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SENATE BILL NO. 22

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 3, 2014)

(Patrons Prior to Substitute—Senators Ebbin and Saslaw [SB 521])

A BILL to amend and reenact §§ 19.2-53 and 19.2-56 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-16.1, relating to abolishing the common-law crime of suicide.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-53 and 19.2-56 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-16.1 as follows:

§ 18.2-16.1. *Common-law crime of suicide abolished.*

The common-law crime of suicide is hereby abolished.

§ 19.2-53. **What may be searched and seized.**

Search warrants may be issued for the search of or for specified places, things or persons, and seizure therefrom of the following things as specified in the warrant:

(1) Weapons or other objects used in the commission of crime;

(2) Articles or things the sale or possession of which is unlawful;

(3) Stolen property or the fruits of any crime;

(4) Any object, thing, or person, including without limitation, documents, books, papers, records or body fluids, constituting evidence of the commission of crime. Notwithstanding any other provision in this chapter to the contrary, no search warrant may be issued as a substitute for a witness subpoena. A search warrant may be issued for the search of specified places, things, or persons in connection with the commission of suicide when an autopsy is to be performed pursuant to § 32.1-285.

§ 19.2-56. **To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.**

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the United States Postal Inspection Service, or the Drug Enforcement Administration. The warrant shall (i) (a) name the affiant, ~~(ii)~~ (b) recite the offense *or suicide* in relation to which the search is to be made, ~~(iii)~~ (c) name or describe the place to be searched, ~~(iv)~~ (d) describe the property or person to be searched for, and ~~(v)~~ (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime *or of suicide* (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime *or has committed suicide*.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except ~~(i)~~ (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and ~~(ii)~~ (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be

SENATE SUBSTITUTE

SB22S1

60 executed upon such service provider may be executed within or without the Commonwealth by hand,
61 United States mail, commercial delivery service, facsimile, or other electronic means upon the service
62 provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this
63 paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory
64 attached (or a notation that no property was seized) and the accompanying affidavit, unless such
65 affidavit was made by voice or videotape recording, within three days after the materials ordered to be
66 produced are received by the officer from the service provider. The return shall be made in the circuit
67 court clerk's office for the jurisdiction wherein the warrant was issued. Saturdays, Sundays, or any
68 federal or state legal holiday shall not be used in computing the three-day filing period.

69 Electronic communication service or remote computing service providers, whether a foreign or
70 domestic corporation, shall also provide the contents of electronic communications pursuant to a search
71 warrant issued under this section and § 19.2-70.3 using the same process described in the preceding
72 paragraph.

73 Every search warrant shall contain the date and time it was issued. However, the failure of any such
74 search warrant to contain the date and time it was issued shall not render the warrant void, provided that
75 the date and time of issuing of said warrant is established by competent evidence.

76 The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of
77 the affidavit required by § 19.2-54, which shall become a part of the search warrant and served
78 therewith. However, this provision shall not be applicable in any case in which the affidavit is made by
79 means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

80 Any search warrant not executed within 15 days after issuance thereof shall be returned to, and
81 voided by, the officer who issued such search warrant.

82 For the purposes of this section:

83 "Foreign corporation" means any corporation or other entity, whose primary place of business is
84 located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of
85 service agreement with a resident of the Commonwealth to be performed in whole or in part by either
86 party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to
87 § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service
88 agreement or the issuance of a certificate of authority shall be considered to be the agreement of the
89 foreign corporation or entity that a search warrant or subpoena, which has been properly served on it,
90 has the same legal force and effect as if served personally within the Commonwealth.

91 "Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by
92 commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its
93 general manager in the Commonwealth, to any natural person designated by it as agent for the service
94 of process, or if such corporation has designated a corporate agent, to any person named in the latest
95 annual report filed pursuant to § 13.1-775.