court recess or adjournment.

1697 3. Electronic media equipment and still photography equipment shall not be taken into the courtroom
1698 or removed from the designated media area except at the following times:

1699 a. Prior to the convening of proceedings;

1700 b. During any luncheon recess;

1701 c. During any court recess with the permission of the trial judge; and

1702 d. After adjournment for the day of the proceedings.

1703 Official Representatives of the Media.

1704 The Virginia Association of Broadcasters and the Virginia Press Association may designate one
1705 person to represent the television media, one person to represent the radio broadcasters, and one person
1706 to represent still photographers in each jurisdiction in which electronic media and still photographic
1707 coverage is desired. The names of the persons so designated shall be forwarded to the chief judge of the
1708 court in the county or city in which coverage is desired so that arrangements can be made for the
1709 "pooling" of equipment and personnel. Such persons shall also be the only persons authorized to speak
1710 for the media to the presiding judge concerning the coverage of any judicial proceedings.

1711 Equipment and Personnel.

1712 1. No distracting lights or sounds shall be permitted.

1713 2. Not more than two television cameras shall be permitted in any proceeding.

1714 3. Not more than one still photographer, utilizing not more than two still cameras with not more than
1715 two lenses for each camera and related equipment for print purposes, shall be permitted in any
1716 proceeding.

1717 4. Not more than one audio system for broadcast purposes shall be permitted in any proceeding.

1718 Audio pickup for all media purposes shall be accomplished with existing audio systems present in
1719 the court facility. If no technically suitable audio system exists in the court facility, microphones and

related wiring essential for media purposes may be installed and maintained at media expense. The microphones and wiring must be unobtrusive and shall be located in places designated in advance of any proceeding by the chief judge of the court in which coverage is desired.

5. Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the presiding judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the presiding judge may exclude all contesting media personnel from a proceeding.

6. In no event shall the number of personnel in the designated area exceed the number necessary to operate the designated equipment.

7. Only television photographic and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. No artificial lighting device of any kind shall be employed in connection with the television camera.

8. Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. No artificial lighting device of any kind shall be employed in connection with a still camera.

9. With the concurrence of the chief judge of the court in which coverage is desired, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions are installed and maintained without public expense.

Impermissible Use of Media Material.

None of the film, video tape, still photographs or audio reproductions developed during or by virtue of coverage of a judicial proceeding shall be admissible as evidence (i) in the proceeding out of which it arose, (ii) in any proceeding subsequent and collateral thereto, or (iii) upon any retrial or appeal of such proceedings.

All electronic media and still photography coverage of public judicial proceedings authorized by this section, with the exception of electronic or photographic means authorized for the perpetuation of the record or parts thereof shall be conducted at no cost to the Commonwealth.

§ 19.2-317. When writ of error lies in criminal case for accused; when for Commonwealth; when for county, city or town.

A. A writ of error shall lie in a criminal case to the judgment of a circuit court or the judge thereof, from the ~~Court of Appeals as provided in § 17.1-406~~ *Supreme Court*. It shall lie in any such case for the accused and if the case is for the violation of any law relating to the state revenue, it shall lie also for the Commonwealth.

B. A writ of error shall also lie for any county, city or town from the Supreme Court to the judgment of any circuit court declaring an ordinance of such county, city or town to be unconstitutional or otherwise invalid, except when the violation of any such ordinance is made a misdemeanor by state statute.

C. A writ of error shall also lie for the Commonwealth from the Supreme Court to a judgment of the Court of Appeals in a criminal case, except where the decision of the Court of Appeals is made final under § 17.1-410 or § 19.2-408.

§ 19.2-318. Appeal on writ of error to judgment for contempt.

From a judgment for any civil contempt of court an appeal may be taken to the ~~Court of Appeals~~ *Supreme Court*. A writ of error shall lie from the ~~Court of Appeals~~ *Supreme Court* to a judgment for criminal contempt of court. This section shall also be construed to authorize an appeal from or writ of error to a judgment of a circuit court rendered on appeal from a judgment of a district court for civil or criminal contempt.

§ 19.2-319. When execution of sentence to be suspended; bail; appeal from denial.

If a person sentenced by a circuit court to death or confinement in the state correctional facility indicates an intention to apply for a writ of error, the circuit court shall postpone the execution of such sentence for such time as it may deem proper.

In any other criminal case wherein judgment is given by any court to which a writ of error lies, and in any case of judgment for any civil or criminal contempt, from which an appeal may be taken or to which a writ of error lies, the court giving such judgment may postpone the execution thereof for such time and on such terms as it deems proper.

In any case after conviction if the sentence, or the execution thereof, is suspended in accordance with this section, or for any other cause, the court, or the judge thereof, may, and in any case of a misdemeanor shall, set bail in such penalty and for appearance at such time as the nature of the case may require; provided that, if the conviction was for a violent felony as defined in § 19.2-297.1 and the defendant was sentenced to serve a period of incarceration not subject to suspension, then the court shall presume, subject to rebuttal, that no condition or combination of conditions of bail will reasonably assure the appearance of the convicted person or the safety of the public.

1781 In any case in which the court denies bail, the reason for such denial shall be stated on the record of
1782 the case. A writ of error from the ~~Court of Appeals~~ *Supreme Court* shall lie to any such judgment
1783 refusing bail or requiring excessive bail; ~~except that in any case where a person has been sentenced to~~
1784 ~~death, a writ of error shall lie from the Supreme Court.~~ Upon review by the Court of Appeals or the
1785 Supreme Court, if the decision by the trial court to deny bail is overruled, the ~~appellate court~~ *Supreme*
1786 *Court* shall either set bail or remand the matter to circuit court for such further action regarding bail as
1787 the ~~appellate court~~ *Supreme Court* directs.

1788 § 19.2-320. Petitioner for writ of error to comply with Rules of Court.

1789 Any party for whom a writ of error lies may apply therefor by complying with the provisions of the
1790 Rules of the Supreme Court of Virginia relative to the appeal of criminal cases ~~to the Court of Appeals,~~
1791 ~~or where an appeal is taken to the Supreme Court, with the Rules of the Supreme Court relative to~~
1792 ~~appeal of criminal cases to the Supreme Court.~~

1793 § 19.2-321. With whom petition for writ of error filed.

1794 A. The petition to the Court of Appeals shall be filed with the Clerk of the Court in the manner and
1795 within the time provided by law.

1796 B. The petition in a case wherein a writ of error lies from the Supreme Court shall be filed with the
1797 Clerk of that Court in the manner and within the time provided by law.

1798 § 19.2-321.2. Motion in the Supreme Court for delayed appeal in criminal cases.

1799 A. Filing and content of motion. - When, due to the error, neglect, or fault of counsel representing
1800 the appellant, or of the court reporter, or of the ~~Court of Appeals~~ or the circuit court or an officer or
1801 employee of ~~either thereof~~, an appeal from the Court of Appeals to the Supreme Court in a criminal
1802 case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or
1803 time limits in the perfection of the appeal; or (iii) been denied or the conviction has been affirmed, for
1804 failure to file or timely file the indispensable transcript or written statement of facts as required by law
1805 or by the Rules of the Supreme Court; then a motion for leave to pursue a delayed appeal may be filed
1806 in the Supreme Court within six months after the appeal has been dismissed or denied, the conviction
1807 has been affirmed, or the ~~Court of Appeals~~ *circuit court* judgment sought to be appealed has become
1808 final, whichever is later. Such motion shall identify by the style, date, and ~~Court of Appeals~~ *circuit*
1809 *court* record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt
1810 to appeal the judgment to the Supreme Court, shall give the record number assigned in the Supreme
1811 Court in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or
1812 fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the
1813 motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged,
1814 verifying the specific facts alleged in the motion, and certifying that the appellant is not personally
1815 responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity
1816 for appeal.

1817 B. Service, response, and disposition. - Such motion shall be served on the attorney for the
1818 Commonwealth or, if a petition for appeal was granted in the ~~Court of Appeals~~ or in the Supreme Court
1819 in the original attempt to appeal, upon the Attorney General, in accordance with Rule 5:4 of the
1820 Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those
1821 facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied
1822 without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of
1823 habeas corpus. Otherwise, the Supreme Court shall, if the motion meets the requirements of this section,
1824 grant appellant leave to initiate or re-initiate pursuit of the appeal from the ~~Court of Appeals~~ to the
1825 Supreme Court.

1826 C. Time limits when motion granted. - If the motion is granted, all computations of time under the
1827 Rules of the Supreme Court shall run from the date of the order of the Supreme Court granting the
1828 motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit
1829 court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

1830 D. Applicability. - The provisions of this section shall not apply to cases in which the appellant is
1831 responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity
1832 for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged
1833 and rejected in a prior judicial proceeding, nor shall it apply in cases in which a sentence of death has
1834 been imposed.

1835 § 19.2-322.1. Suspension of execution of judgment on appeal.

1836 Execution of a judgment from which an appeal to the ~~Court of Appeals~~ or the Supreme Court is
1837 sought may be suspended during an appeal provided the appeal is timely prosecuted and an appeal bond
1838 is filed as provided in § 8.01-676.1.

1839 § 19.2-325. Provisions which apply to criminal as well as civil cases; when plaintiff in error unable
1840 to pay printing costs.

1841 Sections 8.01-675.1, 8.01-675.2, 8.01-675.3, 8.01-684 and 17.1-328 shall apply as well to criminal
1842 cases as to civil cases. In a felony case in the ~~Court of Appeals~~ or the Supreme Court, if the plaintiff in

error files with the Clerk of the Court an affidavit that he is unable to pay or secure to be paid the costs of printing the record in the case, together with a certificate of the judge of the trial court to the effect that he has investigated the matter and is of opinion that the plaintiff in error is unable to pay, or secure to be paid, such costs, the printing shall be done as if the costs had been paid and the clerk shall not be required to account for and pay the same into the state treasury. However, if the costs are not paid or secured to be paid and upon the hearing of the case the judgment of the court below is wholly affirmed by the Court of Appeals and no appeal granted by the Supreme Court, or wholly affirmed by the Supreme Court where appeal is granted, the Court in affirming the judgment shall also give judgment in behalf of the Commonwealth against the plaintiff in error for the amount of the costs to be taxed by its clerk.

§ 19.2-327. How judgment of appellate court certified and entered.

The judgment of the Court of Appeals or of the Supreme Court shall be certified to the court to whose judgment the writ of error was allowed. The court or the clerk thereof shall cause the same to be entered on its order book as its own judgment.

§ 19.2-327.10. Issuance of writ of actual innocence based on nonbiological evidence.

Notwithstanding any other provision of law or rule of court, upon a petition of a person who was convicted of a felony upon a plea of not guilty, the Court of Appeals Supreme Court shall have the authority to issue writs of actual innocence under this chapter. Only one such writ based upon such conviction may be filed by a petitioner. The writ shall lie to the court that entered the conviction; and that court shall have the authority to conduct hearings, as provided for in this chapter, on such a petition as directed by order from the Court of Appeals Supreme Court. In accordance with §§ 17.1-411 and 19.2-317, either party may appeal a final decision of the Court of Appeals to the Supreme Court of Virginia. Upon an appeal from the Court of Appeals, the Supreme Court of Virginia shall have the authority to issue writs in accordance with the provisions of this chapter.

§ 19.2-327.11. Contents and form of the petition based on previously unknown or unavailable evidence of actual innocence.

A. The petitioner shall allege categorically and with specificity, under oath, all of the following: (i) the crime for which the petitioner was convicted, and that such conviction was upon a plea of not guilty; (ii) that the petitioner is actually innocent of the crime for which he was convicted; (iii) an exact description of the previously unknown or unavailable evidence supporting the allegation of innocence; (iv) that such evidence was previously unknown or unavailable to the petitioner or his trial attorney of record at the time the conviction became final in the circuit court; (v) the date the previously unknown or unavailable evidence became known or available to the petitioner, and the circumstances under which it was discovered; (vi) that the previously unknown or unavailable evidence is such as could not, by the exercise of diligence, have been discovered or obtained before the expiration of 21 days following entry of the final order of conviction by the court; (vii) the previously unknown or unavailable evidence is material and when considered with all of the other evidence in the current record, will prove that no rational trier of fact could have found proof of guilt beyond a reasonable doubt; and (viii) the previously unknown or unavailable evidence is not merely cumulative, corroborative or collateral. Nothing in this chapter shall constitute grounds to delay setting an execution date pursuant to § 53.1-232.1 or to grant a stay of execution that has been set pursuant to clause (iii) or clause (iv) of § 53.1-232.1 or to delay or stay any other post-conviction appeals or petitions to any court. Human biological evidence may not be used as the sole basis for seeking relief under this writ but may be used in conjunction with other evidence.

B. Such petition shall contain all relevant allegations of facts that are known to the petitioner at the time of filing, shall be accompanied by all relevant documents, affidavits and test results, and shall enumerate and include all relevant previous records, applications, petitions, appeals and their dispositions. The petition shall be filed on a form provided by the Supreme Court. If the petitioner fails to submit a completed form, the Court of Appeals Supreme Court may dismiss the petition or return the petition to the petitioner pending the completion of such form. Any false statement in the petition, if such statement is knowingly or willfully made, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

C. In cases brought by counsel for the petitioner, the Court of Appeals Supreme Court shall not accept the petition unless it is accompanied by a duly executed return of service in the form of a verification that a copy of the petition and all attachments have been served on the attorney for the Commonwealth of the jurisdiction where the conviction occurred and the Attorney General, or an acceptance of service signed by these officials, or any combination thereof. In cases brought by petitioners pro se, the Court of Appeals Supreme Court shall not accept the petition unless it is accompanied by a certificate that a copy of the petition and all attachments have been sent, by certified mail, to the attorney for the Commonwealth of the jurisdiction where the conviction occurred and the Attorney General. If the Court of Appeals Supreme Court does not summarily dismiss the petition, it

shall so notify in writing the Attorney General, the attorney for the Commonwealth, and the petitioner. The Attorney General shall have 60 days after receipt of such notice in which to file a response to the petition that may be extended for good cause shown; however, nothing shall prevent the Attorney General from filing an earlier response. The response may contain a proffer of any evidence pertaining to the guilt of the petitioner that is not included in the record of the case, including evidence that was suppressed at trial.

D. The ~~Court of Appeals~~ *Supreme Court* may inspect the record of any trial or appellate court action, and the Court may, in any case, award a writ of certiorari to the clerk of the respective court below, and have brought before the Court the whole record or any part of any record. If, in the judgment of the Court, the petition fails to state a claim, or if the assertions of previously unknown or unavailable evidence, even if true, would fail to qualify for the granting of relief under this chapter, the Court may dismiss the petition summarily, without any hearing or a response from the Attorney General.

E. In any petition filed pursuant to this chapter that is not summarily dismissed, the defendant is entitled to representation by counsel subject to the provisions of Article 3 (§ 19.2-157 et seq.) and Article 4 (§ 19.2-163.1 et seq.) of Chapter 10 of this title. The ~~Court of Appeals~~ *Supreme Court* may, in its discretion, appoint counsel prior to deciding whether a petition should be summarily dismissed.

§ 19.2-327.12. Determination by Supreme Court for findings of fact by the circuit court.

If the ~~Court of Appeals~~ *Supreme Court* determines from the petition, from any hearing on the petition, from a review of the records of the case, or from any response from the Attorney General that a resolution of the case requires further development of the facts, the court may order the circuit court in which the order of conviction was originally entered to conduct a hearing within 90 days after the order has been issued to certify findings of fact with respect to such issues as the ~~Court of Appeals~~ *Supreme Court* shall direct. The record and certified findings of fact of the circuit court shall be filed in the ~~Court of Appeals~~ *Supreme Court* within 30 days after the hearing is concluded. The petitioner or his attorney of record, the attorney for the Commonwealth and the Attorney General shall be served a copy of the order stating the specific purpose and evidence for which the hearing has been ordered.

§ 19.2-327.13. Relief under writ.

Upon consideration of the petition, the response by the Commonwealth, previous records of the case, the record of any hearing held under this chapter and, if applicable, any findings certified from the circuit court pursuant to an order issued under this chapter, the ~~Court of Appeals~~ *Supreme Court*, if it has not already summarily dismissed the petition, shall either dismiss the petition for failure to state a claim or assert grounds upon which relief shall be granted; or the Court shall (i) dismiss the petition for failure to establish previously unknown or unavailable evidence sufficient to justify the issuance of the writ, or (ii) only upon a finding that the petitioner has proven by clear and convincing evidence all of the allegations contained in clauses (iv) through (viii) of subsection A of § 19.2-327.11, and upon a finding that no rational trier of fact could have found proof of guilt beyond a reasonable doubt, grant the writ, and vacate the conviction, or in the event that the Court finds that no rational trier of fact could have found sufficient evidence beyond a reasonable doubt as to one or more elements of the offense for which the petitioner was convicted, but the Court finds that there remains in the original trial record evidence sufficient to find the petitioner guilty beyond a reasonable doubt of a lesser included offense, the court shall modify the order of conviction accordingly and remand the case to the circuit court for resentencing. The burden of proof in a proceeding brought pursuant to this chapter shall be upon the convicted person seeking relief. If a writ vacating a conviction is granted, and no appeal is made to the Supreme Court, or the Supreme Court denies the Commonwealth's petition for appeal or upholds the decision of the Court of Appeals to grant the writ, the ~~Court of Appeals~~ *Supreme Court* shall forward a copy of the writ to the circuit court, where an order of expungement shall be immediately granted.

§ 19.2-368.8. Reinvestigation of decision; reconsideration of award; judicial review.

A. The Commission, on its own motion, or upon request of the claimant, may reinvestigate or reopen a decision making or denying an award. Except for claims of sexual abuse that occurred while the victim was a minor, the Commission shall not reopen or reinvestigate a case after the expiration of two years from the date of submission of the original claim. Any claim involving the sexual abuse of a minor that has been denied before July 1, 2001, because it was not timely filed may, upon application filed with the Commission, be reconsidered provided the application for reconsideration is filed within ten years after the minor's eighteenth birthday.

B. The Commission shall reconsider, at least annually, every award upon which periodic payments are being made. An order or reconsideration of an award shall not require refund of amounts previously paid unless the award was obtained by fraud. The right of reconsideration does not affect the finality of a Commission decision for the purposes of judicial review.

C. Within thirty days of the date of the report containing the final decision of the Commission, the claimant may, if in his judgment the award is improper, appeal such decision to the ~~Court of Appeals~~, as provided in ~~§ 65.2-706~~ *Supreme Court*. The Attorney General may appear in such proceedings as

counsel for the Commission.

§ 19.2-398. When appeal by the Commonwealth allowed.

A. In a felony case a pretrial appeal from a circuit court may be taken by the Commonwealth from:

1. An order of a circuit court dismissing a warrant, information or indictment, or any count or charge thereof on the ground that (i) the defendant was deprived of a speedy trial in violation of the provisions of the Sixth Amendment to the Constitution of the United States, Article I, Section 8 of the Constitution of Virginia, or § 19.2-243; or (ii) the defendant would be twice placed in jeopardy in violation of the provisions of the Fifth Amendment to the Constitution of the United States or Article I, Section 8 of the Constitution of Virginia; or

2. An order of a circuit court prohibiting the use of certain evidence at trial on the grounds such evidence was obtained in violation of the provisions of the Fourth, Fifth or Sixth Amendments to the Constitution of the United States or Article I, Section 8, 10 or 11 of the Constitution of Virginia prohibiting illegal searches and seizures and protecting rights against self-incrimination, provided the Commonwealth certifies that the appeal is not taken for purpose of delay and that the evidence is substantial proof of a fact material in the proceeding.

B. A petition for appeal may be taken by the Commonwealth in a felony case from any order of release on conditions pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of this title.

C. A petition for appeal may be taken by the Commonwealth in a felony case after conviction where the sentence imposed by the circuit court is contrary to mandatory sentencing or restitution terms required by statute.

D. Nothing in this chapter shall affect the Commonwealth's right to appeal in civil matters or cases involving a violation of law relating to the state revenue or appeals pursuant to ~~§ 17.1-411 or subsection C of § 19.2-317.~~

E. A pretrial appeal may be taken in any criminal case from an order of a circuit court dismissing a warrant, information, summons, delinquency petition, or indictment, or any count or charge thereof, on the ground that a statute or local ordinance on which the order is based is unconstitutional.

§ 19.2-400. Appeal lies to the Supreme Court; time for filing notice.

An appeal taken pursuant to § 19.2-398, including such an appeal in a capital murder case, shall lie to the ~~Court of Appeals of Virginia~~ *Supreme Court*.

No appeal shall be allowed the Commonwealth pursuant to subsection A of § 19.2-398 unless within seven days after entry of the order of the circuit court from which the appeal is taken, and before a jury is impaneled and sworn if there is to be trial by jury or, in cases to be tried without a jury, before the court begins to hear or receive evidence or the first witness is sworn, whichever occurs first, the Commonwealth files a notice of appeal with the clerk of the trial court. If the appeal relates to suppressed evidence, the attorney for the Commonwealth shall certify in the notice of appeal that the appeal is not taken for the purpose of delay and that the evidence is substantial proof of a fact material to the proceeding. All other requirements related to the notice of appeal shall be governed by Part Five A of the Rules of the Supreme Court. Upon the filing of a timely notice of appeal, the order from which the pretrial appeal is taken and further trial proceedings in the circuit court, except for a bail hearing, shall thereby be suspended pending disposition of the appeal.

An appeal by the Commonwealth pursuant to subsection C of § 19.2-398 shall be governed by Part Five A of the Rules of the Supreme Court.

§ 19.2-402. Petition for appeal; brief in opposition; time for filing.

A. When a notice of appeal has been filed pursuant to § 19.2-400, the Commonwealth may petition the ~~Court of Appeals~~ *Supreme Court* for an appeal pursuant to § 19.2-398. The Commonwealth shall be represented by the attorney for the Commonwealth prosecuting the case.

B. The provisions of this subsection apply only to pretrial appeals. The petition for a pretrial appeal shall be filed with the clerk of the ~~Court of Appeals~~ *Supreme Court* not more than 14 days after the date that the transcript or written statement of facts is filed, or if there are objections thereto, within 14 days after the judge signs the transcript or written statement. The accused may file a brief in opposition with the clerk of the ~~Court of Appeals~~ *Supreme Court* within 14 days after the filing of the petition for pretrial appeal. If the accused has filed a notice of cross appeal, he shall file a petition for cross appeal to be consolidated with, and filed within the same time period as, his brief in opposition. The Commonwealth may file a brief in opposition to any petition for cross appeal within 10 days after the petition for cross appeal is filed. Except as specifically provided in this section, all other requirements for the petition for pretrial appeal and brief in opposition shall conform as nearly as practicable to Part Five A of the Rules of the ~~Supreme Court of Virginia~~ *Supreme Court*.

§ 19.2-403. Procedures on petition for pretrial appeal.

The procedures on a pretrial appeal to the ~~Court of Appeals~~ *Supreme Court* by the Commonwealth pursuant to § 19.2-398, and on a cross appeal of a pretrial appeal by the accused pursuant to § 19.2-401, shall be governed by the provisions of subsections C and D of § 17.1-407. The ~~Court of Appeals~~

2027 *Supreme Court*, however, shall grant or deny the petition for a pretrial appeal, and the petition for cross
2028 appeal, if any, not later than 30 days after the brief in opposition is timely filed or the time for such
2029 filing has expired.

2030 No petition for rehearing may be filed in any pretrial appeal pursuant to this chapter. If the petition
2031 for a pretrial appeal pursuant to this chapter is denied, the Court's mandate shall immediately issue and
2032 the clerk of the ~~Court of Appeals~~ *Supreme Court* shall return the record forthwith to the clerk of the
2033 trial court.

2034 § 19.2-404. Procedures on awarded pretrial appeal.

2035 This section applies only to pretrial appeals. If the ~~Court of Appeals~~ *Supreme Court* grants the
2036 Commonwealth's petition for a pretrial appeal, the Attorney General shall thereafter represent the
2037 Commonwealth during that appeal.

2038 The Commonwealth shall file its opening brief in the office of the clerk of the ~~Court of Appeals~~
2039 *Supreme Court* within 25 days after the date of the certificate awarding the appeal. The brief of the
2040 appellee shall be filed in the office of the clerk of the ~~Court of Appeals~~ *Supreme Court* within 25 days
2041 after the filing of the Commonwealth's opening brief. The Commonwealth may then file a reply brief,
2042 including its response to any cross appeal, in the office of the clerk of the ~~Court of Appeals~~ *Supreme*
2043 *Court* within 15 days after the filing of the brief of the accused. With the permission of a ~~judge~~ *justice*
2044 of the ~~Court of Appeals~~ *Supreme Court*, the time for filing any brief may be extended for good cause
2045 shown. Four copies of each brief shall be filed and three copies shall be mailed or delivered to opposing
2046 counsel on or before the date of filing. Except as specifically provided in this section, all other
2047 requirements of the brief shall conform as nearly as practicable to Part Five A of the Rules of the
2048 Supreme Court of Virginia. The ~~Court of Appeals~~ *Supreme Court* shall accelerate the appeal on its
2049 docket and render its decision not later than 60 days after the filing of the appellee's brief or after the
2050 time for filing such brief has expired.

2051 When the opinion is rendered by the ~~Court of Appeals~~ *Supreme Court*, the mandate shall
2052 immediately issue and the clerk of the ~~Court of Appeals~~ *Supreme Court* shall return the record forthwith
2053 to the clerk of the trial court. No petition for rehearing may be filed.

2054 § 19.2-405. Pretrial appeals; record on appeal; transcript; written statement; time for filing.

2055 This section applies only to pretrial appeals. The record on appeal shall conform, as nearly as
2056 practicable, to the requirements of Part Five A of the Rules of the Supreme Court for the record on
2057 appeal, except as hereinafter provided. The transcript or written statement of facts shall be filed by the
2058 Commonwealth with the clerk of the circuit court from which the appeal is being taken, within 25 days
2059 following entry of the order of the circuit court. Upon motion of the Commonwealth, the ~~Court of~~
2060 ~~Appeals~~ *Supreme Court* may grant an extension of up to 45 days for filing the transcript or written
2061 statement for good cause shown. If the Commonwealth files a transcript or written statement, it shall
2062 also file with the clerk of the circuit court a notice, signed by the attorney for the Commonwealth, who
2063 is counsel for the appellant, identifying the transcript or written statement and reciting its delivery to the
2064 clerk. There shall be appended to the notice a certificate by the attorney for the Commonwealth that a
2065 copy of the notice has been mailed or delivered to opposing counsel.

2066 Any party may object to the transcript or written statement on the ground that it is erroneous or
2067 incomplete. Notice of the objection specifying the errors alleged or deficiencies asserted shall be
2068 tendered to the trial judge within 10 days after the transcript or written statement is filed in the office of
2069 the clerk. The trial judge shall, within three days after the filing of such objection, either overrule the
2070 objection, or take steps deemed necessary to make the record complete or certify the respect in which
2071 the record is incomplete, and sign the transcript or written statement to verify its accuracy. The clerk of
2072 the trial court shall forthwith transmit the record to the clerk of the ~~Court of Appeals~~ *Supreme Court*.

2073 § 19.2-409. Exclusion of pretrial appeal period from time within which accused must be tried;
2074 reconsideration of issues after conviction.

2075 This section applies only to pretrial appeals. The provisions of § 19.2-243 shall not apply to the
2076 period of time commencing when the Commonwealth's notice of pretrial appeal is filed pursuant to this
2077 chapter and ending 60 days after the ~~Court of Appeals~~ *Supreme Court* issues its mandate disposing of
2078 the pretrial appeal. Such finality of the ~~Court of Appeals~~ decision shall not preclude a defendant, if he
2079 is convicted, from requesting the ~~Court of Appeals~~ *Supreme Court* on direct appeal to reconsider an
2080 issue which was the subject of the pretrial appeal.

2081 § 28.2-220. Appeals to Supreme Court.

2082 An appeal of the final decision of the circuit court may be taken to the ~~Court of Appeals~~ *Supreme*
2083 *Court*.

2084 § 29.1-824. Appeals to Supreme Court; bond.

2085 Either party may appeal from the decision of the court to the ~~Court of Appeals~~ *Supreme Court*. Such
2086 appeals shall be taken and prosecuted in the same manner and with like effect as is provided by law in
2087 other cases appealed as a matter of right to the ~~Court of Appeals~~ *Supreme Court*.

2088 § 30-5. Continuance or time for filing pleading, etc., where party or attorney is connected with

General Assembly or Division of Legislative Services.

Any party to an action or proceeding in any court, including the Court of Appeals and the Supreme Court of Virginia, commission or other tribunal having judicial or quasi-judicial powers or jurisdiction, who is an officer, employee or member of the General Assembly, employee of the Division of Legislative Services, or who has, prior to or during the session of the General Assembly, employed or retained to represent him in such action or proceeding an attorney who is an officer, employee or member of the General Assembly, or employee of the Division of Legislative Services, shall be entitled to a continuance as a matter of right (i) during the period beginning thirty days prior to the commencement of the session and ending ~~thirty~~ 30 days after the adjournment thereof, and (ii) during a period beginning one day prior to the meeting date of any reconvened or veto session or of any commission, council, committee or subcommittee created by the General Assembly at which such officer, employee or member is scheduled to attend and ending one day after the adjournment of such meeting; however, no continuance need be granted under clause (ii) unless it shall have been requested in writing at least three days prior to the first day for which the continuance is sought and filed with the court. The requesting party, when practicable, shall strive to notify all other parties to the proceeding of such request.

Any pleading or the performance of any act relating thereto required to be filed or performed by any statute or rule during the period beginning ~~thirty~~ 30 days prior to the commencement of the session and ending ~~thirty~~ 30 days after the adjournment of the session shall be extended until not less than ~~thirty~~ 30 days after any such session. The failure of any court, commission or other tribunal to allow such continuance when requested so to do or the returning of such filing or act during the period hereinabove specified shall constitute reversible error; provided that this section shall not prevent the granting of temporary injunctive relief, or the dissolution or extension of a temporary injunction, but the right to such relief shall remain in the sound discretion of the court or other such tribunal.

§ 33.1-358. Judicial review of revocation.

Any person whose license is so revoked is entitled to judicial review of such revocation in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Any person aggrieved by the judgment of such court shall have the right of appeal to the ~~Court of Appeals~~ Supreme Court.

§ 37.2-1105. Appeal from order.

Any order of a judge or special justice under § 37.2-1101, or of a judge, special justice or magistrate under § 37.2-1104, may be appealed de novo within 10 days to the circuit court for the jurisdiction where the order was entered, and any order of a circuit court hereunder, either originally or on appeal, may be appealed within 10 days to the ~~Court of Appeals~~ Supreme Court.

§ 38.2-3405. Certain subrogation provisions and limitations upon recovery in hospital, medical, etc., policies forbidden; limitations on disclosure of medical treatment options prohibited.

A. No insurance contract providing hospital, medical, surgical and similar or related benefits, and no subscription contract or health services plan delivered or issued for delivery or providing for payment of benefits to or on behalf of persons residing in or employed in ~~this~~ the Commonwealth shall contain any provision providing for subrogation of any person's right to recovery for personal injuries from a third person.

B. No such contract, subscription contract or health services plan shall contain any provision requiring the beneficiary of any such contract or plan to sign any agreement to pay back to any company issuing such a contract or creating a health services plan any benefits paid pursuant to the terms of such contract or plan from the proceeds of a recovery by such a beneficiary from any other source; provided, that this provision shall not prohibit an exclusion of benefits paid or payable under workers' compensation laws or federal or state programs, nor shall this provision prohibit coordination of benefits provisions when there are two or more such accident and sickness insurance contracts or plans providing for the payment of the same benefits. Coordination of benefits provisions may not operate to reduce benefits because of any benefits paid, payable, or provided by any liability insurance contract or any benefits paid, payable, or provided by any medical expense or medical payments insurance provided in conjunction with liability coverage.

C. No insurance contract providing hospital, medical, surgical and similar or related benefits, and no subscription contract or health services plan delivered or issued for delivery or providing for payment of benefits to or on behalf of persons residing in or employed in ~~this~~ the Commonwealth shall contain any provision limiting, restricting, or prohibiting a physician from disclosing fully all medical treatment options to patients whether or not such treatment options are (i) experimental or covered services, (ii) services that the health insurer will not authorize, or (iii) the costs of the treatment will be borne by the health insurer or the patient to facilitate an informed decision by the patient, if the physician determines that such an option is in the best interest of the patient. For the purposes of this subsection, "medical treatment options" means any alternative or experimental therapeutic, psychiatric, medical treatment or

2150 procedure, health care service, drug, or remedy.

2151 D. Whenever benefits paid or payable under workers' compensation are excluded from coverage
2152 under the terms of any such contract, subscription contract or health services plan, the issuer thereof
2153 shall not exclude coverage for any medical condition pursuant to such exclusion if (i) an award of the
2154 Workers' Compensation Commission pursuant to § 65.2-704 denies compensation benefits relating to
2155 such medical condition and no request for review of such award is made pursuant to and within the time
2156 prescribed by § 65.2-705 or (ii) an award of the Workers' Compensation Commission, after review by
2157 the full Commission pursuant to § 65.2-705, denies compensation benefits relating to such medical
2158 condition. Following the entry of a workers' compensation award pursuant to clause (i) or (ii) having the
2159 effect of prohibiting the application of any such exclusion, the issuer shall immediately provide coverage
2160 for such medical condition to the extent otherwise covered under the contract, subscription contract or
2161 health services plan. If, upon appeal to the ~~Court of Appeals~~ or the Supreme Court, such medical
2162 condition is held to be compensable under the Virginia Workers' Compensation Act (Title 65.2), the
2163 issuer may recover from the applicable employer or workers' compensation insurance carrier the costs of
2164 coverage for medical conditions found to be compensable under the Act.

2165 § 38.2-5011. Conclusiveness of determination or award; appeal.

2166 A. The determination of the Commission pursuant to subdivisions A 1 through A 3 of § 38.2-5008,
2167 or the award of the Commission, as provided in § 38.2-5009, if not reviewed within the time prescribed
2168 by § 38.2-5010, or a determination or award of the Commission upon such review, as provided in
2169 § 38.2-5010, shall be conclusive and binding as to all questions of fact. No appeal shall be taken from
2170 the decision of one commissioner until a review of the case has been held before the full Commission,
2171 as provided in § 38.2-5010. Appeals shall lie from the full Commission to the ~~Court of Appeals~~
2172 *Supreme Court* in the manner provided in the Rules of ~~the~~ Supreme Court.

2173 B. The notice of appeal shall be filed with the clerk of the Commission within thirty days from the
2174 date of such determination or award or within thirty days after receipt by registered or certified mail of
2175 such determination or award whichever occurs last. A copy of the notice of appeal shall be filed in the
2176 office of the clerk of the ~~Court of Appeals~~ *Supreme Court* as provided in the Rules of ~~the~~ Supreme
2177 Court.

2178 C. Cases so appealed shall be placed upon the privileged docket of the Court and be heard at the
2179 next ensuing term thereof. In case of an appeal from an award of the Commission to the ~~Court of~~
2180 ~~Appeals~~ *Supreme Court*, the appeal shall operate as a suspension of the award, and the Program shall
2181 not be required to make payment of the award involved in the appeal until the questions at issue therein
2182 shall have been fully determined in accordance with the provisions of this chapter.

2183 § 40.1-49.5. Appeals to Supreme Court.

2184 Appeals shall lie from the order of the circuit court to the ~~Court of Appeals~~ *Supreme Court* in a
2185 manner provided by ~~§ 17.1-405~~ and the ~~rules~~ *Rules* of ~~the~~ Supreme Court.

2186 § 40.1-51.38. Appeal to Supreme Court.

2187 The Commonwealth or any party aggrieved by any final decision of the judge shall have, regardless
2188 of the amount involved, the right to appeal to the ~~Court of Appeals~~ *Supreme Court*. The procedure shall
2189 be the same as that provided by law concerning appeals and supersedeas.

2190 § 46.2-321. Appeal from denial, suspension, or revocation of license; operation of vehicle pending
2191 appeal.

2192 Any person denied a license or whose license has been revoked, suspended, or cancelled under this
2193 article may appeal in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et
2194 seq.). From the final judgment of the court, either the petitioner or the Commonwealth shall have an
2195 appeal as a matter of right to the ~~Court of Appeals~~ *Supreme Court*.

2196 While an appeal is pending from the action of the Department denying a license or from the court
2197 affirming the action of the Department, the person aggrieved shall not drive a motor vehicle on the
2198 highways of the Commonwealth.

2199 § 46.2-341.34. Appeals.

2200 Any person denied a commercial driver's license or who has been disqualified from operating a
2201 commercial motor vehicle under the provisions of this article is entitled to judicial review in accordance
2202 with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). No appeal shall lie in any
2203 case in which such denial or disqualification was mandatory except to determine the identity of the
2204 person concerned when the question of identity is in dispute.

2205 From the final decision of the circuit court, either party shall have an appeal as of right to the ~~Court~~
2206 ~~of Appeals~~ *Supreme Court*.

2207 While an appeal is pending from the action of the Department disqualifying the person or denying
2208 him a license, or from the court affirming the action of the Department, the person aggrieved shall not
2209 drive a commercial motor vehicle.

2210 § 46.2-362. Appeals.

2211 An appeal to the circuit court may be taken from any final action or order of the general district

court under former § 46.2-355 in the same manner and form as provided in §§ 16.1-106 and 16.1-107. An appeal to the ~~Court of Appeals~~ *Supreme Court* may be taken from any final action or order of a circuit court entered under this article in the same manner and form as such an appeal would be taken in any criminal case.

§ 46.2-410. Appeals from order suspending or revoking license or registration.

Any person aggrieved by an order or act of the Commissioner requiring suspension or revocation of a license or registration under the provisions of this chapter is entitled to judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). No appeal shall lie in any case in which the suspension or revocation of the license or registration was mandatory except to determine the identity of the person concerned when the question of identity is in dispute.

From the final decision of the circuit court, either the person who petitioned the court for an appeal or the Commissioner shall have an appeal as of right to the ~~Court of Appeals~~ *Supreme Court*.

§ 46.2-1578. Appeals to Supreme Court; bond.

Either party may appeal from the decision of the court under § 46.2-1577 to the ~~Court of Appeals~~ *Supreme Court*. These appeals shall be taken and prosecuted in the same manner and with like effect as is provided by law in other cases appealed as a matter of right to the ~~Court of Appeals~~ *Supreme Court*.

§ 46.2-1988. Appeals to Supreme Court.

Either party may appeal from the decision of the court under § 46.2-1987 to the ~~Court of Appeals~~ *Supreme Court*. These appeals shall be taken and prosecuted in the same manner and with like effect as is provided by law in other cases appealed as a matter of right to the ~~Court of Appeals~~ *Supreme Court*.

§ 46.2-1992.82. Appeals to Supreme Court.

Either party may appeal from the decision of the court under § 46.2-1992.81 to the ~~Court of Appeals~~ *Supreme Court*. These appeals shall be taken and prosecuted in the same manner and with like effect as is provided by law in other cases appealed as a matter of right to the ~~Court of Appeals~~ *Supreme Court*.

§ 46.2-1993.79. Appeals to Supreme Court.

Either party may appeal from the decision of the court under § 46.2-1993.78 to the ~~Court of Appeals~~ *Supreme Court*. These appeals shall be taken and prosecuted in the same manner and with like effect as is provided by law in other cases appealed as a matter of right to the ~~Court of Appeals~~ *Supreme Court*.

§ 46.2-2825.3. Appeals to Supreme Court.

Either party may appeal from the decision of the court under § 46.2-2825.2 to the ~~Court of Appeals~~ *Supreme Court*. These appeals shall be taken and prosecuted in the same manner and with like effect as is provided by law in other cases appealed as a matter of right to the ~~Court of Appeals~~ *Supreme Court*.

§ 49-13. How new or additional bonds required and given; failure to give.

The proper court, whenever, in its opinion, it may be necessary for the protection of the public interests, may order any officer, of whom a bond is required by law, to give a new bond, or a bond in addition to one already given, within such time, not less than ten nor more than thirty days, as the court may prescribe; but the officer shall be served with a copy of a summons or rule, at least ten days before the order is made, citing him to appear and show cause against the same. The summons or rule shall be awarded whenever the court deems it proper, or on application to the court by the attorney for the Commonwealth, or, if the application is to the Supreme Court ~~or the Court of Appeals~~, by the Attorney General. Such order shall be made by the circuit court of the county or city, if such officer is an officer of such county or city or any district thereof or by the Supreme Court ~~or Court of Appeals~~, if he is a clerk of either court. Any new bond or additional bond given before the Supreme Court ~~or the Court of Appeals~~ shall be certified and transmitted to the clerk, to whom the original bond is required to be delivered, to be recorded by him. The bond may be given before the court requiring it or the judge thereof in vacation, or, if the court is the Supreme Court ~~or the Court of Appeals~~, before either court or any three of the ~~judges~~ *justices* thereof in vacation; and when the bond is given in vacation, it shall be certified and returned by the judge or judges, before whom it is given, to the clerk of the proper court, who shall file and record the same in his office. If any officer fail or refuse to give the bond so required of him within the time prescribed, his office shall be deemed vacant.

§ 49-22. Sureties on official bonds.

When the surety, or his committee or personal representative, of any officer, or commissioner or receiver under decree of a court, required to give bond shall petition the court by which the bond is taken, or in which, or in the clerk's office of which, it is recorded, or the circuit court of the county or city, in which, where the bond of such officer is not taken by or filed in any court or clerk's office, the officer resides, to be relieved from the suretyship, such court shall, on proof of reasonable notice of his intended motion, require such officer, commissioner or receiver to give a new bond in the same manner as if none had been given by him. The surety in any bond required to be approved by the Governor shall file his petition in the Circuit Court of the City of Richmond, and the surety in the bond of any clerk of the Supreme Court ~~or the Court of Appeals~~ shall file his petition in the court for which his principal is the clerk.

2273 § 53.1-40.1. Medical and mental health treatment of prisoners incapable of giving consent.

2274 A. The Director or his designee may petition the circuit court or any district court judge or any
2275 special justice, as defined in § 37.2-100, herein referred to as the court, of the county or city in which
2276 the prisoner is located for an order authorizing treatment of a prisoner sentenced and committed to the
2277 Department of Corrections. The court shall authorize such treatment in a facility designated by the
2278 Director upon finding, on the basis of clear and convincing evidence, that the prisoner is incapable,
2279 either mentally or physically, of giving informed consent to such treatment and that the proposed
2280 treatment is in the best interests of the prisoner.

2281 B. Prior to the court's authorization of such treatment, the court shall appoint an attorney to represent
2282 the interests of the prisoner. Evidence shall be presented concerning the prisoner's condition and
2283 proposed treatment, which evidence may, in the court's discretion and in the absence of objection by the
2284 prisoner or the prisoner's attorney, be submitted by affidavit.

2285 C. Any order authorizing treatment pursuant to subsection A shall describe the treatment authorized
2286 and authorize generally such examinations, tests, medications, and other treatments as are in the best
2287 interests of the prisoner but may not authorize nontherapeutic sterilization, abortion, or psychosurgery.
2288 Such order shall require the licensed physician, psychiatrist or clinical psychologist acting within his
2289 area of expertise who is treating the prisoner to report to the court and the prisoner's attorney any
2290 change in the prisoner's condition resulting in restoration of the prisoner's capability to consent prior to
2291 completion of the authorized treatment and related services. Upon receipt of such report, the court may
2292 enter such order withdrawing or modifying its prior authorization as it deems appropriate. Any petition
2293 or order under this section may be orally presented or entered, provided a written order is subsequently
2294 executed.

2295 D. Any order of a judge under subsection A may be appealed de novo within 10 days to the circuit
2296 court for the jurisdiction where the prisoner is located, and any order of a circuit court hereunder, either
2297 originally or on appeal, may be appealed within 10 days to the ~~Court of Appeals~~ *Supreme Court*, which
2298 shall give such appeal priority and hear the appeal as soon as possible.

2299 E. Whenever the director of any hospital or facility reasonably believes that treatment is necessary to
2300 protect the life, health, or safety of a prisoner, such treatment may be given during the period allowed
2301 for any appeal unless prohibited by order of a court of record wherein the appeal is pending.

2302 F. Upon the advice of a licensed physician, psychiatrist, or clinical psychologist acting within his
2303 area of expertise who has attempted to obtain consent and upon a finding of probable cause to believe
2304 that a prisoner is incapable, due to any physical or mental condition, of giving informed consent to
2305 treatment and that the medical standard of care calls for testing, observation, or other treatment within
2306 the next 12 hours to prevent death, disability or a serious irreversible condition, the court or, if the court
2307 is unavailable, a magistrate shall issue an order authorizing temporary admission of the prisoner to a
2308 hospital or other health care facility and authorizing such testing, observation, or other treatment. Such
2309 order shall expire after a period of 12 hours unless extended by the court as part of an order authorizing
2310 treatment under subsection A.

2311 G. Any licensed health professional or licensed facility providing services pursuant to the court's or
2312 magistrate's authorization as provided in this section shall have no liability arising out of a claim to the
2313 extent it is based on lack of consent to such services. Any such professional or facility providing
2314 services with the consent of the prisoner receiving treatment shall have no liability arising out of a claim
2315 to the extent it is based on lack of capacity to consent if a court or a magistrate has denied a petition
2316 hereunder to authorize such services, and such denial was based on an affirmative finding that the
2317 prisoner was capable of making an informed decision regarding the proposed services.

2318 H. Nothing in this section shall be deemed to limit or repeal any common law rule relating to
2319 consent for medical treatment or the right to apply or the authority conferred by any other applicable
2320 statute or regulation relating to consent.

2321 § 53.1-78. Jail for Supreme Court.

2322 The jail of any county or city in which the Supreme Court ~~or Court of Appeals~~ or a panel thereof is
2323 sitting, may be used as a jail for such court.

2324 § 54.1-3935. Procedure for revocation of license.

2325 A. If the Supreme Court, ~~the Court of Appeals~~, or any circuit court of ~~this~~ *the* Commonwealth
2326 observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney
2327 has been convicted of a misdemeanor involving moral turpitude or a felony or has violated the Virginia
2328 Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for
2329 investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against
2330 such attorney to show cause why his license to practice law shall not be revoked. If the complaint,
2331 verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a
2332 rule against the attorney to show cause why his license to practice law shall not be revoked.

2333 B. If the rule is issued by the Supreme Court ~~or the Court of Appeals~~, the rule shall be returnable to
2334 the Circuit Court of the City of Richmond. At the time the rule is issued by the Supreme Court, the

Chief Justice shall designate three circuit court judges to hear and decide the case. If the rule is issued by the Court of Appeals or a circuit court, the issuing court shall certify the fact of such issuance and the time and place of the hearing thereon, to the Chief Justice of the Supreme Court, who shall designate three circuit court judges of circuits other than the circuit in which the case is pending to hear and decide the case. In proceedings under this section, the court shall adopt the Rules and Procedures described in Part Six, Section IV, Paragraph 13 of the Rules of Court.

C. Bar Counsel of the Virginia State Bar shall prosecute the case. Special counsel may be appointed to prosecute the case pursuant to § 2.2-510.

D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked or suspended for such time as the court may prescribe. In lieu of revocation or suspension, the court may impose any other sanction authorized by Part Six, Section IV, Paragraph 13 of the Rules of Court. In any case in which the attorney is found guilty of engaging in any criminal activity that violates the Virginia Rules of Professional Conduct and results in the loss of property of one or more of the attorney's clients, the court shall also require, in instances where the attorney is allowed to retain his license, or is permitted to have his license reinstated or restored, that such attorney maintain professional malpractice insurance during the time for which he is licensed to practice law in the Commonwealth. The Virginia State Bar shall establish standards setting forth the minimum amount of coverage that the attorney shall maintain in order to meet the requirements of this subsection. The attorney shall certify to the Virginia State Bar that he has the required insurance and shall provide the name of the insurance carrier and the policy number.

E. The attorney, may, as of right, appeal from the judgment of the court to the Supreme Court pursuant to the procedure for filing an appeal from a trial court, as set forth in Part 5 of the Rules of Court. In any such appeal, the Supreme Court may, upon petition of the attorney, stay the effect of an order of suspension during the pendency of the appeal. Any order of reprimand shall be automatically stayed prior to or during the pendency of an appeal therefrom. No stay shall be granted in cases where the attorney's license to practice law has been revoked.

F. In any proceeding to revoke the license of an attorney, the attorney shall be entitled to representation by counsel.

G. Nothing in this section shall affect the right of a court to require from an attorney security for his good behavior, or to fine him for contempt of court.

§ 54.1-3937. Procedure for revocation of certificate of registration of professional law corporations or professional limited liability companies.

A. If the Supreme Court, the Court of Appeals or any circuit court of this the Commonwealth observes, or if a complaint, verified by affidavit, is made by any person to a circuit court having jurisdiction where the alleged violation occurred, that any law corporation or professional limited liability company has willfully failed to comply with the applicable ethical standards of the Virginia Code of Professional Responsibility or the applicable statutes governing professional corporations or professional limited liability companies, such court may issue a rule against such law corporation or law professional limited liability company to show cause why its certificate of registration should not be revoked. If the complaint, verified by affidavit, is made by the Bar Counsel or a district committee of the Virginia State Bar, the court shall issue a rule against the law corporation or law professional limited liability company to show cause why its certificate of registration should not be revoked. However, such rule shall not issue if the violation is (i) that of one or several persons only and the interest of justice and the protection of the public can be fairly served by appropriate disciplinary proceedings against the individuals involved, or (ii) that the law corporation does not have a valid certificate of registration.

B. If the rule is issued by the Supreme Court, the rule shall be returnable to the Circuit Court of the City of Richmond. At the time the rule is issued, the Chief Justice of the Supreme Court shall designate three circuit court judges to hear and decide the case.

If the rule is issued by a circuit court or the Court of Appeals, it shall thereupon certify the fact of such issuance to the Chief Justice of the Supreme Court. The Chief Justice shall designate three circuit court judges of circuits other than the circuit in which the case is pending to hear and decide the case.

C. Bar Counsel of the Virginia State Bar shall prosecute the case. Special counsel may be appointed to prosecute the case pursuant to § 2.2-510.

D. If, after notice and opportunity to be heard, the law corporation or law professional limited liability company is found guilty by the court of a willful failure to comply with the applicable ethical standards in the Virginia Code of Professional Responsibility or the applicable statutes governing professional corporations or professional limited liability companies, the court may (i) reprimand the professional corporation or professional limited liability company, (ii) put it on terms to comply with the applicable law or ethical standards within a reasonable time upon condition that failure to comply shall constitute grounds for suspension or revocation of the certificate of registration or for other disciplinary action, or (iii) suspend or revoke the certificate of registration. If the violation is such that it can be

2396 corrected upon notice to the law corporation or law professional limited liability company and it is
2397 corrected to the satisfaction of the court, or if the violation is that of one or several persons only, the
2398 certificate of registration shall not be suspended or revoked if the interest of justice and the protection of
2399 the public can be fairly served by applicable disciplinary proceedings against the individuals involved.

2400 E. The law corporation or professional limited liability company may, as of right, appeal from the
2401 judgment of the court to the Supreme Court by petition based upon a true transcript of the record, which
2402 shall be made up and certified as in actions at law. In all cases where a professional corporation's or
2403 professional limited liability company's certificate of registration has been revoked or suspended by the
2404 court, such revocation or suspension shall be suspended pending appeal.

2405 F. In any proceedings under this section the defendant shall be entitled to a full and fair hearing and
2406 representation by counsel.

2407 § 57-2.02. Religious freedom preserved; definitions; applicability; construction; remedies.

2408 A. As used in this section:

2409 "Demonstrates" means meets the burdens of going forward with the evidence and of persuasion under
2410 the standard of clear and convincing evidence.

2411 "Exercise of religion" means the exercise of religion under Article I, Section 16 of the Constitution
2412 of Virginia, the Virginia Act for Religious Freedom (§ 57-1 et seq.), and the First Amendment to the
2413 United States Constitution.

2414 "Government entity" means any branch, department, agency, or instrumentality of state government,
2415 or any official or other person acting under color of state law, or any political subdivision of the
2416 Commonwealth and does not include the Department of Corrections, the Department of Juvenile Justice,
2417 and any facility of the Department of Behavioral Health and Developmental Services that treats civilly
2418 committed sexually violent predators, or any local, regional or federal correctional facility.

2419 "Prevails" means to obtain "prevailing party" status as defined by courts construing the federal Civil
2420 Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988.

2421 "Substantially burden" means to inhibit or curtail religiously motivated practice.

2422 B. No government entity shall substantially burden a person's free exercise of religion even if the
2423 burden results from a rule of general applicability unless it demonstrates that application of the burden
2424 to the person is (i) essential to further a compelling governmental interest and (ii) the least restrictive
2425 means of furthering that compelling governmental interest.

2426 C. Nothing in this section shall be construed to (i) authorize any government entity to burden any
2427 religious belief or (ii) affect, interpret or in any way address those portions of Article 1, Section 16 of
2428 the Constitution of Virginia, the Virginia Act for Religious Freedom (§ 57-1 et seq.), and the First
2429 Amendment to the United States Constitution that prohibit laws respecting the establishment of religion.
2430 Granting government funds, benefits or exemptions, to the extent permissible under clause (ii) of this
2431 subsection, shall not constitute a violation of this section. As used in this subsection, "granting" used
2432 with respect to government funding, benefits, or exemptions shall not include the denial of government
2433 funding, benefits, or exemptions.

2434 D. A person whose religious exercise has been burdened by government in violation of this section
2435 may assert that violation as a claim or defense in any judicial or administrative proceeding and may
2436 obtain declaratory and injunctive relief from a circuit court, but shall not obtain monetary damages. A
2437 person who prevails in any proceeding to enforce this section against a government entity may recover
2438 his reasonable costs and attorney fees. The provisions of this subsection relating to attorney fees shall
2439 not apply to criminal prosecutions.

2440 E. Nothing in this section shall prevent any governmental institution or facility from maintaining
2441 health, safety, security or discipline.

2442 F. The decision of the circuit court to grant or deny declaratory and injunctive relief may be
2443 appealed by petition to the ~~Court of Appeals of Virginia~~ Supreme Court.

2444 § 57-67. Application to court for relief.

2445 Any person aggrieved by any final order of the Commissioner is entitled to judicial review in
2446 accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Either party may
2447 appeal any final order of such court to the ~~Court of Appeals~~ Supreme Court in the same manner as
2448 provided by law in cases of appeals of right.

2449 § 58.1-2282. Appeal of Commissioner's decisions.

2450 A. Any person against whom an assessment, order or decision of the Commissioner has been
2451 adversely rendered, which assessment, order, or decision relates to the collection of unreported,
2452 incorrectly or fraudulently reported taxes, the granting or canceling of a license, the filing of a bond, an
2453 increase in the amount of a bond, a change of surety on a bond, the filing of reports, the examination of
2454 records, or any other matter wherein the findings are in the discretion of the Commissioner, may, within
2455 thirty days from the date thereof, file a petition of appeal from such assessment, order, or decision, in
2456 the circuit court in the city or county wherein such person resides, provided that any petition for a
2457 refund for taxes timely paid shall be filed within one year of the date of payment. A copy of the

petition shall be sent to the Commissioner at the time of the filing with the court. The original shall show, by certificate, the date of mailing such copy to the Commissioner.

B. In any proceeding under this section, the assessments by the Commissioner shall be presumed correct. The burden of proof shall be upon the petitioner to show that the assessment was incorrect and contrary to law. The circuit court is authorized to enter judgment against such person for the taxes, penalty, and interest due. The failure by any such person to appeal under the provisions of this section within the time period specified shall render the assessment, order, or decision of the Commissioner conclusively valid and binding upon such person. Such person or the Commissioner may petition the ~~Court of Appeals~~ *Supreme Court* from the final decision of the circuit court.

§ 58.1-4027. Judicial review.

The action of the Board in granting, or in refusing to grant, in suspending or revoking any license under the provisions of this chapter shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the ~~Court of Appeals~~ *Supreme Court* from any order of the court.

§ 60.2-500. Determination with respect to whether employing unit is employer; whether services constitute employment; or whether business transfer is illegal.

A. The Commission may, upon its own motion or upon application of an employing unit, and after not less than 30 days' notice in writing mailed to the last known address of such employing unit and an opportunity for hearing, make findings of fact, and on that basis, determine whether:

1. An employing unit constitutes an employer;
2. Services performed for or in connection with the business of an employing unit constitute employment for such employing unit; or
3. There has been a transfer as defined in § 60.2-536.1.

B. All testimony at any hearing pursuant to this section shall be recorded but need not be transcribed unless a petition for judicial review from such determination is filed in the manner herein prescribed. At such hearing the interests of the Commonwealth shall be represented by the Office of the Attorney General. The Commissioner shall have the power to designate a special examiner to hold such hearings, and may authorize and empower such special examiner to decide any matter so heard, in which event the decision of such special examiner shall be the final decision of the Commission under this section, subject to judicial review under subsection C. The Commissioner or his designee shall promptly inform the appropriate attorney for the Commonwealth of any final decision that an employer transferred or attempted to transfer a trade or business for the primary or sole purpose of obtaining a lower unemployment tax rate, or was advised to do so.

C. Judicial review of any such determination made in subsection B may be initiated within 30 days after mailing notice of such findings and determination to the employing unit or, in the absence of mailing, within 30 days after delivering such notice and determination, in the Circuit Court of the City of Richmond. Such judicial review shall be commenced by the filing of a petition, which need not be verified but which shall state the grounds upon which a review is sought. Service of two copies of such petition upon the Commissioner shall be deemed completed service and such petition shall be filed with the clerk of the court within five days after service thereof. With its answer the Commission shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. In any judicial proceedings under this article, the Commission's findings of facts, if supported by the evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the court shall be confined to questions of law. Such actions shall be given preference on the docket over all other cases except cases to which the Commonwealth is a party.

D. An appeal may be taken from the decision of such court to the ~~Court of Appeals~~ *Supreme Court*, in conformity with ~~Part Five A~~ of the Rules of Supreme Court and other applicable laws. In any such proceedings for judicial review, the Commission shall be represented by the Office of the Attorney General. A determination by the Commission from which no judicial review has been commenced shall be conclusive in any subsequent judicial proceeding involving liability for taxes against the employing unit or its successor under the provisions of subdivision B 1 of § 60.2-210 and of subsection B of § 60.2-523.

§ 60.2-625. Judicial review.

A. Within ~~thirty~~ 30 days after the decision of the Commission upon a hearing pursuant to § 60.2-622 has been mailed, any party aggrieved who seeks judicial review shall commence an action in the circuit court of the county or city in which the individual who filed the claim was last employed. In such action against the Commission, the Commission and any other party to the administrative procedures before the Commission shall be named a defendant in a petition for judicial review. Such petition shall also state the grounds upon which a review is sought; it shall be served upon a member of the

Commission or upon such person as the Commission may designate, and such service shall be deemed completed service on all parties. There shall be left with the party so served as many copies of the petition as there are defendants, and the Commission shall forthwith mail one such copy to each such defendant. With its answer, the Commission shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. In any judicial proceedings under this chapter, the findings of the Commission as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the court shall be confined to questions of law. Such actions and the questions so certified shall be heard in a summary manner at the earliest possible date. An appeal may be taken from the decision of the court to the ~~Court of Appeals~~ *Supreme Court* in conformity with ~~Part Five A~~ of the Rules of Supreme Court and other applicable laws.

B. From any circuit court decision involving (i) the provisions of § 60.2-612 or § 60.2-618, (ii) whether an employing unit constitutes an employer or (iii) whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit, the ~~Court of Appeals~~ *Supreme Court* shall have jurisdiction to review such decision regardless of the amount involved in any claim for benefits. It shall not be necessary, in any proceeding under this chapter, to enter exceptions to the rulings of the Commission or an appeal tribunal, and no bond shall be required upon an appeal to any court. Upon the final determination of such judicial proceeding, the Commission shall administer the Unemployment Compensation Fund in accordance with such determination.

C. The Commission shall have the right to appeal a decision of a circuit court in any proceeding under this chapter.

§ 60.2-631. Board of Review.

A. The Commissioner, in his discretion, is hereby authorized to appoint a Board of Review consisting of three members, one of whom shall be designated chairman for a term of six years. The terms of the members first taking office shall be two, four, and six years, respectively, as designated by the Commissioner at the time of the appointment. Vacancies shall be filled by appointment by the Commissioner for the unexpired term. During his term of membership on the Board no member shall serve as an officer or committee member of any political organization. The members of the Board shall be compensated in a manner determined by the Commission. The Commission shall furnish the Board such stenographic and clerical assistance as the Board may require. All compensation of the members of the Board and all necessary expenses for the operation thereof shall be paid out of the administrative fund provided for in §§ 60.2-306 through 60.2-309 and §§ 60.2-311 through 60.2-313. The Commissioner may at any time, after notice and hearing, remove any member for cause. The Commissioner may, after thirty days' notice to the members of the Board and upon a finding that the Board is no longer needed, abolish the same.

B. 1. The Board shall meet upon the call of the chairman. It shall have the same powers and perform the same functions vested in the Commission in this title for review of decisions by an appeal tribunal, including the power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with disputed claims.

2. The Board may hold its hearings in the county or city where the claimant was last employed, except that hearings involving the provisions of subdivision 2 of § 60.2-612 shall be held in the county or city where the claimant was last employed. When the same or substantially similar evidence is relevant and material to matters in issue in claims by more than one individual or in claims by a single individual with respect to two or more weeks of unemployment, the same time and place for considering each such claim may be fixed, hearings thereon jointly conducted, and a single record of the proceedings made.

C. The Commission may issue such regulations as it deems necessary for the procedure of the Board in the conduct of its hearings. During the time the Board is organized under authority of the Commissioner, the Commission shall have no jurisdiction under § 60.2-622. Any decision of the Board shall become final ten days after the date of notification or mailing and judicial review shall be permitted the claimant, the Commission or any interested party claiming to be aggrieved. In any judicial action involving any such decision the Commission shall be represented by the Office of the Attorney General. Any decision of the Board from which no judicial review is sought within the time prescribed in § 60.2-625 shall be conclusive against any party to the hearing before the Board and the Commission in any subsequent judicial proceedings involving liability for taxes under this title.

D. Within the time specified in § 60.2-625 the Commission, or any party to the proceedings before the Board, may obtain judicial review by filing in the circuit court of the county or city in which the individual who filed the claim was last employed, in the Commonwealth, a petition for review of such decision. In any such proceeding any other party to the proceeding shall be made a party respondent.

The Commission shall be deemed to be a party to any such proceeding. The petition need not be verified. A copy of such petition shall be served upon the Commission and each party to the proceeding held before the Board at least ~~thirty~~ 30 days prior to the placing of the petition upon the docket. The mailing of a copy of such petition to each party at his last known address shall be sufficient service. The Commission shall file along with its petition or answer a certified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the Board's findings, conclusions and decision therein.

E. In any proceeding under this section the Board's findings of facts, if supported by the evidence and in the absence of fraud, shall be conclusive and the jurisdiction of the court shall be confined to questions of law. The court may order additional evidence to be taken by the Board, which such additional evidence, findings of fact or conclusions, together with the additional transcript of the record, shall be certified by the chairman of the Board and filed by him with the court. Such petition for review shall be heard in a summary manner and shall have preference over all other cases on the docket, except cases in which the Commonwealth is a party.

F. An appeal may be taken from the decision of such court to the ~~Court of Appeals~~ *Supreme Court* in conformity with ~~Part Five A~~ of the Rules of Supreme Court and other applicable laws. From any such decision involving (i) the provisions of § 60.2-612 or § 60.2-618, (ii) whether an employing unit constitutes an employer or (iii) whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit, the ~~Court of Appeals~~ *Supreme Court* shall have jurisdiction to review such decision regardless of the amount involved in any claim for benefits. It shall not be necessary, in any proceeding before the Board, to enter exceptions to its ruling, and no bond shall be required upon any appeal to any court. Upon the final determination of such judicial proceeding, the Board shall enter an order in accordance with such determination.

§ 62.1-44.24. Testing validity of regulations; judicial review.

(1) The validity of any regulation may be determined through judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

(2) [Repealed.]

(3) An appeal may be taken from the decision of the court to the ~~Court of Appeals~~ *Supreme Court* as provided by law.

§ 62.1-44.30. Appeal to Supreme Court.

From the final decision of the circuit court an appeal may be taken to the ~~Court of Appeals~~ *Supreme Court* as provided in § 17.1-405.

§ 62.1-111. When leave not granted; terms and conditions; appeals.

If, on the report and other evidence, it appears to the court that by granting such leave other riparian owners will be injured, or there are other justifiable reasons for denying the petition, the leave shall not be granted; provided that in no case shall leave be granted if the certified statement from the State Water Control Board filed under § 62.1-109 shows that, in the opinion of such Board, the reduction of pollution will be impaired or made more difficult. If it be granted, the court shall place the applicant under such terms and conditions as shall seem to it right. An appeal shall lie to the ~~Court of Appeals~~ *Supreme Court*.

§ 63.2-1216. Final order not subject to attack after six months.

After the expiration of six months from the date of entry of any final order of adoption from which no appeal has been taken to the ~~Court of Appeals~~ *Supreme Court*, the validity thereof shall not be subject to attack in any proceedings, collateral or direct, for any reason, including but not limited to fraud, duress, failure to give any required notice, failure of any procedural requirement, or lack of jurisdiction over any person, and such order shall be final for all purposes.

§ 65.2-101. Definitions.

As used in this title:

"Average weekly wage" means:

1. a. The earnings of the injured employee in the employment in which he was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, divided by 52; but if the injured employee lost more than seven consecutive calendar days during such period, although not in the same week, then the earnings for the remainder of the 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. When the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided that results fair and just to both parties will be thereby obtained. When, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of

2642 employment in the same locality or community.

2643 b. When for exceptional reasons the foregoing would be unfair either to the employer or employee,
2644 such other method of computing average weekly wages may be resorted to as will most nearly
2645 approximate the amount which the injured employee would be earning were it not for the injury.

2646 2. Whenever allowances of any character made to an employee in lieu of wages are a specified part
2647 of the wage contract, they shall be deemed a part of his earnings. For the purpose of this title, the
2648 average weekly wage of the members of the Virginia National Guard, the Virginia Naval Militia and the
2649 Virginia Defense Force, registered members on duty or in training of the United States Civil Defense
2650 Corps of ~~this~~the Commonwealth, volunteer firefighters engaged in firefighting activities under the
2651 supervision and control of the Department of Forestry, and forest wardens shall be deemed to be such
2652 amount as will entitle them to the maximum compensation payable under this title; however, any award
2653 entered under the provisions of this title on behalf of members of the National Guard, the Virginia
2654 Naval Militia or their dependents, or registered members on duty or in training of the United States
2655 Civil Defense Corps of ~~this~~ the Commonwealth or their dependents, shall be subject to credit for
2656 benefits paid them under existing or future federal law on account of injury or occupational disease
2657 covered by the provisions of this title.

2658 3. Whenever volunteer firefighters, volunteer lifesaving or volunteer rescue squad members, volunteer
2659 law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, volunteer
2660 emergency medical technicians, members of volunteer search and rescue organizations, volunteer
2661 members of community emergency response teams, and volunteer members of medical reserve corps are
2662 deemed employees under this title, their average weekly wage shall be deemed sufficient to produce the
2663 minimum compensation provided by this title for injured workers or their dependents. For the purposes
2664 of workers' compensation insurance premium calculations, the monthly payroll for each volunteer
2665 firefighter or volunteer lifesaving or volunteer rescue squad member shall be deemed to be \$300.

2666 4. The average weekly wage of persons, other than those covered in subdivision 3 of this definition,
2667 who respond to a hazardous materials incident at the request of the Department of Emergency
2668 Management shall be based upon the earnings of such persons from their primary employers.

2669 "Award" means the grant or denial of benefits or other relief under this title or any rule adopted
2670 pursuant thereto.

2671 "Change in condition" means a change in physical condition of the employee as well as any change
2672 in the conditions under which compensation was awarded, suspended, or terminated which would affect
2673 the right to, amount of, or duration of compensation.

2674 "Client company" means any person that enters into an agreement for professional employer services
2675 with a professional employer organization.

2676 "Coemployee" means an employee performing services pursuant to an agreement for professional
2677 employer services between a client company and a professional employer organization.

2678 "Commission" means the Virginia Workers' Compensation Commission as well as its former
2679 designation as the Virginia Industrial Commission.

2680 "Employee" means:

2681 1. a. Every person, including aliens and minors, in the service of another under any contract of hire
2682 or apprenticeship, written or implied, whether lawfully or unlawfully employed, except (i) one whose
2683 employment is not in the usual course of the trade, business, occupation or profession of the employer
2684 or (ii) as otherwise provided in subdivision 2 of this definition.

2685 b. Any apprentice, trainee, or retrainee who is regularly employed while receiving training or
2686 instruction outside of regular working hours and off the job, so long as the training or instruction is
2687 related to his employment and is authorized by his employer.

2688 c. Members of the Virginia National Guard and the Virginia Naval Militia, whether on duty in a paid
2689 or unpaid status or when performing voluntary service to their unit in a nonduty status at the request of
2690 their commander.

2691 Income benefits for members of the National Guard or Naval Militia shall be terminated when they
2692 are able to return to their customary civilian employment or self-employment. If they are neither
2693 employed nor self-employed, those benefits shall terminate when they are able to return to their military
2694 duties. If a member of the National Guard or Naval Militia who is fit to return to his customary civilian
2695 employment or self-employment remains unable to perform his military duties and thereby suffers loss
2696 of military pay which he would otherwise have earned, he shall be entitled to one day of income
2697 benefits for each unit training assembly or day of paid training which he is unable to attend.

2698 d. Members of the Virginia Defense Force.

2699 e. Registered members of the United States Civil Defense Corps of ~~this~~the Commonwealth, whether
2700 on duty or in training.

2701 f. Except as provided in subdivision 2 of this definition, all officers and employees of the
2702 Commonwealth, including (i) forest wardens; (ii) judges, clerks, deputy clerks and employees of juvenile
2703 and domestic relations district courts and general district courts; and (iii) secretaries and administrative

assistants for officers and members of the General Assembly employed pursuant to § 30-19.4 and compensated as provided in the general appropriation act, who shall be deemed employees of the Commonwealth.

g. Except as provided in subdivision 2 of this definition, all officers and employees of a municipal corporation or political subdivision of the Commonwealth.

h. Except as provided in subdivision 2 of this definition, (i) every executive officer, including president, vice-president, secretary, treasurer or other officer, elected or appointed in accordance with the charter and bylaws of a corporation, municipal or otherwise and (ii) every manager of a limited liability company elected or appointed in accordance with the articles of organization or operating agreement of the limited liability company.

i. Policemen and firefighters, sheriffs and their deputies, town sergeants and their deputies, county and city commissioners of the revenue, county and city treasurers, attorneys for the Commonwealth, clerks of circuit courts and their deputies, officers and employees, and electoral board members appointed in accordance with § 24.2-106, who shall be deemed employees of the respective cities, counties and towns in which their services are employed and by whom their salaries are paid or in which their compensation is earnable. However, notwithstanding the foregoing provision of this subdivision, such individuals who would otherwise be deemed to be employees of the city, county, or town in which their services are employed and by whom their salaries are paid or in which their compensation is earnable shall be deemed to be employees of the Commonwealth while rendering aid outside of the Commonwealth pursuant to a request, approved by the Commonwealth, under the Emergency Management Assistance Compact enacted pursuant to § 44-146.28:1.

j. Members of the governing body of any county, city or town in the Commonwealth, whenever coverage under this title is extended to such members by resolution or ordinance duly adopted.

k. Volunteers, officers and employees of any commission or board of any authority created or controlled by a local governing body, or any local agency or public service corporation owned, operated or controlled by such local governing body, whenever coverage under this title is authorized by resolution or ordinance duly adopted by the governing board of any county, city, town, or any political subdivision thereof.

l. Except as provided in subdivision 2 of this definition, volunteer firefighters, volunteer lifesaving or rescue squad members, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, volunteer emergency medical technicians, members of volunteer search and rescue organizations, volunteer members of regional hazardous materials emergency response teams, volunteer members of community emergency response teams, and volunteer members of medical reserve corps, who shall be deemed employees of (i) the political subdivision or state institution of higher education in which the principal office of such volunteer fire company, volunteer lifesaving or rescue squad, volunteer law-enforcement chaplains, auxiliary or reserve police force, auxiliary or reserve deputy sheriff force, volunteer emergency medical technicians, volunteer search and rescue organization, regional hazardous materials emergency response team, community emergency response team, or medical reserve corps is located if the governing body of such political subdivision or state institution of higher education has adopted a resolution acknowledging those persons as employees for the purposes of this title or (ii) in the case of volunteer firefighters or volunteer lifesaving or rescue squad members, the companies or squads for which volunteer services are provided whenever such companies or squads elect to be included as an employer under this title.

m. (1) Volunteer firefighters, volunteer lifesaving or rescue squad members, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, volunteer emergency medical technicians, members of volunteer search and rescue organizations and any other persons who respond to an incident upon request of the Department of Emergency Management, who shall be deemed employees of the Department of Emergency Management for the purposes of this title.

(2) Volunteer firefighters when engaged in firefighting activities under the supervision and control of the Department of Forestry, who shall be deemed employees of the Department of Forestry for the purposes of this title.

n. Any sole proprietor, shareholder of a stock corporation having only one shareholder, member of a limited liability company having only one member, or all partners of a business electing to be included as an employee under the workers' compensation coverage of such business if the insurer is notified of this election. Any sole proprietor, shareholder or member or the partners shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this title.

When any partner or sole shareholder, member or proprietor is entitled to receive coverage under this title, such person shall be subject to all provisions of this title as if he were an employee; however, the notices required under §§ 65.2-405 and 65.2-600 of this title shall be given to the insurance carrier, and the panel of physicians required under § 65.2-603 shall be selected by the insurance carrier.

o. The independent contractor of any employer subject to this title at the election of such employer

2765 provided (i) the independent contractor agrees to such inclusion and (ii) unless the employer is
2766 self-insured, the employer's insurer agrees in writing to such inclusion. All or part of the cost of the
2767 insurance coverage of the independent contractor may be borne by the independent contractor.

2768 When any independent contractor is entitled to receive coverage under this section, such person shall
2769 be subject to all provisions of this title as if he were an employee, provided that the notices required
2770 under §§ 65.2-405 and 65.2-600 are given either to the employer or its insurance carrier.

2771 However, nothing in this title shall be construed to make the employees of any independent
2772 contractor the employees of the person or corporation employing or contracting with such independent
2773 contractor.

2774 p. The legal representative, dependents and any other persons to whom compensation may be payable
2775 when any person covered as an employee under this title shall be deceased.

2776 q. Jail officers and jail superintendents employed by regional jails or jail farm boards or authorities,
2777 whether created pursuant to Article 3.1 (§ 53.1-95.2 et seq.) or Article 5 (§ 53.1-105 et seq.) of Chapter
2778 3 of Title 53.1, or an act of assembly.

2779 r. AmeriCorps members who receive stipends in return for volunteering in local, state and nonprofit
2780 agencies in the Commonwealth, who shall be deemed employees of the Commonwealth for the purposes
2781 of this title.

2782 s. Food Stamp recipients participating in the work experience component of the Food Stamp
2783 Employment and Training Program, who shall be deemed employees of the Commonwealth for the
2784 purposes of this title.

2785 t. Temporary Assistance for Needy Families recipients not eligible for Medicaid participating in the
2786 work experience component of the Virginia Initiative for Employment Not Welfare Program, who shall
2787 be deemed employees of the Commonwealth for the purposes of this title.

2788 2. "Employee" shall not mean:

2789 a. Officers and employees of the Commonwealth who are elected by the General Assembly, or
2790 appointed by the Governor, either with or without the confirmation of the Senate. This exception shall
2791 not apply to any "state employee" as defined in § 51.1-124.3 nor to Supreme Court Justices, ~~judges of~~
2792 ~~the Court of Appeals~~, judges of the circuit or district courts, members of the Workers' Compensation
2793 Commission and the State Corporation Commission, or the Superintendent of State Police.

2794 b. Officers and employees of municipal corporations and political subdivisions of the Commonwealth
2795 who are elected by the people or by the governing bodies, and who act in purely administrative
2796 capacities and are to serve for a definite term of office.

2797 c. Any person who is a licensed real estate salesperson, or a licensed real estate broker associated
2798 with a real estate broker, if (i) substantially all of the salesperson's or associated broker's remuneration is
2799 derived from real estate commissions, (ii) the services of the salesperson or associated broker are
2800 performed under a written contract specifying that the salesperson is an independent contractor, and (iii)
2801 such contract includes a provision that the salesperson or associated broker will not be treated as an
2802 employee for federal income tax purposes.

2803 d. Any taxicab or executive sedan driver, provided the Commission is furnished evidence that such
2804 individual is excluded from taxation by the Federal Unemployment Tax Act.

2805 e. Casual employees.

2806 f. Domestic servants.

2807 g. Farm and horticultural laborers, unless the employer regularly has in service more than three
2808 full-time employees.

2809 h. Employees of any person, firm or private corporation, including any public service corporation,
2810 that has regularly in service less than three employees in the same business within this Commonwealth,
2811 unless such employees and their employers voluntarily elect to be bound by this title. However, this
2812 exemption shall not apply to the operators of underground coal mines or their employees. An executive
2813 officer who is not paid salary or wages on a regular basis at an agreed upon amount and who rejects
2814 coverage under this title pursuant to § 65.2-300 shall not be included as an employee for purposes of
2815 this subdivision.

2816 i. Employees of any common carrier by railroad engaging in commerce between any of the several
2817 states or territories or between the District of Columbia and any of the states or territories and any
2818 foreign nation or nations, and any person suffering injury or death while he is employed by such carrier
2819 in such commerce. This title shall not be construed to lessen the liability of any such common carrier or
2820 to diminish or take away in any respect any right that any person so employed, or the personal
2821 representative, kindred or relation, or dependent of such person, may have under the act of Congress
2822 relating to the liability of common carriers by railroad to their employees in certain cases, approved
2823 April 22, 1908, or under §§ 8.01-57 through 8.01-62 or § 56-441.

2824 j. Employees of common carriers by railroad who are engaged in intrastate trade or commerce.
2825 However, this title shall not be construed to lessen the liability of such common carriers or take away or
2826 diminish any right that any employee or, in case of his death, the personal representative of such

employee of such common carrier may have under §§ 8.01-57 through 8.01-61 or § 56-441.

k. Except as provided in subdivision 1 of this definition, a member of a volunteer fire-fighting, lifesaving or rescue squad when engaged in activities related principally to participation as a member of such squad whether or not the volunteer continues to receive compensation from his employer for time away from the job.

l. Except as otherwise provided in this title, noncompensated employees and noncompensated directors of corporations exempt from taxation pursuant to § 501 (c) (3) of Title 26 of the United States Code (Internal Revenue Code of 1954).

m. Any person performing services as a sports official for an entity sponsoring an interscholastic or intercollegiate sports event or any person performing services as a sports official for a public entity or a private, nonprofit organization which sponsors an amateur sports event. For the purposes of this subdivision, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper or other person who is a neutral participant in a sports event. This shall not include any person, otherwise employed by an organization or entity sponsoring a sports event, who performs services as a sports official as part of his regular employment.

"Employer" includes (i) any person, the Commonwealth or any political subdivision thereof and any individual, firm, association or corporation, or the receiver or trustee of the same, or the legal representative of a deceased employer, using the service of another for pay and (ii) any volunteer fire company or volunteer lifesaving or rescue squad electing to be included and maintaining coverage as an employer under this title. If the employer is insured, it includes his insurer so far as applicable.

"Executive officer" means (i) the president, vice-president, secretary, treasurer or other officer, elected or appointed in accordance with the charter and bylaws of a corporation and (ii) the managers elected or appointed in accordance with the articles of organization or operating agreement of a limited liability company. However, such term does not include noncompensated officers of corporations exempt from taxation pursuant to § 501 (c) (3) of Title 26 of the United States Code (Internal Revenue Code of 1954).

"Filed" means hand delivered to the Commission's office in Richmond or any regional office maintained by the Commission; sent by telegraph, electronic mail or other means of electronic transmission approved by the Commission or facsimile transmission; or posted at any post office of the United States Postal Service by certified or registered mail. Filing by first-class mail, telegraph, electronic mail or other means of electronic transmission or facsimile transmission shall be deemed completed only when the document or other material transmitted reaches the Commission or its designated agent.

"Injury" means only injury by accident arising out of and in the course of the employment or occupational disease as defined in Chapter 4 (§ 65.2-400 et seq.) of this title and does not include a disease in any form, except when it results naturally and unavoidably from either of the foregoing causes. Such term shall not include any injury, disease or condition resulting from an employee's voluntary:

1. Participation in employer-sponsored off-duty recreational activities which are not part of the employee's duties; or

2. Use of a motor vehicle that was provided to the employee by a motor vehicle dealer as defined by § 46.2-1500 and bears a dealer's license plate as defined by § 46.2-1550 for (i) commuting to or from work or (ii) any other nonwork activity.

Such term shall include any injury, disease or condition:

1. Arising out of and in the course of the employment of (a) an employee of a hospital as defined in § 32.1-123; (b) an employee of a health care provider as defined in § 8.01-581.1; (c) an employee of the Department of Health or a local department of health; (d) a member of a search and rescue organization; or (e) any person described in clauses (i) through (iv), (vi), and (ix) of subsection A of § 65.2-402.1 otherwise subject to the provisions of this title; and

2. Resulting from (a) the administration of vaccinia (smallpox) vaccine, Cidofivir and derivatives thereof, or Vaccinia Immune Globulin as part of federally initiated smallpox countermeasures, or (b) transmission of vaccinia in the course of employment from an employee participating in such countermeasures to a coemployee of the same employer.

"Professional employer organization" means any person that enters into a written agreement with a client company to provide professional employer services.

"Professional employer services" means services provided to a client company pursuant to a written agreement with a professional employer organization whereby the professional employer organization initially employs all or a majority of a client company's workforce and assumes responsibilities as an employer for all coemployees that are assigned, allocated, or shared by the agreement between the professional employer organization and the client company.

"Staffing service" means any person, other than a professional employer organization, that hires its

own employees and assigns them to a client to support or supplement the client's workforce. It includes temporary staffing services that supply employees to clients in special work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects.

§ 65.2-701. Agreement as to compensation; penalty.

A. If after injury or death, the employer and the injured employee or his dependents reach an agreement in regard to compensation or in compromise of a claim for compensation under this title, a memorandum of the agreement in the form prescribed by the Commission shall be filed with the Commission for approval. The agreement may be prepared by the employee, the employer or the compensation carrier. If approved, the agreement shall be binding, and an award of compensation entered upon such agreement shall be for all purposes enforceable as provided by § 65.2-710. If not approved, the same agreement shall be void. Such agreement may be approved only when the Commission, or any member thereof, is clearly of the opinion that the best interests of the employee or his dependents will be served thereby. The approval of such agreement shall bind infant or incapacitated dependents affected thereby. Any agreement entered into during the pendency of an appeal to the ~~Court of Appeals~~ *Supreme Court* shall be effective only with the approval of the Commission as herein provided.

B. An employer or insurance carrier which fails to file a memorandum of such agreement with the Commission within ~~fourteen~~ 14 calendar days of the date of its complete written execution as indicated thereon may be subject to a fine not to exceed \$1,000 and to any other appropriate sanctions of the Commission.

C. Nothing herein contained shall be construed so as to prevent settlements made by and between the employee and employer, but rather to encourage them, so long as the amount of compensation and the time and manner of payment are approved by the Commission. A copy of such settlement agreement shall be filed with the Commission by the employer.

§ 65.2-706. Conclusiveness of award; appeal.

A. The award of the Commission, as provided in § 65.2-704, if not reviewed in due time, or an award of the Commission upon such review, as provided in § 65.2-705, shall be conclusive and binding as to all questions of fact. No appeal shall be taken from the decision of one Commissioner until a review of the case has been had before the full Commission, as provided in § 65.2-705, and an award entered by it. Appeals shall lie from such award to the ~~Court of Appeals~~ *Supreme Court* in the manner provided in the Rules of the Supreme Court.

B. The notice of appeal shall be filed with the clerk of the Commission within 30 days from the date of such award. A copy of the notice of appeal shall be filed in the office of the clerk of the ~~Court of Appeals~~ *Supreme Court* as provided in the Rules of Court.

C. Cases so appealed shall be placed upon the privileged docket of the ~~Court of Appeals~~ *Supreme Court* and be heard at the next ensuing term thereof. ~~In case of an appeal from the decision of the Commission to the Court of Appeals, or from the decision of the Court of Appeals to the Supreme Court, the~~ The appeal shall operate as a suspension of the award and no employer shall be required to make payment of the award involved in the appeal until the questions at issue therein shall have been fully determined in accordance with the provisions of this title.

2. That § 8.01-677.1, Chapter 4 (§§ 17.1-400 through 17.1-418) of Title 17.1, and §§ 19.2-321.1, 19.2-407, and 19.2-408 of the Code of Virginia are repealed.

3. That in any case within the appellate jurisdiction of the Court of Appeals of Virginia in which the judgment or other order appealed from is entered by the circuit court or by the Workers' Compensation Commission on or after October 1, 2012, appeal shall be only to the Supreme Court of Virginia. All filings, proceedings, and actions shall be in accordance with the Rules of Court promulgated for the Supreme Court.

4. That all cases within the jurisdiction of the Court of Appeals of Virginia under former §§ 17.1-404, 17.1-405, and 17.1-406 of the Code of Virginia shall be within the jurisdiction of the Supreme Court of Virginia beginning October 1, 2012.

5. That all appeals arising between the effective date of this act and October 1, 2012, shall be appealable to the Court of Appeals of Virginia and shall proceed under the statutes and Rules of Court as in effect on June 30, 2012, until their completion.

6. That each judge of the Court of Appeals of Virginia shall continue in office and shall continue to receive all salaries and allowances payable to him until the end of the term for which he was elected prior to July 1, 2012.