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SENATE BILL NO. 686

Offered January 14, 2015

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A BILL to amend and reenact §§ 16.1-260, 18.2-248.1, 18.2-250.1, 18.2-251, 18.2-252, 18.2-255.1, 18.2-258, 18.2-259.1, 18.2-265.3, 18.2-287.2, 18.2-308.1:5, 18.2-460, 19.2-386.22, 46.2-390.1, and 53.1-203 of the Code of Virginia, relating to penalties; possession, distribution, etc., of marijuana.

Patrons—Ebbin; Delegates: Hope and Kory

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-260, 18.2-248.1, 18.2-250.1, 18.2-251, 18.2-252, 18.2-255.1, 18.2-258, 18.2-259.1, 18.2-265.3, 18.2-287.2, 18.2-308.1:5, 18.2-460, 19.2-386.22, 46.2-390.1, and 53.1-203 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) designated nonattorney employees of the Department of Social Services may complete, sign and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and

59 the attendance officer has provided documentation to the intake officer that the relevant school division  
60 has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the  
61 court. The intake officer may defer filing the complaint for 90 days and proceed informally by  
62 developing a truancy plan. The intake officer may proceed informally only if the juvenile has not  
63 previously been proceeded against informally or adjudicated in need of supervision for failure to comply  
64 with compulsory school attendance as provided in § 22.1-254. The juvenile and his parent or parents,  
65 guardian or other person standing in loco parentis must agree, in writing, for the development of a  
66 truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents,  
67 guardian or other person standing in loco parentis participate in such programs, cooperate in such  
68 treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's  
69 compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer  
70 the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an  
71 interagency interdisciplinary team approach. The team may include qualified personnel who are  
72 reasonably available from the appropriate department of social services, community services board, local  
73 school division, court service unit and other appropriate and available public and private agencies and  
74 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the  
75 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then  
76 the intake officer shall file the petition.

77 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child  
78 is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for  
79 the juvenile, which may include restitution and the performance of community service, based upon  
80 community resources and the circumstances which resulted in the complaint, (ii) create an official record  
81 of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise  
82 the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the  
83 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent  
84 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241  
85 will result in the filing of a petition with the court.

86 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,  
87 visitation or support of a child is the subject of controversy or requires determination, (ii) a person has  
88 deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such  
89 child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment,  
90 rehabilitation or other services which are required by law, (iv) family abuse has occurred and a  
91 protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of  
92 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8,  
93 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such  
94 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to  
95 be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer  
96 believes that probable cause does not exist, or that the authorization of a petition will not be in the best  
97 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other  
98 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a  
99 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written  
100 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders  
101 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant  
102 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the  
103 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to  
104 § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

105 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
106 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be  
107 in need of supervision have utilized or attempted to utilize treatment and services available in the  
108 community and have exhausted all appropriate nonjudicial remedies which are available to them. When  
109 the intake officer determines that the parties have not attempted to utilize available treatment or services  
110 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the  
111 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility  
112 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake  
113 officer determines that the parties have made a reasonable effort to utilize available community  
114 treatment or services may he permit the petition to be filed.

115 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an  
116 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in  
117 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate  
118 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic  
119 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake  
120 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate

121 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the  
122 juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake  
123 officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a  
124 status offense, or a misdemeanor other than Class 1, his decision is final.

125 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the  
126 intake officer shall accept and file a petition founded upon the warrant.

127 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition  
128 which alleges facts of an offense which would be a felony if committed by an adult.

129 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a  
130 report with the division superintendent of the school division in which any student who is the subject of  
131 a petition alleging that such student who is a juvenile has committed an act, wherever committed, which  
132 would be a crime if committed by an adult, or that such student who is an adult has committed a crime  
133 and is alleged to be within the jurisdiction of the court. The report shall notify the division  
134 superintendent of the filing of the petition and the nature of the offense, if the violation involves:

135 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299  
136 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

137 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

138 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of  
139 Title 18.2;

140 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

141 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,  
142 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

143 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter  
144 7 of Title 18.2;

145 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

146 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

147 9. Robbery pursuant to § 18.2-58;

148 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

149 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3; or

150 12. An act of violence by a mob pursuant to § 18.2-42.1.

151 The failure to provide information regarding the school in which the student who is the subject of  
152 the petition may be enrolled shall not be grounds for refusing to file a petition.

153 The information provided to a division superintendent pursuant to this section may be disclosed only  
154 as provided in § 16.1-305.2.

155 H. The filing of a petition shall not be necessary:

156 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and  
157 other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating  
158 surfing or any ordinance establishing curfew violations, animal control violations or littering violations.  
159 In such cases the court may proceed on a summons issued by the officer investigating the violation in  
160 the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle  
161 accident may, at the scene of the accident or at any other location where a juvenile who is involved in  
162 such an accident may be located, proceed on a summons in lieu of filing a petition.

163 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H  
164 of § 16.1-241.

165 3. In the case of a misdemeanor violation of ~~§ 18.2-250.1~~, 18.2-266, 18.2-266.1, or 29.1-738, or the  
166 commission of any other alcohol-related offense, *or a violation of § 18.2-250.1*, provided the juvenile is  
167 released to the custody of a parent or legal guardian pending the initial court date. The officer releasing  
168 a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall  
169 also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile.  
170 Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9.  
171 If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738  
172 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical  
173 analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections  
174 shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The  
175 summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons  
176 shall be forwarded to the court in which the violation is to be tried. When a violation of § 18.2-250.1 is  
177 charged by summons, the juvenile shall be entitled to have the charge referred to intake for  
178 consideration of informal proceedings pursuant to subsection B, provided such right is exercised by  
179 written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging  
180 a violation of § 18.2-250.1 is served, the officer shall also serve upon the juvenile written notice of the  
181 right to have the charge referred to intake on a form approved by the Supreme Court and make return

182 of such service to the court. If the officer fails to make such service or return, the court shall dismiss  
 183 the summons without prejudice.

184 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or  
 185 Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in  
 186 § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as  
 187 provided by law for adults provided that notice of the summons to appear is mailed by the investigating  
 188 officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

189 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of  
 190 the jurisdiction granted it in § 16.1-241.

191 **§ 18.2-248.1. Penalties for sale, gift, distribution or possession with intent to sell, give or**  
 192 **distribute marijuana.**

193 Except as authorized in the Drug Control Act, Chapter 34 of Title 54.1 (§ 54.1-3400 et seq.), it shall  
 194 be unlawful for any person to sell, give, distribute or possess with intent to sell, give or distribute  
 195 marijuana.

196 (a) Any person who violates this section with respect to:

197 (1) Not more than ~~one-half one~~ ounce of marijuana is guilty of a Class 4 misdemeanor;

198 (2) More than ~~one-half one~~ ounce but not more than ~~five pounds one~~ pound of marijuana is guilty of  
 199 a Class 5 ~~felony 1~~ misdemeanor;

200 (3) *More than one pound but not more than five pounds of marijuana is guilty of a Class 6 felony;*

201 (4) More than five pounds of marijuana is guilty of a Class 5 felony ~~punishable by imprisonment of~~  
 202 ~~not less than five nor more than 30 years.~~

203 If such person proves that he gave, distributed or possessed with intent to give or distribute  
 204 marijuana only as an accommodation to another individual and not with intent to profit thereby from  
 205 any consideration received or expected nor to induce the recipient or intended recipient of the marijuana  
 206 to use or become addicted to or dependent upon such marijuana, he ~~shall be~~ is guilty of a Class 4 3  
 207 misdemeanor.

208 (b) Any person who gives, or distributes or possesses marijuana as an accommodation and not with  
 209 intent to profit thereby, to an inmate of a state or local correctional facility as defined in § 53.1-1, or in  
 210 the custody of an employee thereof shall be is guilty of a Class 4 felony.

211 (c) Any person who manufactures marijuana, or possesses marijuana with the intent to manufacture  
 212 such substance, not for his own use is guilty of a ~~felony punishable by imprisonment of not less than~~  
 213 ~~five nor more than 30 years and a fine not to exceed \$10,000~~ Class 1 misdemeanor.

214 *There shall be a rebuttable presumption that any person who manufactures marijuana, or possesses*  
 215 *marijuana with the intent to manufacture such substance, and who so manufactures or possesses no*  
 216 *more than six marijuana plants, manufactures or possesses it for his own use. Any person who so*  
 217 *manufactures or possesses marijuana for his own use shall be subject to the penalty provisions of*  
 218 *§ 18.2-250.1.*

219 (d) When a person is convicted of a third or subsequent felony offense under this section and it is  
 220 alleged in the warrant, indictment or information that he has been before convicted of two or more  
 221 felony offenses under this section or of substantially similar offenses in any other jurisdiction which  
 222 offenses would be felonies if committed in the Commonwealth and such prior convictions occurred  
 223 before the date of the offense alleged in the warrant, indictment or information, he shall be sentenced to  
 224 imprisonment for life or for any period not less than five years, five years of which shall be a  
 225 mandatory minimum term of imprisonment to be served consecutively with any other sentence, and he  
 226 shall be fined not more than \$500,000.

227 **§ 18.2-250.1. Possession of marijuana unlawful; civil penalty.**

228 A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance  
 229 was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in  
 230 the course of his professional practice, or except as otherwise authorized by the Drug Control Act  
 231 (§ 54.1-3400 et seq.). *The attorney for the Commonwealth or the county, city, or town attorney may*  
 232 *prosecute such a case. Any violation of this section may be charged by summons.*

233 Upon the prosecution of a person for violation of this section, ownership or occupancy of the  
 234 premises or vehicle upon or in which marijuana was found shall not create a presumption that such  
 235 person either knowingly or intentionally possessed such marijuana.

236 Any person who violates this section shall be guilty of a misdemeanor, and be confined in jail not  
 237 more than thirty days and a fine of not more than \$500, either or both; any person, upon a second or  
 238 subsequent conviction of a violation of this section, shall be guilty of a Class 4 misdemeanor is subject  
 239 to a civil penalty of no more than \$100 payable to the Literary Fund.

240 B. The provisions of this section shall not apply to members of state, federal, county, city or town  
 241 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as  
 242 handlers of dogs trained in the detection of controlled substances when possession of marijuana is  
 243 necessary for the performance of their duties.

244 § 18.2-251. Persons charged with first offense may be placed on probation; conditions;  
245 substance abuse screening, assessment treatment and education programs or services; drug tests;  
246 costs and fees; violations; discharge.

247 Whenever any person who has not previously been convicted of any *criminal* offense under this  
248 article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or  
249 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for  
250 violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of  
251 not guilty to possession of a controlled substance under § 18.2-250 or to possession of marijuana under  
252 § 18.2-250.1, the court, upon such plea if the facts found by the court would justify a finding of guilt,  
253 without entering a judgment of guilt and with the consent of the accused, may defer further proceedings  
254 and place him on probation upon terms and conditions.

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

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

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

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

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

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

288 § 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,  
289 and treatment or education.

290 The trial judge or court trying the case of (i) any person found guilty of ~~violating a criminal~~  
291 *violation of any law concerning the use, in any manner, of drugs, controlled substances, narcotics,*  
292 *marijuana, noxious chemical substances and like substances; or (ii) any minor penalized for a violation*  
293 *of § 18.2-250.1 shall condition any suspended sentence or suspension of any penalty by first requiring*  
294 *such person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to*  
295 *such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such*  
296 *testing shall be conducted by the supervising probation agency or by personnel of any program or*  
297 *agency approved by the supervising probation agency. The cost of such testing ordered by the court*  
298 *shall be paid by the Commonwealth and taxed as a part of the costs of such ~~criminal~~ proceedings. The*  
299 *judge or court shall order the person, as a condition of any suspended sentence or suspended civil*  
300 *penalty, to undergo such treatment or education for substance abuse, if available, as the judge or court*  
301 *deems appropriate based upon consideration of the substance abuse assessment. The treatment or*  
302 *education shall be provided by a program or agency licensed by the Department of Behavioral Health*  
303 *and Developmental Services, by a similar program or services available through the Department of*  
304 *Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of*

305 12 months or less, by a similar program or services available through a local or regional jail, a local  
 306 community-based probation services agency established pursuant to § 9.1-174, or an ASAP program  
 307 certified by the Commission on VASAP.

308 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**  
 309 **administering controlled substances to minors; penalty.**

310 It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to  
 311 a minor any book, pamphlet, periodical, or other printed matter which he knows advertises for sale any  
 312 instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,  
 313 administering, ~~or preparing or growing marijuana~~ or a controlled substance.

314 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

315 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,  
 316 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the  
 317 knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or  
 318 tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances ~~or~~  
 319 ~~marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,  
 320 manufacturing or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,  
 321 manufacture or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.  
 322 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant  
 323 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1  
 324 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

325 **§ 18.2-259.1. Forfeiture of driver's license for violations of article.**

326 A. In addition to any other sanction or penalty imposed for a *criminal* violation of this article, *or*  
 327 *civil violation of § 18.2-250.1 committed by a juvenile*, the (i) judgment of *either a conviction* under this  
 328 article, *or a civil violation of § 18.2-250.1 by a juvenile*, or (ii) placement on probation following  
 329 deferral of further proceedings under § 18.2-251 or subsection H of § 18.2-258.1 for any such offense  
 330 shall of itself operate to deprive the person so convicted or placed on probation after deferral of  
 331 proceedings under § 18.2-251 or subsection H of § 18.2-258.1 of the privilege to drive or operate a  
 332 motor vehicle, engine, or train in the Commonwealth for a period of six months from the date of such  
 333 judgment or placement on probation. Such license forfeiture shall be in addition to and shall run  
 334 consecutively with any other license suspension, revocation or forfeiture in effect or imposed upon the  
 335 person so convicted or placed on probation. However, a juvenile who has had his license suspended or  
 336 denied pursuant to § 16.1-278.9 shall not have his license forfeited pursuant to this section for the same  
 337 offense.

338 B. The court trying the case shall order any person so convicted or placed on probation *or any*  
 339 *juvenile so penalized for a civil violation of § 18.2-250.1*, to surrender his driver's license to be disposed  
 340 of in accordance with the provisions of § 46.2-398 and shall notify the Department of Motor Vehicles of  
 341 any such conviction *or judgment* entered and of the license forfeiture to be imposed.

342 C. In those cases where the court determines there are compelling circumstances warranting an  
 343 exception, the court may provide that any individual be issued a restricted license to operate a motor  
 344 vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license issued  
 345 pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in  
 346 the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender  
 347 of such person's license in accordance with the provisions of subsection B and shall forward to the  
 348 Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this  
 349 subsection. This order shall specifically enumerate the restrictions imposed and contain such information  
 350 regarding the person to whom such a permit is issued as is reasonably necessary to identify such person.  
 351 The court shall also provide a copy of its order to such person who may operate a motor vehicle on the  
 352 order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license,  
 353 but only if the order provides for a restricted license for that period. A copy of the order and, after  
 354 receipt thereof, the restricted license shall be carried at all times by such person while operating a motor  
 355 vehicle. The court may require a person issued a restricted permit under the provisions of this subsection  
 356 to be monitored by an alcohol safety action program during the period of license suspension. Any  
 357 violation of the terms of the restricted license or of any condition set forth by the court related thereto,  
 358 or any failure to remain drug-free during such period shall be reported forthwith to the court by such  
 359 program. Any person who operates a motor vehicle in violation of any restriction imposed pursuant to  
 360 this section ~~shall be~~ *is* guilty of a violation of § 46.2-301.

361 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

362 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under  
 363 circumstances where one reasonably should know, that it is either designed for use or intended by such  
 364 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,  
 365 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or  
 366 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a

367 Class 1 misdemeanor.

368 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A hereof by selling drug  
369 paraphernalia to a minor who is at least three years junior to the accused in age shall be is guilty of a  
370 Class 6 felony.

371 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia *that he knows,*  
372 *or reasonably should know, is either designed for use or intended for use to illegally plant, propagate,*  
373 *cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack,*  
374 *repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce marijuana into the human*  
375 *body to a minor shall be who he knows or reasonably should know is at least three years his junior is*  
376 guilty of a Class ~~4~~ 3 misdemeanor.

377 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

378 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) or a felony  
379 violation of § 18.2-248 or subdivision (a) 2 ~~or~~ , 3 *or* 4 of § 18.2-248.1, has in his possession a firearm  
380 or knife and is wearing body armor designed to diminish the effect of the impact of a bullet or  
381 projectile shall be guilty of a Class 4 felony.

382 **§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug**  
383 **offenses prohibited.**

384 Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor  
385 offenses under subsection B of former § 18.2-248.1:1; *or* § 18.2-250 or *who was subjected to a civil*  
386 *penalty for two or more violations pursuant to* § 18.2-250.1 shall be ineligible to purchase or transport a  
387 handgun. However, upon expiration of a period of five years from the date of the second conviction *or*  
388 *civil violation* and provided the person has not been convicted of *or the subject of a civil penalty for*  
389 any such offense within that period, the ineligibility shall be removed.

390 **§ 18.2-460. Obstructing justice; penalty.**

391 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney  
392 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed  
393 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to  
394 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the  
395 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to §  
396 3.2-6555, he shall be guilty of a Class 1 misdemeanor.

397 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to  
398 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any  
399 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged  
400 in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a  
401 Class 1 misdemeanor.

402 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a  
403 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer,  
404 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in  
405 any court relating to a violation of or conspiracy to violate § 18.2-248 or subdivision (a) ~~(3)~~ (4), (b) or  
406 (c) of § 18.2-248.1, or § 18.2-46.2 or § 18.2-46.3, or relating to the violation of or conspiracy to violate  
407 any violent felony offense listed in subsection C of § 17.1-805, he shall be guilty of a Class 5 felony.

408 D. Any person who knowingly and willfully makes any materially false statement or representation  
409 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the  
410 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

411 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**  
412 **transactions.**

413 A. The following property shall be subject to lawful seizure by any officer charged with enforcing  
414 the provisions of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2: (i) all money, medical  
415 equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real  
416 property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or  
417 distribution of controlled substances or possession with intent to sell or distribute controlled substances  
418 in violation of § 18.2-248, (b) the sale or distribution of marijuana or possession with intent to distribute  
419 *more than one pound of* marijuana in violation of subdivisions (a)(2), (a)(3) and (e) of § 18.2-248.1, or  
420 (c) a drug-related offense in violation of § 18.2-474.1; (ii) everything of value furnished, or intended to  
421 be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in  
422 violation of § 18.2-248.1 or for a controlled substance or marijuana in violation of § 18.2-474.1; and  
423 (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any  
424 interest or profits derived from the investment of such money or other property. Under the provisions of  
425 clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment  
426 for the violation is a term of not less than five years.

427 B. All seizures and forfeitures under this section shall be governed by the procedures contained in

428 Chapter 22.1 (§ 19.2-386.1 et seq.).

429 **§ 46.2-390.1. Required revocation for conviction of drug offenses or deferral of proceedings.**

430 A. Except as otherwise ordered pursuant to § 18.2-259.1, the Commissioner shall forthwith revoke,  
431 and not thereafter reissue for six months from the later of (i) the date of conviction, *date of judgment*  
432 *for a violation of § 18.2-250.1 by a juvenile* or deferral of proceedings under § 18.2-251 or (ii) the next  
433 date of eligibility to be licensed, the driver's license, registration card, and license plates of any resident  
434 or nonresident on receiving notification of ~~(i)~~ (a) his conviction, ~~(ii)~~ *or a judgment for a violation of*  
435 *§ 18.2-250.1 by a minor*, (b) his having been found guilty in the case of a juvenile or ~~(iii)~~ (c) the  
436 deferral of further proceedings against him under § 18.2-251 for any violation of any provisions of  
437 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or of any state or federal law or valid county,  
438 city or town ordinance, or a law of any other state substantially similar to provisions of such Virginia  
439 laws. Such license revocation shall be in addition to and shall run consecutively with any other license  
440 suspension, revocation or forfeiture in effect against such person.

441 B. Any person whose license has been revoked pursuant to this section and § 18.2-259.1 shall be  
442 subject to the provisions of §§ 46.2-370 and 46.2-414 and shall be required to pay a reinstatement fee as  
443 provided in § 46.2-411 in order to have his license restored.

444 **§ 53.1-203. Felonies by prisoners; penalties.**

445 It shall be unlawful for a prisoner in a state, local or community correctional facility or in the  
446 custody of an employee thereof to:

447 1. Escape from a correctional facility or from any person in charge of such prisoner;

448 2. Willfully break, cut or damage any building, furniture, fixture or fastening of such facility or any  
449 part thereof for the purpose of escaping, aiding any other prisoner to escape therefrom or rendering such  
450 facility less secure as a place of confinement;

451 3. Make, procure, secrete or have in his possession any instrument, tool or other thing for the  
452 purpose of escaping from or aiding another to escape from a correctional facility or employee thereof;

453 4. Make, procure, secrete or have in his possession a knife, instrument, tool or other thing not  
454 authorized by the superintendent or sheriff which is capable of causing death or bodily injury;

455 5. Procure, sell, secrete or have in his possession any chemical compound which he has not lawfully  
456 received;

457 6. Procure, sell, secrete or have in his possession a controlled substance classified in Schedule III of  
458 the Drug Control Act (§ 54.1-3400 et seq.) ~~or marijuana~~;

459 *6a. Procure, sell, secrete, or have in his possession marijuana;*

460 7. Introduce into a correctional facility or have in his possession firearms or ammunition for  
461 firearms;

462 8. Willfully burn or destroy by use of any explosive device or substance, in whole or in part, or  
463 cause to be so burned or destroyed, any personal property, within any correctional facility;

464 9. Willfully tamper with, damage, destroy, or disable any fire protection or fire suppression system,  
465 equipment, or sprinklers within any correctional facility; or

466 10. Conspire with another prisoner or other prisoners to commit any of the foregoing acts.

467 For violation of any of the provisions of this section, except subdivision 6, the prisoner ~~shall be~~ *is*  
468 *guilty of a Class 6 felony.* For a violation of subdivision 6, he ~~shall be~~ *is* guilty of a Class 5 felony. If  
469 the violation is of subdivision 1 ~~of this section~~ and the escapee is a felon, he shall be sentenced to a  
470 mandatory minimum term of confinement of one year, which shall be served consecutively with any  
471 other sentence. The prisoner shall, upon conviction of escape, immediately commence to serve such  
472 escape sentence, and he shall not be eligible for parole during such period. Any prisoner sentenced to  
473 life imprisonment who escapes shall not be eligible for parole. No part of the time served for escape  
474 shall be credited for the purpose of parole toward the sentence or sentences, the service of which is  
475 interrupted for service of the escape sentence, nor shall it be credited for such purpose toward any other  
476 sentence.