

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 8.01-44.5, 15.2-1627, 16.1-228, 16.1-241, 16.1-278.8, 16.1-278.9,*
 3 *16.1-309, 18.2-268.3, 18.2-268.4, 18.2-268.7, 18.2-268.9, 18.2-269, 18.2-272, 19.2-52, 19.2-73,*
 4 *29.1-738.3, 46.2-341.26:2, 46.2-341.26:3, 46.2-341.26:4, 46.2-341.26:7, 46.2-341.26:9, 46.2-341.27,*
 5 *46.2-391.2, 46.2-391.4, and 46.2-2099.49 of the Code of Virginia, relating to DUI; implied consent;*
 6 *refusal of blood or breath tests.*

7 [H 2327]

8 Approved

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

10 **1. That §§ 8.01-44.5, 15.2-1627, 16.1-228, 16.1-241, 16.1-278.8, 16.1-278.9, 16.1-309, 18.2-268.3,**
 11 **18.2-268.4, 18.2-268.7, 18.2-268.9, 18.2-269, 18.2-272, 19.2-52, 19.2-73, 29.1-738.3, 46.2-341.26:2,**
 12 **46.2-341.26:3, 46.2-341.26:4, 46.2-341.26:7, 46.2-341.26:9, 46.2-341.27, 46.2-391.2, 46.2-391.4, and**
 13 **46.2-2099.49 of the Code of Virginia are amended and reenacted as follows:**

14 **§ 8.01-44.5. Punitive damages for persons injured by intoxicated drivers.**

15 In any action for personal injury or death arising from the operation of a motor vehicle, engine or
 16 train, the finder of fact may, in its discretion, award punitive damages to the plaintiff if the evidence
 17 proves that the defendant acted with malice toward the plaintiff or the defendant's conduct was so
 18 willful or wanton as to show a conscious disregard for the rights of others.

19 A defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious
 20 disregard for the rights of others when the evidence proves that (i) when the incident causing the injury
 21 or death occurred, the defendant had a blood alcohol concentration of 0.15 percent or more by weight
 22 by volume or 0.15 grams or more per 210 liters of breath; (ii) at the time the defendant began drinking
 23 alcohol, or during the time he was drinking alcohol, he knew or should have known that his ability to
 24 operate a motor vehicle, engine or train would be impaired, or when he was operating a motor vehicle
 25 he knew or should have known that his ability to operate a motor vehicle was impaired; and (iii) the
 26 defendant's intoxication was a proximate cause of the injury to or death of the plaintiff. For the purposes
 27 of clause (i), it shall be rebuttably presumed that the blood alcohol concentration at the time of the
 28 incident causing injury or death was at least as high as the test result as shown in a certificate issued
 29 pursuant to § 18.2-268.9 ~~or~~, in a certificate of analysis for a blood test administered pursuant to
 30 § 18.2-268.7, provided that the test was administered in accordance with the provisions of §§ 18.2-268.1
 31 through 18.2-268.12, *or in a certificate of analysis for a test performed by the Department of Forensic*
 32 *Science on whole blood drawn pursuant to a search warrant, provided that the test was administered in*
 33 *accordance with the provisions of §§ 18.2-268.5, 18.2-268.6, and 18.2-268.7.* In addition to any other
 34 forms of proof, a party may submit a copy of a certificate issued pursuant to § 18.2-268.9 ~~or~~, a
 35 certificate of analysis for a blood test administered pursuant to § 18.2-268.7, *or a certificate of analysis*
 36 *for a test performed by the Department of Forensic Science on whole blood drawn pursuant to a search*
 37 *warrant, which shall be prima facie evidence of the facts contained therein and compliance with the*
 38 *applicable provisions of §§ 18.2-268.1 through 18.2-268.12. For the purposes of clause (ii), it shall be*
 39 *rebuttably presumed that the defendant who has consumed alcohol knew or should have known that his*
 40 *ability to operate a motor vehicle, engine, or train was or would be impaired by such consumption of*
 41 *alcohol.*

42 However, when a defendant has unreasonably refused to submit to a test of his blood alcohol content
 43 as required by § 18.2-268.2, a defendant's conduct shall be deemed sufficiently willful or wanton as to
 44 show a conscious disregard for the rights of others when the evidence proves that (a) when the incident
 45 causing the injury or death occurred the defendant was intoxicated, which may be established by
 46 evidence concerning the conduct or condition of the defendant; (b) at the time the defendant began
 47 drinking alcohol, ~~or~~ during the time he was drinking alcohol, *or when he was operating a motor vehicle,*
 48 *he knew or should have known that his ability to operate a motor vehicle was impaired; and (c) the*
 49 *defendant's intoxication was a proximate cause of the injury to the plaintiff or death of the plaintiff's*
 50 *decedent. In addition to any other forms of proof, a party may submit a certified copy of a court's*
 51 *determination of unreasonable refusal pursuant to § 18.2-268.3, which shall be prima facie evidence that*
 52 *the defendant unreasonably refused to submit to the test. For the purposes of clause (b), it shall be*
 53 *rebuttably presumed that the defendant who has consumed alcohol knew or should have known that his*
 54 *ability to operate a motor vehicle, engine, or train was or would be impaired by such consumption of*
 55 *alcohol.*

56 Evidence of similar conduct by the same defendant subsequent to the date of the personal injury or

57 death arising from the operation of a motor vehicle, engine, or train shall be admissible at trial for
 58 consideration by the jury or other finder of fact for the limited purpose of determining what amount of
 59 punitive damages may be appropriate to deter the defendant and others from similar future action.

60 **§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.**

61 A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required
 62 to carry out any duties as a part of his office in civil matters of advising the governing body and all
 63 boards, departments, agencies, officials and employees of his county or city; of drafting or preparing
 64 county or city ordinances; of defending or bringing actions in which the county or city, or any of its
 65 boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other
 66 manner of advising or representing the county or city, its boards, departments, agencies, officials and
 67 employees, except in matters involving the enforcement of the criminal law within the county or city.

68 B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part
 69 of the department of law enforcement of the county or city in which he is elected or appointed, and
 70 shall have the duties and powers imposed upon him by general law, including the duty of prosecuting
 71 all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute
 72 Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of
 73 confinement in jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all
 74 forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of
 75 ~~subsection D of § 18.2-268.3, 29.1-738.2, or 46.2-341.26:3.~~

76 **§ 16.1-228. Definitions.**

77 When used in this chapter, unless the context otherwise requires:

78 "Abused or neglected child" means any child:

79 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or
 80 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than
 81 accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental
 82 functions, including, but not limited to, a child who is with his parent or other person responsible for his
 83 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled
 84 substance, or (ii) during the unlawful sale of such substance by that child's parents or other person
 85 responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would
 86 constitute a felony violation of § 18.2-248;

87 2. Whose parents or other person responsible for his care neglects or refuses to provide care
 88 necessary for his health; however, no child who in good faith is under treatment solely by spiritual
 89 means through prayer in accordance with the tenets and practices of a recognized church or religious
 90 denomination shall for that reason alone be considered to be an abused or neglected child;

91 3. Whose parents or other person responsible for his care abandons such child;

92 4. Whose parents or other person responsible for his care commits or allows to be committed any
 93 sexual act upon a child in violation of the law;

94 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or
 95 physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco
 96 parentis;

97 6. Whose parents or other person responsible for his care creates a substantial risk of physical or
 98 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as
 99 defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the
 100 parent or other person responsible for his care knows has been convicted of an offense against a minor
 101 for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

102 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in
 103 the Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the Justice for Victims
 104 of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

105 If a civil proceeding under this chapter is based solely on the parent having left the child at a
 106 hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely
 107 delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency
 108 medical services agency that employs emergency medical services personnel, within 14 days of the
 109 child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for
 110 adoption, the court may find such a child is a neglected child upon the ground of abandonment.

111 "Adoptive home" means the place of residence of any natural person in which a child resides as a
 112 member of the household and in which he has been placed for the purposes of adoption or in which he
 113 has been legally adopted by another member of the household.

114 "Adult" means a person 18 years of age or older.

115 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part
 116 of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a
 117 delinquent act which would be a felony if committed by an adult.

118 "Boot camp" means a short term secure or nonsecure juvenile residential facility with highly
119 structured components including, but not limited to, military style drill and ceremony, physical labor,
120 education and rigid discipline, and no less than six months of intensive aftercare.

121 "Child," "juvenile," or "minor" means a person less than 18 years of age.

122 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or results
123 in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14
124 whose behavior, conduct or condition presents or results in a serious threat to the well-being and
125 physical safety of another person; however, no child who in good faith is under treatment solely by
126 spiritual means through prayer in accordance with the tenets and practices of a recognized church or
127 religious denomination shall for that reason alone be considered to be a child in need of services, nor
128 shall any child who habitually remains away from or habitually deserts or abandons his family as a
129 result of what the court or the local child protective services unit determines to be incidents of physical,
130 emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

131 However, to find that a child falls within these provisions, (i) the conduct complained of must
132 present a clear and substantial danger to the child's life or health or to the life or health of another
133 person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being
134 received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or
135 services needed by the child or his family.

136 "Child in need of supervision" means:

137 1. A child who, while subject to compulsory school attendance, is habitually and without justification
138 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of
139 any and all educational services and programs that are required to be provided by law and which meet
140 the child's particular educational needs, (ii) the school system from which the child is absent or other
141 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
142 and (iii) the school system has provided documentation that it has complied with the provisions of
143 § 22.1-258; or

144 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or
145 placement authority, remains away from or deserts or abandons his family or lawful custodian on more
146 than one occasion or escapes or remains away without proper authority from a residential care facility in
147 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to
148 the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not
149 presently being received, and (iii) the intervention of the court is essential to provide the treatment,
150 rehabilitation or services needed by the child or his family.

151 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster
152 home as defined in § 63.2-100.

153 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile
154 and domestic relations district court of each county or city.

155 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an
156 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of
157 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an
158 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
159 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to
160 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or
161 town.

162 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed
163 a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been
164 terminated under the provisions of § 16.1-269.6.

165 "Department" means the Department of Juvenile Justice and "Director" means the administrative head
166 in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
167 duties imposed upon him under this law.

168 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or
169 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by
170 a person against such person's family or household member. Such act includes, but is not limited to, any
171 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of
172 Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable
173 apprehension of death, sexual assault, or bodily injury.

174 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the
175 same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same
176 home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,
177 half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in
178 the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law,

179 daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v)
180 any individual who has a child in common with the person, whether or not the person and that
181 individual have been married or have resided together at any time, or (vi) any individual who cohabits
182 or who, within the previous 12 months, cohabited with the person, and any children of either of them
183 then residing in the same home with the person.

184 "Foster care services" means the provision of a full range of casework, treatment and community
185 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or
186 in need of services as defined in this section and his family when the child (i) has been identified as
187 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through
188 an agreement between the local board of social services or a public agency designated by the
189 community policy and management team and the parents or guardians where legal custody remains with
190 the parents or guardians, (iii) has been committed or entrusted to a local board of social services or
191 child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board
192 pursuant to § 16.1-293.

193 "Independent living arrangement" means placement of a child at least 16 years of age who is in the
194 custody of a local board or licensed child-placing agency and has been placed by the local board or
195 licensed child-placing agency in a living arrangement in which he does not have daily substitute parental
196 supervision.

197 "Independent living services" means services and activities provided to a child in foster care 14 years
198 of age or older and who has been committed or entrusted to a local board of social services, child
199 welfare agency, or private child-placing agency. "Independent living services" may also mean services
200 and activities provided to a person who was in foster care on his 18th birthday and has not yet reached
201 the age of 21 years. Such services shall include counseling, education, housing, employment, and money
202 management skills development and access to essential documents and other appropriate services to help
203 children or persons prepare for self-sufficiency.

204 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this
205 chapter.

206 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional
207 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding
208 cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the
209 transfer of a child to a juvenile facility.

210 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district
211 court of each county or city.

212 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in
213 this chapter.

214 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to
215 have physical custody of the child, to determine and redetermine where and with whom he shall live,
216 the right and duty to protect, train and discipline him and to provide him with food, shelter, education
217 and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal
218 status created by court order of joint custody as defined in § 20-107.2.

219 "Permanent foster care placement" means the place of residence in which a child resides and in
220 which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation
221 and agreement between the placing agency and the place of permanent foster care that the child shall
222 remain in the placement until he reaches the age of majority unless modified by court order or unless
223 removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of
224 residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term
225 basis.

226 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with the
227 parent after the transfer of legal custody or guardianship of the person, including but not limited to the
228 right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility
229 for support.

230 "Secure facility" or "detention home" means a local, regional or state public or private locked
231 residential facility that has construction fixtures designed to prevent escape and to restrict the movement
232 and activities of children held in lawful custody.

233 "Shelter care" means the temporary care of children in physically unrestricting facilities.

234 "State Board" means the State Board of Juvenile Justice.

235 "Status offender" means a child who commits an act prohibited by law which would not be criminal
236 if committed by an adult.

237 "Status offense" means an act prohibited by law which would not be an offense if committed by an
238 adult.

239 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of

240 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

241 **§ 16.1-241. Jurisdiction; consent for abortion.**

242 The judges of the juvenile and domestic relations district court elected or appointed under this law
243 shall be conservators of the peace within the corporate limits of the cities and the boundaries of the
244 counties for which they are respectively chosen and within one mile beyond the limits of such cities and
245 counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have,
246 within the limits of the territory for which it is created, exclusive original jurisdiction, and within one
247 mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of
248 the adjoining city or county, over all cases, matters and proceedings involving:

249 A. The custody, visitation, support, control or disposition of a child:

250 1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status
251 offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or
252 divested;

253 2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical
254 or mental incapacity of his parents is without parental care and guardianship;

255 2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated
256 as having abused or neglected another child in the care of the parent or custodian;

257 3. Whose custody, visitation or support is a subject of controversy or requires determination. In such
258 cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except
259 as provided in § 16.1-244;

260 4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817
261 or whose parent or parents for good cause desire to be relieved of his care and custody;

262 5. Where the termination of residual parental rights and responsibilities is sought. In such cases
263 jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided
264 in § 16.1-244; and

265 6. Who is charged with a traffic infraction as defined in § 46.2-100; or

266 7. Who is alleged to have refused to take a blood test in violation of § 18.2-268.2.

267 In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated
268 in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile
269 court shall be limited to conducting a preliminary hearing to determine if there is probable cause to
270 believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at
271 the time of the commission of the alleged offense, and any matters related thereto. In any case in which
272 the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of
273 § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given
274 notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited
275 to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile
276 committed the act alleged and that the juvenile was 14 years of age or older at the time of the
277 commission of the alleged offense, and any matters related thereto. A determination by the juvenile
278 court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge
279 to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge.
280 In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile
281 court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as
282 provided in § 16.1-269.6.

283 In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a
284 violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a
285 lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be
286 divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

287 The authority of the juvenile court to adjudicate matters involving the custody, visitation, support,
288 control or disposition of a child shall not be limited to the consideration of petitions filed by a mother,
289 father or legal guardian but shall include petitions filed at any time by any party with a legitimate
290 interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not
291 be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family
292 members. A party with a legitimate interest shall not include any person (i) whose parental rights have
293 been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives
294 from or through a person whose parental rights have been terminated by court order, either voluntarily
295 or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood
296 relatives and family members, if the child subsequently has been legally adopted, except where a final
297 order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of
298 subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another
299 state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was
300 conceived as a result of such violation. The authority of the juvenile court to consider a petition

301 involving the custody of a child shall not be proscribed or limited where the child has previously been
302 awarded to the custody of a local board of social services.

303 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the
304 provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental
305 illness or judicial certification of eligibility for admission to a training center for persons with
306 intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.
307 Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general
308 district court.

309 C. Except as provided in subsections D and H, judicial consent to such activities as may require
310 parental consent may be given for a child who has been separated from his parents, guardian, legal
311 custodian or other person standing in loco parentis and is in the custody of the court when such consent
312 is required by law.

313 D. Judicial consent for emergency surgical or medical treatment for a child who is neither married
314 nor has ever been married, when the consent of his parent, guardian, legal custodian or other person
315 standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person
316 standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown,
317 (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such
318 consent or provide such treatment when requested by the judge to do so.

319 E. Any person charged with deserting, abandoning or failing to provide support for any person in
320 violation of law.

321 F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

322 1. Who has been abused or neglected;

323 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817
324 or is otherwise before the court pursuant to subdivision A 4; or

325 3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court
326 finds that such person has by overt act or omission induced, caused, encouraged or contributed to the
327 conduct of the child complained of in the petition.

328 G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other
329 person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services
330 that are required by law to be provided for that child or such child's parent, guardian, legal custodian or
331 other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not
332 exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

333 H. Judicial consent to apply for a work permit for a child when such child is separated from his
334 parents, legal guardian or other person standing in loco parentis.

335 I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or
336 neglect of children or with any violation of law that causes or tends to cause a child to come within the
337 purview of this law, or with any other offense against the person of a child. In prosecution for felonies
338 over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is
339 probable cause.

340 J. All offenses in which one family or household member is charged with an offense in which
341 another family or household member is the victim and all offenses under § 18.2-49.1.

342 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to
343 determining whether or not there is probable cause. Any objection based on jurisdiction under this
344 subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial,
345 before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it
346 shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for
347 challenging directly or collaterally the jurisdiction of the court in which the case is tried.

348 K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily
349 relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such
350 parental rights. No such petition shall be accepted, however, after the child has been placed in the home
351 of adoptive parents.

352 L. Any person who seeks spousal support after having separated from his spouse. A decision under
353 this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court.
354 A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

355 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1,
356 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection
357 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a
358 juvenile.

359 N. Any person who escapes or remains away without proper authority from a residential care facility
360 in which he had been placed by the court or as a result of his commitment to the Virginia Department
361 of Juvenile Justice.

362 O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.).

363 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19

364 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered

365 by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the

366 juvenile and domestic relations district court.

367 Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20.

368 A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

369 R. [Repealed.]

370 S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

371 T. Petitions to enforce any request for information or subpoena that is not complied with or to

372 review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect

373 pursuant to § 63.2-1526.

374 U. Petitions filed in connection with parental placement adoption consent hearings pursuant to

375 § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10

376 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible

377 disposition.

378 V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to

379 an adoption when the consent to an adoption is executed pursuant to the laws of another state and the

380 laws of that state provide for the execution of consent to an adoption in the court of the

381 Commonwealth.

382 W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion

383 if a minor elects not to seek consent of an authorized person.

384 After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without

385 the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough

386 informed to make her abortion decision, in consultation with her physician, independent of the wishes of

387 any authorized person, or (ii) the minor is not mature enough or well enough informed to make such

388 decision, but the desired abortion would be in her best interest.

389 If the judge authorizes an abortion based on the best interests of the minor, such order shall

390 expressly state that such authorization is subject to the physician or his agent giving notice of intent to

391 perform the abortion; however, no such notice shall be required if the judge finds that such notice would

392 not be in the best interest of the minor. In determining whether notice is in the best interest of the

393 minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not

394 in the best interest of the minor if he finds that (i) one or more authorized persons with whom the

395 minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person,

396 if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian,

397 custodian or person standing in loco parentis.

398 The minor may participate in the court proceedings on her own behalf, and the court may appoint a

399 guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and

400 shall, upon her request, appoint counsel for her.

401 Notwithstanding any other provision of law, the provisions of this subsection shall govern

402 proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and

403 records of such proceedings shall be confidential. Such proceedings shall be given precedence over other

404 pending matters so that the court may reach a decision promptly and without delay in order to serve the

405 best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon

406 as practicable but in no event later than four days after the petition is filed.

407 An expedited confidential appeal to the circuit court shall be available to any minor for whom the

408 court denies an order authorizing an abortion without consent or without notice. Any such appeal shall

409 be heard and decided no later than five days after the appeal is filed. The time periods required by this

410 subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent

411 or without notice shall not be subject to appeal.

412 No filing fees shall be required of the minor at trial or upon appeal.

413 If either the original court or the circuit court fails to act within the time periods required by this

414 subsection, the court before which the proceeding is pending shall immediately authorize a physician to

415 perform the abortion without consent of or notice to an authorized person.

416 Nothing contained in this subsection shall be construed to authorize a physician to perform an

417 abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult

418 woman.

419 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent

420 has been obtained or the minor delivers to the physician a court order entered pursuant to this section

421 and the physician or his agent provides such notice as such order may require. However, neither consent

422 nor judicial authorization nor notice shall be required if the minor declares that she is abused or

423 neglected and the attending physician has reason to suspect that the minor may be an abused or
 424 neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with
 425 § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the
 426 facts justifying the exception in the minor's medical record.

427 For purposes of this subsection:

428 "Authorization" means the minor has delivered to the physician a notarized, written statement signed
 429 by an authorized person that the authorized person knows of the minor's intent to have an abortion and
 430 consents to such abortion being performed on the minor.

431 "Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or
 432 (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with
 433 whom the minor regularly and customarily resides and who has care and control of the minor. Any
 434 person who knows he is not an authorized person and who knowingly and willfully signs an
 435 authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

436 "Consent" means that (i) the physician has given notice of intent to perform the abortion and has
 437 received authorization from an authorized person, or (ii) at least one authorized person is present with
 438 the minor seeking the abortion and provides written authorization to the physician, which shall be
 439 witnessed by the physician or an agent thereof. In either case, the written authorization shall be
 440 incorporated into the minor's medical record and maintained as a part thereof.

441 "Medical emergency" means any condition which, on the basis of the physician's good faith clinical
 442 judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate
 443 abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial
 444 and irreversible impairment of a major bodily function.

445 "Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual
 446 notice of his intention to perform such abortion to an authorized person, either in person or by
 447 telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his
 448 agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person
 449 by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at
 450 least 72 hours prior to the performance of the abortion.

451 "Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical
 452 procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

453 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid
 454 marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any
 455 of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her
 456 parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an
 457 order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

458 X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor
 459 children.

460 The ages specified in this law refer to the age of the child at the time of the acts complained of in
 461 the petition.

462 Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of
 463 any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of
 464 § 17.1-272, or subsection B, D, M, or R.

465 Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of
 466 subsection W shall be guilty of a Class 3 misdemeanor.

467 **§ 16.1-278.8. Delinquent juveniles.**

468 A. If a juvenile is found to be delinquent, except where such finding involves a refusal to take a
 469 blood or breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit
 470 court may make any of the following orders of disposition for his supervision, care and rehabilitation:

471 1. Enter an order pursuant to the provisions of § 16.1-278;

472 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the
 473 court may order with respect to the juvenile and his parent;

474 3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such
 475 treatment or be subject to such conditions and limitations as the court may order and as are designed for
 476 the rehabilitation of the juvenile and his parent;

477 4. Defer disposition for a specific period of time established by the court with due regard for the
 478 gravity of the offense and the juvenile's history, after which time the charge may be dismissed by the
 479 judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

480 4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a
 481 boot camp established pursuant to § 66-13 provided bed space is available for confinement and the
 482 juvenile (i) has been found delinquent for an offense that would be a Class 1 misdemeanor or felony if
 483 committed by an adult, (ii) has not previously been and is not currently being adjudicated delinquent or

484 found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp, (iv) has not
 485 previously been committed to and received by the Department, and (v) has had an assessment completed
 486 by the Department or its contractor concerning the appropriateness of the candidate for a boot camp.
 487 Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of
 488 participation in the program, he shall be brought before the court for a hearing at which the court may
 489 impose any other disposition as authorized by this section which could have been imposed at the time
 490 the juvenile was placed in the custody of the Department;

491 5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer
 492 disposition of the delinquency charge for a specific period of time established by the court with due
 493 regard for the gravity of the offense and the juvenile's history, and place the juvenile on probation under
 494 such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions,
 495 the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal
 496 under these provisions shall be without adjudication of guilt;

497 6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such
 498 programs, cooperate in such treatment or be subject to such conditions and limitations as the court may
 499 order and as are designed for the rehabilitation of the juvenile where the court determines this
 500 participation to be in the best interest of the juvenile and other parties concerned and where the court
 501 determines it reasonable to expect the parent to be able to comply with such order;

502 7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;

503 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or
 504 drugs in a program licensed by the Department of Behavioral Health and Developmental Services for the
 505 treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse
 506 screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the
 507 commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs
 508 and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not
 509 previously been and is not currently being adjudicated for a violent juvenile felony; and (iii) such
 510 facility is available. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of
 511 participation in the program, he shall be brought before the court for a hearing at which the court may
 512 impose any other disposition authorized by this section. The court shall review such placements at
 513 30-day intervals;

514 8. Impose a fine not to exceed \$500 upon such juvenile;

515 9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile
 516 as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is
 517 suspended may be referred for an assessment and subsequent referral to appropriate services, upon such
 518 terms and conditions as the court may order. The court, in its discretion and upon a demonstration of
 519 hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who
 520 enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to
 521 and from school. The restricted permit shall be issued in accordance with the provisions of such
 522 subsection. However, only an abstract of the court order that identifies the juvenile and the conditions
 523 under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

524 If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the
 525 physical custody of the court during any period of curfew restriction. The court shall send an abstract of
 526 any order issued under the provisions of this section to the Department of Motor Vehicles, which shall
 527 preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this
 528 chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement
 529 officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be
 530 noted all curfew restrictions, shall be provided to the juvenile and shall contain such information
 531 regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor
 532 vehicle under the court order in accordance with its terms.

533 Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this
 534 section shall be *is* guilty of a violation of § 46.2-301.

535 The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a
 536 driver's license until such time as is stipulated in the court order or until notification by the court of
 537 withdrawal of the order imposing the curfew;

538 10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual
 539 damages or loss caused by the offense for which the juvenile was found to be delinquent;

540 11. Require the juvenile to participate in a public service project under such conditions as the court
 541 prescribes;

542 12. In case of traffic violations, impose only those penalties that are authorized to be imposed on
 543 adults for such violations. However, for those violations punishable by confinement if committed by an
 544 adult, confinement shall be imposed only as authorized by this title;

545 13. Transfer legal custody to any of the following:

546 a. A relative or other individual who, after study, is found by the court to be qualified to receive and
547 care for the juvenile;

548 b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by
549 law to receive and provide care for such juvenile. The court shall not transfer legal custody of a
550 delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the
551 approval of the Director; or

552 c. The local board of social services of the county or city in which the court has jurisdiction or, at
553 the discretion of the court, to the local board of the county or city in which the juvenile has residence if
554 other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for
555 care and custody, provided that it has been given reasonable notice of the pendency of the case and an
556 opportunity to be heard. However, in an emergency in the county or city in which the court has
557 jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed
558 14 days without prior notice or an opportunity to be heard if the judge entering the placement order
559 describes the emergency and the need for such temporary placement in the order. Nothing in this
560 subdivision shall prohibit the commitment of a juvenile to any local board of social services in the
561 Commonwealth when such local board consents to the commitment. The board to which the juvenile is
562 committed shall have the final authority to determine the appropriate placement for the juvenile. Any
563 order authorizing removal from the home and transferring legal custody of a juvenile to a local board of
564 social services as provided in this subdivision shall be entered only upon a finding by the court that
565 reasonable efforts have been made to prevent removal and that continued placement in the home would
566 be contrary to the welfare of the juvenile, and the order shall so state;

567 14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile
568 and his attorney or other legal representative, upon consideration of the results of an investigation
569 completed pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if
570 he is 11 years of age or older and the current offense is (i) an offense that would be a felony if
571 committed by an adult, (ii) an offense that would be a Class 1 misdemeanor if committed by an adult
572 and the juvenile has previously been found to be delinquent based on an offense that would be a felony
573 if committed by an adult, or (iii) an offense that would be a Class 1 misdemeanor if committed by an
574 adult and the juvenile has previously been adjudicated delinquent of three or more offenses that would
575 be a Class 1 misdemeanor if committed by an adult, and each such offense was not a part of a common
576 act, transaction or scheme;

577 15. Impose the penalty authorized by § 16.1-284;

578 16. Impose the penalty authorized by § 16.1-284.1;

579 17. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile
580 and his attorney or other legal representative, upon consideration of the results of an investigation
581 completed pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;

582 18. Impose the penalty authorized by § 16.1-278.9; or

583 19. Require the juvenile to participate in a gang-activity prevention program including, but not
584 limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to
585 § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations:
586 § 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127,
587 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147, or any violation of a local ordinance adopted
588 pursuant to § 15.2-1812.2.

589 B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the
590 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the
591 offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51,
592 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128,
593 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to
594 § 15.2-1812.2. The court shall further require the juvenile to participate in a community service project
595 under such conditions as the court prescribes.

596 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
597 **offenses; truancy.**

598 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the
599 time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
600 ordinance of any county, city or town, (ii) a refusal to take a blood or breath test in violation of
601 § 18.2-268.2, (iii) a felony violation of § 18.2-248, 18.2-248.1 or 18.2-250, (iv) a misdemeanor violation
602 of § 18.2-248, 18.2-248.1, or 18.2-250 or a violation of § 18.2-250.1, (v) the unlawful purchase,
603 possession or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of
604 alcoholic beverages in or on public school grounds in violation of § 4.1-309, (vi) public intoxication in
605 violation of § 18.2-388 or a similar ordinance of a county, city or town, (vii) the unlawful use or

606 possession of a handgun or possession of a "streetsweeper" as defined below, or (viii) a violation of
 607 § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law
 608 for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by
 609 this section, if the offense involves a violation designated under clause (i) and the child was transporting
 610 a person 17 years of age or younger, the court shall impose the additional fine and order community
 611 service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii),
 612 (iii) or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile
 613 reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until
 614 the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the
 615 offense involves a violation designated under clause (iv), (v) or (vi) the denial of driving privileges shall
 616 be for a period of six months unless the offense is committed by a child under the age of 16 years and
 617 three months, in which case the child's ability to apply for a driver's license shall be delayed for a
 618 period of six months following the date he reaches the age of 16 and three months. If the offense
 619 involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction
 620 and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the
 621 delinquency charge until such time as the court disposes of the case pursuant to subsection F of this
 622 section. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose
 623 the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this
 624 chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of
 625 driving privileges shall be for a period of not less than 30 days, except when the offense involves
 626 possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any
 627 semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of
 628 holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two
 629 years unless the offense is committed by a child under the age of 16 years and three months, in which
 630 event the child's ability to apply for a driver's license shall be delayed for a period of two years
 631 following the date he reaches the age of 16 and three months.

632 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
 633 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's
 634 driving privileges for a period of not less than 30 days. If such failure to comply involves a child under
 635 the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed
 636 for a period of not less than 30 days following the date he reaches the age of 16 and three months.

637 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
 638 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the
 639 child's ability to apply for a driver's license for a period of one year following the date he reaches the
 640 age of 16 and three months, as may be appropriate.

641 A2. *If a court finds that a child at least 13 years of age has refused to take a blood test in violation*
 642 *of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year*
 643 *or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period*
 644 *of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent*
 645 *such offense.*

646 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
 647 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be
 648 held in the physical custody of the court during any period of license denial.

649 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
 650 which shall preserve a record thereof. The report and the record shall include a statement as to whether
 651 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
 652 A1 of this section or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this
 653 chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement
 654 officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be
 655 forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt
 656 pursuant to subsection F.

657 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
 658 driver's license until such time as is stipulated in the court order or until notification by the court of
 659 withdrawal of the order of denial under subsection E.

660 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
 661 subsection A or a violation designated under subsection A2, the child may be referred to a certified
 662 alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the
 663 court may set forth. If the finding as to such child involves a violation designated under clause (iii),
 664 (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or
 665 educational services upon such terms and conditions as the court may set forth.

666 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a

667 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
 668 offense or at the time of the court's finding as provided in subsection A1 *or* A2 for any of the purposes
 669 set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted
 670 license shall be issued for travel to and from home and school when school-provided transportation is
 671 available and no restricted license shall be issued if the finding as to such child involves a violation
 672 designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of
 673 any offense designated in subsection A ~~or~~, a second finding by the court of failure to comply with
 674 school attendance and meeting requirements as provided in subsection A1, *or a second or subsequent*
 675 *finding by the court of a refusal to take a blood test as provided in subsection A2.* The issuance of the
 676 restricted permit shall be set forth within the court order, a copy of which shall be provided to the child,
 677 and shall specifically enumerate the restrictions imposed and contain such information regarding the
 678 child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court
 679 order in accordance with its terms. Any child who operates a motor vehicle in violation of any
 680 restrictions imposed pursuant to this section ~~shall be~~ *is* guilty of a violation of § 46.2-301.

681 E. Upon petition made at least 90 days after issuance of the order, the court may review and
 682 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
 683 subsection A1 *or* A2. For a second or subsequent such offense or finding, the order may not be
 684 reviewed and withdrawn until one year after its issuance.

685 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection
 686 A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's
 687 license has been restored, the court shall or, in the event the violation resulted in the injury or death of
 688 any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
 689 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
 690 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
 691 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
 692 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves
 693 a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed
 694 pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or
 695 § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of
 696 subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of
 697 under § 16.1-278.8.

698 **§ 16.1-309. Penalty.**

699 A. Except as provided in §§ 16.1-299, 16.1-300, 16.1-301, 16.1-305 and 16.1-307, any person who
 700 (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii)
 701 participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed
 702 concerning such allegations and whose information is derived solely from such interview or (v) is
 703 present during any court proceeding, who discloses or makes use of or knowingly permits the use of
 704 identifying information not otherwise available to the public concerning a juvenile who is suspected of
 705 being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to
 706 subdivisions A 1 through 5 *or subdivision A 7* of ~~subsection A~~ of § 16.1-241 or who is in the custody of
 707 the State Department of Juvenile Justice, which information is directly or indirectly derived from the
 708 records or files of a law-enforcement agency, court or the Department of Juvenile Justice or acquired in
 709 the course of official duties, ~~shall be~~ *is* guilty of a Class 3 misdemeanor.

710 B. The provisions of this section shall not apply to any law-enforcement officer or school employee
 711 who discloses to school personnel identifying information concerning a juvenile who is suspected of
 712 committing or has committed a delinquent act that has met applicable criteria of § 16.1-260 and is
 713 committed or alleged to have been committed on school property during a school-sponsored activity or
 714 on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school
 715 personnel to take appropriate disciplinary action within the school setting against the juvenile. Further,
 716 the provisions of this section shall not apply to school personnel who disclose information obtained
 717 pursuant to §§ 16.1-305.1 and 22.1-288.2, if the disclosure is made in compliance with those sections.

718 **§ 18.2-268.3. Refusal of tests; penalties; procedures.**

719 A. It ~~shall be~~ *is* unlawful for a person who is arrested for a violation of § 18.2-266, *or* 18.2-266.1, or
 720 subsection B of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his
 721 ~~blood or breath or both blood and breath~~ taken for chemical tests to determine the alcohol ~~or drug~~
 722 content of his blood as required by § 18.2-268.2, and any person who so unreasonably refuses is guilty
 723 of a violation of this ~~section~~ *subsection, which is punishable as follows:*

724 1. A first violation is a civil offense. For a first offense, the court shall suspend the defendant's
 725 privilege to drive for a period of one year. This suspension period is in addition to the suspension
 726 period provided under § 46.2-391.2.

727 2. If a person is found to have violated this subsection and within 10 years prior to the date of the

728 refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266,
729 or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or
730 incidents, he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself
731 operate to deprive the person of the privilege to drive for a period of three years from the date of the
732 judgment of conviction. This revocation period is in addition to the suspension period provided under
733 § 46.2-391.2.

734 B. It is unlawful for a person who is arrested for a violation of § 18.2-266 or 18.2-266.1 or
735 subsection B of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his
736 blood taken for chemical tests to determine the alcohol or drug content of his blood as required by
737 § 18.2-268.2 and any person who so unreasonably refuses is guilty of a violation of this subsection,
738 which is a civil offense and is punishable as follows:

739 1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one
740 year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

741 2. If a person is found to have violated this subsection and within 10 years prior to the date of the
742 refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266,
743 or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or
744 incidents, such violation shall of itself operate to deprive the person of the privilege to drive for a
745 period of three years from the date of the judgment. This revocation period is in addition to the
746 suspension period provided under § 46.2-391.2.

747 C. When a person is arrested for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1 or, subsection B
748 of § 18.2-272 or of a similar ordinance and such person refuses to permit blood or breath or both blood
749 and breath samples to be taken for testing as required by § 18.2-268.2, the arresting officer shall advise
750 the person, from a form provided by the Office of the Executive Secretary of the Supreme Court, that
751 (i) that a person who operates a motor vehicle upon a highway in the Commonwealth is deemed
752 thereby, as a condition of such operation, to have consented to have samples of his blood and breath
753 taken for chemical tests to determine the alcohol or drug content of his blood, (ii) that a finding of
754 unreasonable refusal to consent may be admitted as evidence at a criminal trial, (iii) that the
755 unreasonable refusal to do so constitutes grounds for the revocation of the privilege of operating a motor
756 vehicle upon the highways of the Commonwealth, (iv) the criminal penalty for unreasonable refusal
757 within 10 years of a prior conviction for driving while intoxicated or unreasonable refusal is a Class 2
758 misdemeanor of the civil penalties for unreasonable refusal to have blood or breath or both blood and
759 breath samples taken, and (v) of the criminal penalty for unreasonable refusal to have breath samples
760 taken within 10 years of any two a prior convictions conviction for driving while intoxicated or
761 unreasonable refusal, which is a Class 1 misdemeanor. The form from which the arresting officer shall
762 advise the person arrested shall contain a brief statement of the law requiring the taking of blood or
763 breath samples, a statement that a finding of unreasonable refusal to consent may be admitted as
764 evidence at a criminal trial, and the penalties for refusal. The Office of the Executive Secretary of the
765 Supreme Court shall make the form available on the Internet and the form shall be considered an
766 official publication of the Commonwealth for the purposes of § 8.01-388.

767 C. D. The arresting officer shall, under oath before the magistrate, execute the form and certify, (i)
768 that the defendant has refused to permit blood or breath or both blood and breath samples to be taken
769 for testing; (ii) that the officer has read the portion of the form described in subsection B C to the
770 arrested person; (iii) that the arrested person, after having had the portion of the form described in
771 subsection B C read to him, has refused to permit such sample or samples to be taken; and (iv) how
772 many, if any, violations of this section, § 18.2-266, or any offense described in subsection E of
773 § 18.2-270 the arrested person has been convicted of within the last 10 years. Such sworn certification
774 shall constitute probable cause for the magistrate to issue a warrant or summons charging the person
775 with unreasonable refusal. The magistrate shall attach the executed and sworn advisement form to the
776 warrant or summons. The warrant or summons for a first offense under this section subsection A or any
777 offense under subsection B shall be executed in the same manner as a criminal warrant or summons. If
778 the person arrested has been taken to a medical facility for treatment or evaluation of his medical
779 condition, the arresting officer may read the advisement form to the person at the medical facility, and
780 issue, on the premises of the medical facility, a summons for a violation of this section in lieu of
781 securing a warrant or summons from the magistrate. The magistrate or arresting officer, as the case may
782 be, shall forward the executed advisement form and warrant or summons to the appropriate court.

783 D. A first violation of this section is a civil offense and subsequent violations are criminal offenses.
784 For a first offense the court shall suspend the defendant's privilege to drive for a period of one year.
785 This suspension period is in addition to the suspension period provided under § 46.2-391.2.

786 If a person is found to have violated this section and within 10 years prior to the date of the refusal
787 he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a
788 violation of any offense listed in subsection E of § 18.2-270, arising out of separate occurrences or

879 incidents, he is guilty of a Class 2 misdemeanor and the court shall suspend the defendant's privilege to
 890 drive for a period of three years. This suspension period is in addition to the suspension period provided
 891 under § 46.2-391.2.

892 If a person is found guilty of a violation of this section and within 10 years prior to the date of the
 893 refusal he was found guilty of any two of the following: a violation of this section, a violation of
 894 § 18.2-266, or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate
 895 occurrences or incidents, he is guilty of a Class 1 misdemeanor and the court shall suspend the
 896 defendant's privilege to drive for a period of three years. This suspension period is in addition to the
 897 suspension period provided under § 46.2-391.2.

898 **§ 18.2-268.4. Trial and appeal for refusal.**

899 A. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which
 900 the offense of driving under the influence of intoxicants or other offense listed in subsection A or B of
 901 § 18.2-268.3 is to be tried.

902 B. The procedure for appeal and trial of a ~~first~~ *any civil* offense of § 18.2-268.3 shall be the same as
 903 provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by
 904 jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the
 905 Commonwealth shall be required to prove its case beyond a reasonable doubt.

906 C. If the defendant pleads guilty to a violation of § 18.2-266, or 18.2-266.1, or subsection B of
 907 § 18.2-272 or of a similar ordinance, the court may dismiss the warrant or summons.

908 The court shall dispose of the defendant's license in accordance with the provisions of § 46.2-398;
 909 however, the defendant's license shall not be returned during any period of suspension imposed under
 910 § 46.2-391.2.

911 **§ 18.2-268.7. Transmission of blood test samples; use as evidence.**

912 A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to
 913 § 18.2-268.6, the Department shall have it examined for its alcohol or drug or both alcohol and drug
 914 content and the Director shall execute a certificate of analysis indicating the name of the accused; the
 915 date, time and by whom the blood sample was received and examined; a statement that the seal on the
 916 vial had not been broken or otherwise tampered with; a statement that the container and vial were
 917 provided or approved by the Department and that the vial was one to which the completed withdrawal
 918 certificate was attached; and a statement of the sample's alcohol or drug or both alcohol and drug
 919 content. The Director shall remove the withdrawal certificate from the vial and either (i) attach it to the
 920 certificate of analysis and state in the certificate of analysis that it was so removed and attached or (ii)
 921 electronically scan it into the Department's Laboratory Information Management System and place the
 922 original withdrawal certificate in its case-specific file. The certificate of analysis and the withdrawal
 923 certificate shall be returned or electronically transmitted to the clerk of the court in which the charge
 924 will be heard.

925 B. After completion of the analysis, the Department shall preserve the remainder of the blood until at
 926 least 90 days have lapsed ~~from the date the blood was drawn. During this 90-day period, the~~ *The*
 927 *accused may, at any time prior to the expiration of such 90-day period, by motion filed before the court*
 928 *in which the charge will be heard, with notice to the Department, request an order directing the*
 929 *Department to transmit the remainder of the blood sample to an independent laboratory retained by the*
 930 *accused for analysis. The* *On motion of the accused, the report of analysis prepared for the remaining*
 931 *blood sample shall be admissible in evidence, provided that the report is duly attested by a person*
 932 *performing such analysis and the independent laboratory that performed the analysis is accredited or*
 933 *certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies:*
 934 *American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College*
 935 *of American Pathologists (CAP); U.S. Department of Health and Human Services Substance Abuse and*
 936 *Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).*
 937 *If no notice of a motion to transmit the remainder of the blood sample is received prior to the*
 938 *expiration of the 90-day period, the Department shall destroy the remainder of the blood sample if no*
 939 *notice of a motion to transmit the remaining blood sample is received during the 90-day period unless*
 940 *the Commonwealth has filed a written request with the Department to return the remainder of the blood*
 941 *sample to the investigating law-enforcement agency. In such case, the Department shall return the*
 942 *remainder of the blood sample, if not sent to an independent laboratory, to the investigating*
 943 *law-enforcement agency.*

944 C. When a blood sample taken in accordance with the provisions of §§ 18.2-268.2 through
 945 18.2-268.6 is forwarded for analysis to the Department, a report of the test results shall be filed in that
 946 office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the
 947 withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as
 948 evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding,
 949 provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not

850 objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil
 851 proceeding. On motion of the accused, the report of analysis prepared for the remaining blood sample
 852 shall be admissible in evidence provided the report is duly attested by a person performing such analysis
 853 and the independent laboratory that performed the analysis is accredited or certified to conduct forensic
 854 blood alcohol/drug testing by one or more of the following bodies: American Society of Crime
 855 Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists
 856 (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health
 857 Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).

858 Upon request of the person whose blood was analyzed, the test results shall be made available to
 859 him.

860 The Director may delegate or assign these duties to an employee of the Department.

861 **§ 18.2-268.9. Assurance of breath-test validity; use of breath-test results as evidence.**

862 A. To be capable of being considered valid as evidence in a prosecution under § 18.2-266, or
 863 18.2-266.1, or subsection B of § 18.2-272, or a similar ordinance, chemical analysis of a person's breath
 864 shall be performed by an individual possessing a valid license to conduct such tests, with a type of
 865 equipment and in accordance with methods approved by the Department.

866 B. The Department shall establish a training program for all individuals who are to administer the
 867 breath tests. Upon a person's successful completion of the training program, the Department may license
 868 him to conduct breath-test analyses. Such license shall identify the specific types of breath test
 869 equipment upon which the individual has successfully completed training. Any individual conducting a
 870 breath test under the provisions of § 18.2-268.2 shall issue a certificate which will indicate that the test
 871 was conducted in accordance with the Department's specifications, the name of the accused, that prior to
 872 administration of the test the accused was advised of his right to observe the process and see the blood
 873 alcohol reading on the equipment used to perform the breath test, the date and time the sample was
 874 taken from the accused, the sample's alcohol content, and the name of the person who examined the
 875 sample. This certificate, when attested by the individual conducting the breath test on equipment
 876 maintained by the Department, shall be admissible in any court as evidence of the facts therein stated
 877 and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of
 878 subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of
 879 the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding. Any such
 880 certificate of analysis purporting to be signed by a person authorized by the Department shall be
 881 admissible in evidence without proof of seal or signature of the person whose name is signed to it. A
 882 copy of the certificate shall be promptly delivered to the accused. Copies of Department records relating
 883 to any breath test conducted pursuant to this section shall be admissible provided such copies are
 884 authenticated as true copies either by the custodian thereof or by the person to whom the custodian
 885 reports.

886 ~~The officer making the arrest, or anyone with him at the time of the arrest, or anyone participating in~~
 887 ~~the arrest of the accused, if otherwise~~ Any person qualified to conduct such a breath test as provided by
 888 this section, may administer the breath test and or analyze the results.

889 **§ 18.2-269. Presumptions from alcohol or drug content of blood.**

890 A. In any prosecution for a violation of § 18.2-36.1 or clause (ii), (iii), or (iv) of § 18.2-266, or any
 891 similar ordinance, the amount of alcohol or drugs in the blood of the accused at the time of the alleged
 892 offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine
 893 the alcohol or drug content of his blood (i) in accordance with the provisions of §§ 18.2-268.1 through
 894 18.2-268.12 or (ii) performed by the Department of Forensic Science in accordance with the provisions
 895 of §§ 18.2-268.5, 18.2-268.6, and 18.2-268.7 on the suspect's whole blood drawn pursuant to a search
 896 warrant shall give rise to the following rebuttable presumptions:

897 (1) 1. If there was at that time 0.05 percent or less by weight by volume of alcohol in the accused's
 898 blood or 0.05 grams or less per 210 liters of the accused's breath, it shall be presumed that the accused
 899 was not under the influence of alcohol intoxicants at the time of the alleged offense;

900 (2) 2. If there was at that time in excess of 0.05 percent but less than 0.08 percent by weight by
 901 volume of alcohol in the accused's blood or 0.05 grams but less than 0.08 grams per 210 liters of the
 902 accused's breath, such facts shall not give rise to any presumption that the accused was or was not under
 903 the influence of alcohol intoxicants at the time of the alleged offense, but such facts may be considered
 904 with other competent evidence in determining the guilt or innocence of the accused;

905 (3) 3. If there was at that time 0.08 percent or more by weight by volume of alcohol in the accused's
 906 blood or 0.08 grams or more per 210 liters of the accused's breath, it shall be presumed that the accused
 907 was under the influence of alcohol intoxicants at the time of the alleged offense; or

908 (4) 4. If there was at that time an amount of the following substances at a level that is equal to or
 909 greater than: (a) (i) 0.02 milligrams of cocaine per liter of blood, (b) (ii) 0.1 milligrams of
 910 methamphetamine per liter of blood, (c) (iii) 0.01 milligrams of phencyclidine per liter of blood, or (d)

911 (iv) 0.1 milligrams of 3,4-methylenedioxyamphetamine per liter of blood, it shall be presumed that
 912 the accused was under the influence of drugs at the time of the alleged offense to a degree which
 913 impairs his ability to drive or operate any motor vehicle, engine or train safely.

914 B. The provisions of this section shall not apply to and shall not affect any prosecution for a
 915 violation of § 46.2-341.24.

916 **§ 18.2-272. Driving after forfeiture of license.**

917 A. Any person who drives or operates any motor vehicle, engine or train in the Commonwealth
 918 during the time for which he was deprived of the right to do so (i) upon conviction of a violation of
 919 § 18.2-268.3 or 46.2-341.26:3 or of an offense set forth in subsection E of § 18.2-270, (ii) by § 18.2-271
 920 or 46.2-391.2, (iii) after his license has been revoked pursuant to § 46.2-389 or 46.2-391, or (iv) in
 921 violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1, is guilty of
 922 a Class 1 misdemeanor except as otherwise provided in § 46.2-391, and is subject to administrative
 923 revocation of his driver's license pursuant to §§ 46.2-389 and 46.2-391. Any person convicted of three
 924 violations of this section committed within a 10-year period is guilty of a Class 6 felony.

925 Nothing in this section or § 18.2-266, 18.2-270, or 18.2-271, shall be construed as conflicting with or
 926 repealing any ordinance or resolution of any city, town or county which restricts still further the right of
 927 such persons to drive or operate any such vehicle or conveyance.

928 B. Regardless of compliance with any other restrictions on his privilege to drive or operate a motor
 929 vehicle, it shall be a violation of this section for any person whose privilege to drive or operate a motor
 930 vehicle has been restricted, suspended or revoked because of a violation of § 18.2-36.1, 18.2-51.4,
 931 18.2-266, 18.2-268.3, 46.2-341.24, or 46.2-341.26:3 or a similar ordinance or law of another state or the
 932 United States to drive or operate a motor vehicle while he has a blood alcohol content of 0.02 percent
 933 or more.

934 Any person suspected of a violation of this subsection shall be entitled to a preliminary breath test in
 935 accordance with the provisions of § 18.2-267, shall be deemed to have given his implied consent to have
 936 samples of his blood, breath or both taken for analysis pursuant to the provisions of § 18.2-268.2, and,
 937 when charged with a violation of this subsection, shall be subject to the provisions of §§ 18.2-268.1
 938 through 18.2-268.12.

939 C. Any person who drives or operates a motor vehicle without a certified ignition interlock system as
 940 required by § 46.2-391.01 is guilty of a Class 1 misdemeanor and is subject to administrative revocation
 941 of his driver's license pursuant to §§ 46.2-389 and 46.2-391.

942 **§ 19.2-52. When search warrant may issue.**

943 Except as provided in § 19.2-56.1, search warrants, based upon complaint on oath supported by an
 944 affidavit as required in § 19.2-54, may be issued by any judge, magistrate or other person having
 945 authority to issue criminal warrants, if he be satisfied from such complaint and affidavit that there is
 946 reasonable and probable cause for the issuance of such search warrant.

947 *An application for a search warrant to withdraw blood from a person suspected of violating*
 948 *§ 18.2-266, 18.2-266.1, 18.2-272, 29.1-738, 29.1-738.02, or 46.2-341.24 shall be given priority over any*
 949 *pending matters not involving an imminent risk to another's health or safety before such judge,*
 950 *magistrate, or other person having authority to issue criminal warrants.*

951 **§ 19.2-73. Issuance of summons instead of warrant in certain cases.**

952 A. In any misdemeanor case or in any class of misdemeanor cases, or in any case involving
 953 complaints made by any state or local governmental official or employee having responsibility for the
 954 enforcement of any statute, ordinance or administrative regulation, the magistrate or other issuing
 955 authority having jurisdiction may issue a summons instead of a warrant when there is reason to believe
 956 that the person charged will appear in the courts having jurisdiction over the trial of the offense charged.

957 B. If any person under suspicion for driving while intoxicated has been taken to a medical facility
 958 for treatment or evaluation of his medical condition, the officer at the medical facility may issue, on the
 959 premises of the medical facility, a summons for a violation of § 18.2-266, 18.2-266.1, 18.2-272, or
 960 46.2-341.24 and for refusal of tests in violation of subsection A or B of § 18.2-268.3 or subsection A of
 961 § 46.2-341.26:3, in lieu of securing a warrant and without having to detain that person, provided that the
 962 officer has probable cause to place him under arrest. The issuance of such summons shall be deemed an
 963 arrest for purposes of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2.

964 C. Any person on whom such summons is served shall appear on the date set forth in same, and if
 965 such person fails to appear in such court at such time and on such date then he shall be treated in
 966 accordance with the provisions of § 19.2-128, regardless of the disposition of, and in addition to, the
 967 charge upon which he was originally arrested.

968 **§ 29.1-738.3. Presumptions from alcohol or drug content.**

969 In any prosecution for operating a watercraft or motorboat which that is underway in violation of
 970 clause (ii), (iii), or (iv) of subsection B of § 29.1-738, or of a similar ordinance of any county, city or
 971 town, the amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as

972 indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcohol
 973 or drug content of his blood (i) in accordance with the provisions of § 29.1-738.2 or (ii) performed by
 974 the Department of Forensic Science in accordance with the provisions of §§ 18.2-268.5, 18.2-268.6, and
 975 18.2-268.7 on the suspect's whole blood drawn pursuant to a search warrant shall give rise to the
 976 rebuttable presumptions of subdivisions (1) A 1 through (4) 4 of subsection A of § 18.2-269.

977 **§ 46.2-341.26:2. Implied consent to post-arrest chemical test to determine alcohol or drug**
 978 **content of blood of commercial driver.**

979 A. Any person, whether licensed by Virginia or not, who operates a commercial motor vehicle upon
 980 a highway as defined in § 46.2-100 in the Commonwealth shall be deemed thereby, as a condition of
 981 such operation, to have consented to have samples of his blood, breath, or both blood and breath taken
 982 for a chemical test to determine the alcohol, drug or both alcohol and drug content of his blood, if he is
 983 arrested for violation of § 46.2-341.24 or 46.2-341.31 within ~~two~~ three hours of the alleged offense.

984 B. Such person shall be required to have a breath sample taken and shall be entitled, upon request, to
 985 observe the process of analysis and to see the blood-alcohol reading on the equipment used to perform
 986 the breath test. If the equipment automatically produces a written printout of the breath test result, the
 987 printout or a copy shall be given to the suspect. If a breath test is not available, then a blood test shall
 988 be required.

989 C. The person may be required to submit to blood tests to determine the drug content of his blood if
 990 he has been arrested pursuant to provision (iii), (iv), or (v) of subsection A of § 46.2-341.24, or if he
 991 has taken the breath test required pursuant to subsection B and the law-enforcement officer has
 992 reasonable cause to believe the person was driving under the influence of any drug or combination of
 993 drugs, or the combined influence of alcohol and drugs.

994 D. If the certificate of analysis referred to in § 46.2-341.26:9 indicates the presence of alcohol in the
 995 suspect's blood, the suspect shall be taken before a magistrate to determine whether the magistrate
 996 should issue an out-of-service order prohibiting the suspect from driving any commercial motor vehicle
 997 for a 24-hour period. If the magistrate finds that there is probable cause to believe that the suspect was
 998 driving a commercial motor vehicle with any measurable amount of alcohol in his blood, the magistrate
 999 shall issue an out-of-service order prohibiting the suspect from driving any commercial motor vehicle for
 1000 a period of 24 hours. The magistrate shall forward a copy of the out-of-service order to the Department
 1001 within seven days after issuing the order. The order shall be in addition to any other action or sanction
 1002 permitted or required by law to be taken against or imposed upon the suspect.

1003 **§ 46.2-341.26:3. Refusal of tests; issuance of out-of-service orders; disqualification.**

1004 A. *If it is unlawful for a person who is arrested for a violation of § 46.2-341.24 or 46.2-341.31 to*
 1005 *unreasonably refuse to have samples of his breath taken for chemical tests to determine the alcohol*
 1006 *content of his blood as required by § 46.2-341.26:2, and any person who so unreasonably refuses is*
 1007 *guilty of a violation of this subsection, which is punishable as follows:*

1008 1. *A first violation is a civil offense. For a first offense, the court shall suspend the defendant's*
 1009 *privilege to drive for a period of one year. This suspension period is in addition to the suspension*
 1010 *period provided under § 46.2-391.2.*

1011 2. *If a person is found to have violated this subsection and within 10 years prior to the date of the*
 1012 *refusal he was found guilty of any of the following: a violation of this section, a violation of any offense*
 1013 *listed in subsection E of § 18.2-270, or a violation of § 46.2-341.24 or 46.2-341.31 arising out of*
 1014 *separate occurrences or incidents, he is guilty of a Class 1 misdemeanor. A conviction under this*
 1015 *subdivision shall of itself operate to deprive the person of the privilege to drive for a period of three*
 1016 *years from the date of the judgment of conviction. This revocation period is in addition to the*
 1017 *suspension period provided under § 46.2-391.2.*

1018 B. *It is unlawful for a person who is arrested for a violation of § 46.2-341.24 or 46.2-341.31 to*
 1019 *unreasonably refuse to have samples of his blood taken for chemical tests to determine the alcohol or*
 1020 *drug content of his blood as required by § 46.2-341.26:2, and any person who so unreasonably refuses*
 1021 *is guilty of a violation of this subsection, which is a civil offense and is punishable as follows:*

1022 1. *For a first offense, the court shall suspend the defendant's privilege to drive for a period of one*
 1023 *year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.*

1024 2. *If a person is found to have violated this subsection and within 10 years prior to the date of the*
 1025 *refusal he was found guilty of any of the following: a violation of this section, a violation of any offense*
 1026 *listed in subsection E of § 18.2-270, or a violation of § 46.2-341.24 or 46.2-341.31 arising out of*
 1027 *separate occurrences or incidents, such violation shall of itself operate to deprive the person of the*
 1028 *privilege to drive for a period of three years from the date of the judgment. This revocation period is in*
 1029 *addition to the suspension period provided under § 46.2-391.2.*

1030 C. *When a person is arrested for a violation of § 46.2-341.24 or § 46.2-341.31, after having been*
 1031 *advised by a and such person refuses to permit blood or breath or both blood and breath samples to be*
 1032 *taken for testing as required by § 46.2-341.26:2, the arresting law-enforcement officer shall advise the*

1033 person, from a form provided by the Office of the Executive Secretary of the Supreme Court, (i) that a
 1034 person who operates a commercial motor vehicle on a public highway in the Commonwealth is deemed
 1035 thereby, as a condition of such operation, to have consented to have samples of his blood or breath
 1036 taken for chemical tests to determine the alcohol or drug content of his blood, (ii) that a finding of
 1037 unreasonable refusal to consent may be admitted as evidence at a criminal trial, and (iii) that the
 1038 unreasonable refusal to do so constitutes grounds for the *immediate* issuance of an out-of-service order
 1039 prohibiting him from driving a commercial vehicle for a period of 24 hours and for the disqualification
 1040 of such person from operating a commercial motor vehicle, then refuses to permit blood or breath
 1041 samples to be taken for such tests, the law-enforcement officer shall take the person before a magistrate.
 1042 If he again refuses after having been further advised by the magistrate (i) of the law requiring blood or
 1043 breath samples to be taken, (ii) that a finding of unreasonable refusal to consent may be admitted as
 1044 evidence at a criminal trial, and (iii) the sanctions for refusal, and declares again his refusal in writing
 1045 on a form provided by the Supreme Court, or refuses or fails to so declare in writing and such fact is
 1046 certified as prescribed below, then no blood or breath samples shall be taken even though he may later
 1047 request them.

1048 B. (iv) of the civil penalties for unreasonable refusal to have blood or breath or both blood and
 1049 breath samples taken, and (v) of the criminal penalty for unreasonable refusal to have breath samples
 1050 taken within 10 years of a prior conviction for driving while intoxicated or unreasonable refusal, which
 1051 is a Class 1 misdemeanor. The form from which the law-enforcement officer shall advise the person
 1052 arrested shall contain a brief statement of the law requiring the taking of blood or breath samples, that a
 1053 finding of unreasonable refusal to consent to testing may be admitted as evidence at a criminal trial, and
 1054 the sanctions penalties for refusal; a declaration of refusal; and lines for the signature of the person from
 1055 whom the blood or breath sample is sought, the date, and the signature of a witness to the signing. If
 1056 the person refuses or fails to execute the declaration, the magistrate shall certify such fact and that the
 1057 magistrate advised the person that a refusal to permit a blood or breath sample to be taken, if found to
 1058 be unreasonable, constitutes grounds for immediate issuance of an out-of-service order prohibiting him
 1059 from driving a commercial vehicle for a period of twenty-four hours, and for the disqualification of such
 1060 person from operating a commercial motor vehicle. The Office of the Executive Secretary of the Supreme
 1061 Court shall make the form available on the Internet, and the form shall be considered an official
 1062 publication of the Commonwealth for the purposes of § 8.01-388.

1063 D. The law-enforcement officer shall, under oath before the magistrate, execute the form and certify
 1064 (i) that the defendant has refused to permit blood or breath or both blood and breath samples to be
 1065 taken for testing; (ii) that the officer has read the portion of the form described in subsection C to the
 1066 arrested person; (iii) that the arrested person, after having had the portion of the form described in
 1067 subsection C read to him, had refused to permit such sample or samples to be taken; and (iv) how
 1068 many, if any, violations of this section, any offense listed in subsection E of § 18.2-270, or § 46.2-341.24
 1069 or 46.2-341.31 the arrested person has been convicted of within the last 10 years. Such sworn
 1070 certification shall constitute probable cause for the magistrate to issue a warrant or summons charging
 1071 the person with unreasonable refusal. The magistrate shall attach the executed and sworn advisement
 1072 form to the warrant or summons. The warrant or summons for a first offense under subsection A or any
 1073 offense under subsection B shall be executed in the same manner as a criminal warrant or summons. If
 1074 the person arrested has been taken to a medical facility for treatment or evaluation of his medical
 1075 condition, the law-enforcement officer may read the advisement form to the person at the medical
 1076 facility and issue, on the premises of the medical facility, a summons for a violation of this section in
 1077 lieu of securing a warrant or summons from the magistrate. The magistrate or law-enforcement officer,
 1078 as the case may be, shall forward the executed advisement form and warrant or summons to the
 1079 appropriate court.

1080 E. If the magistrate finds that there was probable cause to believe the refusal was unreasonable,
 1081 he shall immediately issue an out-of-service order prohibiting the person from operating a commercial
 1082 motor vehicle for a period of twenty-four 24 hours and shall issue a warrant or summons charging such
 1083 person with a violation of § 46.2-341.26:2. The warrant or summons shall be executed in the same
 1084 manner as criminal warrants. Venue for the trial of the warrant or summons shall lie in the court of the
 1085 county or city in which the criminal offense is to be tried.

1086 D. The executed declaration of refusal or the certificate of the magistrate, as the case may be, shall
 1087 be attached to the warrant and shall be forwarded by the magistrate to the court.

1088 E. When the court receives the declaration or certificate together with the warrant or summons
 1089 charging refusal, the court shall fix a date for the trial of the warrant or summons, at such time as the
 1090 court designates.

1091 F. The declaration of refusal or certificate under § 46.2-341.26:3 shall be prima facie evidence that
 1092 the defendant refused to allow a blood or breath sample to be taken to determine the alcohol or drug
 1093 content of his blood. However, this shall not prohibit the defendant from introducing on his behalf

1094 evidence of the basis for his refusal. The court shall determine the reasonableness of such refusal.

1095 **§ 46.2-341.26:4. Appeal and trial; sanctions for refusal; procedures.**

1096 A. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which
1097 the offense of driving under the influence of intoxicants or other offense listed in subsection A or B of
1098 § 46.2-341.26:3 is to be tried.

1099 B. The procedure for appeal and trial of any civil offense of § 46.2-341.26:3 shall be the same as
1100 provided by law for misdemeanors. If requested by either party on appeal to the circuit court, trial by
1101 jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the
1102 Commonwealth shall be required to prove its case beyond a reasonable doubt.

1103 C. If the court or jury finds the defendant guilty as charged in the warrant or summons referred to in
1104 § 46.2-341.26:3, the defendant shall be disqualified as provided in § 46.2-341.18. However, if the
1105 defendant pleads guilty to a violation of § 46.2-341.24, the court may dismiss the warrant or summons.

1106 The court shall notify the Commissioner of any such finding of guilt and shall forward dispose of the
1107 defendant's license to the Commissioner as in other cases of similar nature for suspension of license
1108 unless the defendant appeals his conviction. In such case the court shall return the license to the
1109 defendant upon his appeal being perfected in accordance with the provisions of § 46.2-398; however, the
1110 defendant's license shall not be returned during any period of suspension imposed under § 46.2-391.2.

1111 **§ 46.2-341.26:7. Transmission of samples.**

1112 A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to
1113 § 46.2-341.26:6, the Department shall have it examined for its alcohol or drug content, and the Director
1114 shall execute a certificate of analysis indicating the name of the suspect; the date, time, and by whom
1115 the blood sample was received and examined; a statement that the seal on the vial had not been broken
1116 or otherwise tampered with; a statement that the container and vial were provided or approved by the
1117 Department and that the vial was one to which the completed withdrawal certificate was attached; and a
1118 statement of the sample's alcohol or drug content. The Director or his representative shall remove the
1119 withdrawal certificate from the vial and either (i) attach it to the certificate of analysis and state in the
1120 certificate of analysis that it was so removed and attached or (ii) electronically scan it into the
1121 Department's Laboratory Information Management System and place the original withdrawal certificate
1122 in its case-specific file. The certificate of analysis and the withdrawal certificate shall be returned or
1123 electronically transmitted to the clerk of the court in which the charge will be heard.

1124 B. After completion of the analysis, the Department shall preserve the remainder of the blood until at
1125 least 90 days have lapsed from the date the blood was drawn. During this 90-day period, the
1126 accused may, at any time prior to the expiration of such 90-day period, by motion filed before the court
1127 in which the charge will be heard, with notice to the Department, request an order directing the
1128 Department to transmit the remainder of the blood sample to an independent laboratory retained by the
1129 accused for analysis. ~~The~~ On motion of the accused, the report of analysis prepared for the remaining
1130 blood sample shall be admissible in evidence, provided that the report is duly attested by a person
1131 performing such analysis and the independent laboratory that performed the analysis is accredited or
1132 certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies:
1133 American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College
1134 of American Pathologists (CAP); U.S. Department of Health and Human Services Substance Abuse and
1135 Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).
1136 If no notice of a motion to transmit the remainder of the blood sample is received prior to the
1137 expiration of the 90-day period, the Department shall destroy the remainder of the blood sample if no
1138 notice of a motion to transmit the remaining blood sample is received during the 90-day period unless
1139 the Commonwealth has filed a written request with the Department to return the remainder of the blood
1140 sample to the investigating law-enforcement agency. In such case, the Department shall return the
1141 remainder of the blood sample, if not sent to an independent laboratory, to the investigating
1142 law-enforcement agency.

1143 B. C. When a blood sample taken in accordance with the provisions of §§ 46.2-341.26:2 through
1144 46.2-341.26:6 is forwarded for analysis to the Department, a report of the test results shall be filed in
1145 that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with
1146 the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as
1147 evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding,
1148 provided that the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has
1149 not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any
1150 civil proceeding. On motion of the accused, the report of analysis prepared for the remaining blood
1151 sample shall be admissible in evidence provided the report is duly attested by a person performing such
1152 analysis and the independent laboratory that performed the analysis is accredited or certified to conduct
1153 forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime
1154 Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists

1155 (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health
 1156 Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).

1157 Upon request of the person whose blood or breath was analyzed, the test results shall be made
 1158 available to him.

1159 The Director may delegate or assign these duties to an employee of the Department.

1160 **§ 46.2-341.26:9. Assurance of breath test validity; use of breath tests as evidence.**

1161 To be capable of being considered valid in a prosecution under § 46.2-341.24 or 46.2-341.31,
 1162 chemical analysis of a person's breath shall be performed by an individual possessing a valid license to
 1163 conduct such tests, with the type of equipment and in accordance with methods approved by the
 1164 Department.

1165 Any individual conducting a breath test under the provisions of § 46.2-341.26:2 shall issue a
 1166 certificate which includes the name of the suspect, the date and time the sample was taken from the
 1167 suspect, the alcohol content of the sample, and the identity of the person who examined the sample. The
 1168 certificate will also indicate that the test was conducted in accordance with the Department's
 1169 specifications.

1170 The certificate of analysis, when attested by the authorized individual conducting the breath test on
 1171 equipment maintained by the Department, shall be admissible in any court as evidence of the facts
 1172 therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the
 1173 requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the
 1174 admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding. Any
 1175 such certificate of analysis purporting to be signed by a person authorized by the Department shall be
 1176 admissible in evidence without proof of seal or signature of the person whose name is signed to it.

1177 A copy of such certificate shall be promptly delivered to the suspect. ~~The law enforcement officer~~
 1178 ~~requiring the test or anyone with such officer at the time if otherwise~~ Any person qualified to conduct
 1179 such a breath test as provided by this section, may administer the breath test or analyze the results
 1180 thereof.

1181 **§ 46.2-341.27. Presumptions from alcohol and drug content of blood.**

1182 In any prosecution for a violation of clause (ii), (iii), or (iv) of subsection A of § 46.2-341.24, the
 1183 amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as indicated by
 1184 a chemical analysis of a sample of the suspect's blood or breath to determine the alcohol or drug content
 1185 of his blood (i) in accordance with the provisions of §§ 46.2-341.26:1 through 46.2-341.26:11 or (ii)
 1186 performed by the Department of Forensic Science in accordance with the provisions of
 1187 §§ 46.2-341.26:5, 46.2-341.26:6, and 46.2-341.26:7 on the suspect's whole blood drawn pursuant to a
 1188 search warrant shall give rise to the following rebuttable presumptions:

1189 A. If there was at that time 0.08 percent or more by weight by volume of alcohol in the accused's
 1190 blood or 0.08 grams or more per 210 liters of the accused's breath, it shall be presumed that the accused
 1191 was under the influence of alcoholic intoxicants.

1192 B. If there was at that time less than 0.08 percent by weight by volume of alcohol in the accused's
 1193 blood or 0.08 grams or more per 210 liters of the accused's breath, such fact shall not give rise to any
 1194 presumption that the accused was or was not under the influence of alcoholic intoxicants, but such fact
 1195 may be considered with other competent evidence in determining the guilt or innocence of the accused.

1196 C. If there was at that time an amount of the following substances at a level that is equal to or
 1197 greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine
 1198 per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of
 1199 3,4-methylenedioxymethamphetamine per liter of blood, it shall be presumed that the accused was under
 1200 the influence of drugs to a degree which impairs his ability to drive or operate any commercial motor
 1201 vehicle safely.

1202 **§ 46.2-391.2. Administrative suspension of license or privilege to operate a motor vehicle.**

1203 A. If a breath test is taken pursuant to § 18.2-268.2 or any similar ordinance or § 46.2-341.26:2 and
 1204 (i) the results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams
 1205 or more per 210 liters of breath, or (ii) the results, for persons under 21 years of age, show a blood
 1206 alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210
 1207 liters of breath or (iii) the person refuses to submit to the breath or blood test in violation of
 1208 § 18.2-268.3 or any similar ordinance or § 46.2-341.26:3, and upon issuance of a petition or summons,
 1209 or upon issuance of a warrant by the magistrate, for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1,
 1210 or any similar ordinance, or § 46.2-341.24 or upon the issuance of a warrant or summons by the
 1211 magistrate or by the arresting officer at a medical facility for a violation of § 18.2-268.3, or any similar
 1212 ordinance, or § 46.2-341.26:3, the person's license shall be suspended immediately or in the case of (i)
 1213 (a) an unlicensed person, (ii) (b) a person whose license is otherwise suspended or revoked, or (iii) (c) a
 1214 person whose driver's license is from a jurisdiction other than the Commonwealth, such person's
 1215 privilege to operate a motor vehicle in the Commonwealth shall be suspended immediately. The period

1216 of suspension of the person's license or privilege to drive shall be seven days, unless the petition,
 1217 summons or warrant issued charges the person with a second or subsequent offense. If the person is
 1218 charged with a second offense the suspension shall be for 60 days. If not already expired, the period of
 1219 suspension shall expire on the day and time of trial of the offense charged on the petition, summons or
 1220 warrant, except that it shall not so expire during the first seven days of the suspension. If the person is
 1221 charged with a third or subsequent offense, the suspension shall be until the day and time of trial of the
 1222 offense charged on the petition, summons or warrant.

1223 A law-enforcement officer, acting on behalf of the Commonwealth, shall serve a notice of suspension
 1224 personally on the arrested person. When notice is served, the arresting officer shall promptly take
 1225 possession of any driver's license held by the person and issued by the Commonwealth and shall
 1226 promptly deliver it to the magistrate. Any driver's license taken into possession under this section shall
 1227 be forwarded promptly by the magistrate to the clerk of the general district court or, as appropriate, the
 1228 court with jurisdiction over juveniles of the jurisdiction in which the arrest was made together with any
 1229 petition, summons or warrant, the results of the breath test, if any, and the report required by subsection
 1230 B. A copy of the notice of suspension shall be forwarded forthwith to both ~~(a)~~ (1) the general district
 1231 court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest
 1232 was made and ~~(b)~~ (2) the Commissioner. Transmission of this information may be made by electronic
 1233 means.

1234 The clerk shall promptly return the suspended license to the person at the expiration of the
 1235 suspension. Whenever a suspended license is to be returned under this section or § 46.2-391.4, the
 1236 person may elect to have the license returned in person at the clerk's office or by mail to the address on
 1237 the person's license or to such other address as he may request.

1238 B. Promptly after arrest and service of the notice of suspension, the arresting officer shall forward to
 1239 the magistrate a sworn report of the arrest that shall include (i) information which adequately identifies
 1240 the person arrested and (ii) a statement setting forth the arresting officer's grounds for belief that the
 1241 person violated § 18.2-51.4, 18.2-266, or 18.2-266.1, or a similar ordinance, *or* § 46.2-341.24 or refused
 1242 to submit to a breath or blood test in violation of § 18.2-268.3 or a similar ordinance *or*
 1243 § 46.2-341.26:3. The report required by this subsection shall be submitted on forms supplied by the
 1244 Supreme Court.

1245 C. Any person whose license or privilege to operate a motor vehicle has been suspended under
 1246 subsection A may, during the period of the suspension, request the general district court or, as
 1247 appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made to
 1248 review that suspension. The court shall review the suspension within the same time period as the court
 1249 hears an appeal from an order denying bail or fixing terms of bail or terms of recognizance, giving this
 1250 matter precedence over all other matters on its docket. If the person proves to the court by a
 1251 preponderance of the evidence that the arresting officer did not have probable cause for the arrest, that
 1252 the magistrate did not have probable cause to issue the warrant, or that there was not probable cause for
 1253 issuance of the petition, the court shall rescind the suspension, or that portion of it that exceeds seven
 1254 days if there was not probable cause to charge a second offense or 60 days if there was not probable
 1255 cause to charge a third or subsequent offense, and the clerk of the court shall forthwith, or at the
 1256 expiration of the reduced suspension time, (i) return the suspended license, if any, to the person unless
 1257 the license has been otherwise suspended or revoked, (ii) deliver to the person a notice that the
 1258 suspension under § 46.2-391.2 has been rescinded or reduced, and (iii) forward to the Commissioner a
 1259 copy of the notice that the suspension under § 46.2-391.2 has been rescinded or reduced. Otherwise, the
 1260 court shall affirm the suspension. If the person requesting the review fails to appear without just cause,
 1261 his right to review shall be waived.

1262 The court's findings are without prejudice to the person contesting the suspension or to any other
 1263 potential party as to any proceedings, civil or criminal, and shall not be evidence in any proceedings,
 1264 civil or criminal.

1265 D. If a person whose license or privilege to operate a motor vehicle is suspended under subsection A
 1266 is convicted under § 18.2-36.1, 18.2-51.4, 18.2-266, or 18.2-266.1, or any similar ordinance, *or*
 1267 § 46.2-341.24 during the suspension imposed by subsection A, and if the court decides to issue the
 1268 person a restricted permit under subsection E of § 18.2-271.1, such restricted permit shall not be issued
 1269 to the person before the expiration of the first seven days of the suspension imposed under subsection
 1270 A.

1271 **§ 46.2-391.4. When suspension to be rescinded.**

1272 Notwithstanding any other provision of § 46.2-391.2, a subsequent dismissal or acquittal of all the
 1273 charges under §§ § 18.2-36.1, 18.2-51.4, 18.2-266, ~~and~~ *or* 18.2-268.3, or any similar ordinances, *or*
 1274 § 46.2-341.24 *or* 46.2-341.26:3 for the same offense for which a person's driver's license or privilege to
 1275 operate a motor vehicle was suspended under § 46.2-391.2 shall result in the immediate rescission of the
 1276 suspension. In any such case, the clerk of the court shall forthwith (i) return the suspended license, if

1277 any, to the person unless the license has been otherwise suspended or revoked; (ii) deliver to the person
 1278 a notice that the suspension under § 46.2-391.2 has been rescinded; and (iii) forward to the
 1279 Commissioner a copy of the notice that the suspension under § 46.2-391.2 has been rescinded.

1280 **§ 46.2-2099.49. Requirements for TNC partners; mandatory background screening; drug and**
 1281 **alcohol policy; mandatory disclosures to TNC partners; duty of TNC partners to provide updated**
 1282 **information to transportation network companies.**

1283 A. Before authorizing an individual to act as a TNC partner, a transportation network company shall
 1284 confirm that the person is at least 21 years old and possesses a valid driver's license.

1285 B. 1. Before authorizing an individual to act as a TNC partner, and at least once every two years
 1286 after authorizing an individual to act as a TNC partner, a transportation network company shall obtain a
 1287 national criminal history records check of that person. The background check shall include (i) a
 1288 Multi-State/Multi-Jurisdiction Criminal Records Database Search or a search of a similar nationwide
 1289 database with validation (primary source search) and (ii) a search of the Sex Offender and Crimes
 1290 Against Minors Registry and the U.S. Department of Justice's National Sex Offender Public Website.
 1291 The person conducting the background check shall be accredited by the National Association of
 1292 Professional Background Screeners or a comparable entity approved by the Department.

1293 2. Before authorizing an individual to act as a TNC partner, and at least once annually after
 1294 authorizing an individual to act as a TNC partner, a transportation network company shall obtain and
 1295 review a driving history research report on that person from the individual's state of licensure.

1296 3. Before authorizing an individual to act as a TNC partner, and at least once every two years after
 1297 authorizing a person to act as a TNC partner, a transportation network company shall verify that the
 1298 person is not listed on the Sex Offender and Crimes Against Minors Registry or on the U.S. Department
 1299 of Justice's National Sex Offender Public Website.

1300 C. A transportation network company shall not authorize an individual to act as a TNC partner if the
 1301 criminal history records check required under subsection B reveals that the individual:

1302 1. Is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is
 1303 required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 or is listed on the U.S. Department of
 1304 Justice's National Sex Offender Public Website;

1305 2. Has ever been convicted of or has ever pled guilty or nolo contendere to a violent felony offense
 1306 as listed in subsection C of § 17.1-805, or a substantially similar law of another state or of the United
 1307 States;

1308 3. Within the preceding seven years has been convicted of or has pled guilty or nolo contendere to
 1309 any of the following offenses, either under Virginia law or a substantially similar law of another state or
 1310 of the United States: (i) any felony offense other than those included in subdivision 2; (ii) an offense
 1311 under § 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24; or (iii) any offense resulting in revocation of a
 1312 driver's license pursuant to § 46.2-389 or 46.2-391; or

1313 4. Within the preceding three years has been convicted of or has pled guilty or nolo contendere to
 1314 any of the following offenses, either under Virginia law or a substantially similar law of another state or
 1315 of the United States: (i) three or more moving violations; (ii) eluding a law-enforcement officer, as
 1316 described in § 46.2-817; (iii) reckless driving, as described in Article 7 (§ 46.2-852 et seq.) of Chapter 8;
 1317 (iv) operating a motor vehicle in violation of § 46.2-301; or (v) refusing to submit to a chemical test to
 1318 determine the alcohol or drug content of the person's blood or breath, as described in § 18.2-268.3 *or*
 1319 *46.2-341.26:3.*

1320 D. A transportation network company shall employ a zero-tolerance policy with respect to the use of
 1321 drugs and alcohol by TNC partners and shall include a notice concerning the policy on its website and
 1322 associated digital platform.

1323 E. A transportation network company shall make the following disclosures in writing to a TNC
 1324 partner or prospective TNC partner:

1325 1. The transportation network company shall disclose the liability insurance coverage and limits of
 1326 liability that the transportation network company provides while the TNC partner uses a vehicle in
 1327 connection with the transportation network company's digital platform.

1328 2. The transportation network company shall disclose any physical damage coverage provided by the
 1329 transportation network company for damage to the vehicle used by the TNC partner in connection with
 1330 the transportation network company's digital platform.

1331 3. The transportation network company shall disclose the uninsured motorist and underinsured
 1332 motorist coverage and policy limits provided by the transportation network company while the TNC
 1333 partner uses a vehicle in connection with the transportation network company's digital platform and
 1334 advise the TNC partner that the TNC partner's personal automobile insurance policy may not provide
 1335 uninsured motorist and underinsured motorist coverage when the TNC partner uses a vehicle in
 1336 connection with a transportation network company's digital platform.

1337 4. The transportation network company shall include the following disclosure prominently in writing

1338 to a TNC partner or prospective TNC partner: "If the vehicle that you plan to use to transport
1339 passengers for our transportation network company has a lien against it, you must notify the lienholder
1340 that you will be using the vehicle for transportation services that may violate the terms of your contract
1341 with the lienholder."

1342 F. A TNC partner shall inform each transportation network company that has authorized him to act
1343 as a TNC partner of any event that may disqualify him from continuing to act as a TNC partner,
1344 including any of the following: a change in the registration status of the TNC partner vehicle; the
1345 revocation, suspension, cancellation, or restriction of the TNC partner's driver's license; a change in the
1346 insurance coverage of the TNC partner vehicle; a motor vehicle moving violation; and a criminal arrest,
1347 plea, or conviction.

1348 **2. That an emergency exists and this act is in force from its passage.**