

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 19.2-11.01, 19.2-11.2, and 19.2-269.2 of the Code of Virginia, relating*
3 *to confidentiality of victim telephone numbers and email addresses in criminal cases.*

4 [H 840]
5 Approved

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

7 **1. That §§ 19.2-11.01, 19.2-11.2, and 19.2-269.2 of the Code of Virginia are amended and reenacted**
8 **as follows:**

9 **§ 19.2-11.01. Crime victim and witness rights.**

10 A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the
11 purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of
12 the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity;
13 and that their privacy is protected to the extent permissible under law. It is the further purpose of this
14 chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws
15 of the Commonwealth; that they receive authorized services as appropriate; and that they have the
16 opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections
17 agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible
18 under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the
19 responsibility of a locality's crime victim and witness assistance program to provide the information and
20 assistance required by this chapter, including verification that the standardized form listing the specific
21 rights afforded to crime victims has been received by the victim.

22 As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency
23 shall provide the victim with a standardized form listing the specific rights afforded to crime victims.
24 The form shall include a telephone number by which the victim can receive further information and
25 assistance in securing the rights afforded crime victims, the name, address and telephone number of the
26 office of the attorney for the Commonwealth, the name, address and telephone number of the
27 investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.

28 1. Victim and witness protection and law-enforcement contacts.

29 a. In order that victims and witnesses receive protection from harm and threats of harm arising out of
30 their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information
31 as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or
32 local program providing protection, and shall be assisted in obtaining this protection from the
33 appropriate authorities.

34 b. Victims and witnesses shall be provided, where available, a separate waiting area during court
35 proceedings that affords them privacy and protection from intimidation, and that does not place the
36 victim in close proximity to the defendant or the defendant's family.

37 2. Financial assistance.

38 a. Victims shall be informed of financial assistance and social services available to them as victims
39 of a crime, including information on their possible right to file a claim for compensation from the Crime
40 Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title and on other
41 available assistance and services.

42 b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary
43 purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

44 c. Victims shall be advised that restitution is available for damages or loss resulting from an offense
45 and shall be assisted in seeking restitution in accordance with §§ 19.2-305, 19.2-305.1, Chapter 21.1
46 (§ 19.2-368.1 et seq.) of this title, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other
47 applicable laws of the Commonwealth.

48 3. Notices.

49 a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to
50 ensure that employers of victims and witnesses will cooperate with the criminal justice process in order
51 to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii)
52 advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for
53 appearing in court pursuant to a summons or subpoena.

54 b. Victims shall receive advance notification when practicable from the attorney for the
55 Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of
56 any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current

57 addresses and telephone numbers.

58 c. Victims shall receive notification, if requested, subject to such reasonable procedures as the
59 Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and
60 disposition of any appeal or habeas corpus proceeding involving their case.

61 d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in
62 whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to
63 the provisions of §§ 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have
64 provided their names, current addresses and telephone numbers in writing. Such notification may be
65 provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System
66 or other similar electronic or automated system.

67 e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all
68 agencies and persons having such duties must have current victim addresses and telephone numbers
69 given by the victims. Victims shall also be advised that any such information given shall be confidential
70 as provided by § 19.2-11.2.

71 f. Victims of sexual assault, as defined in § 19.2-11.5, shall be advised of their rights regarding
72 physical evidence recovery kits as provided in Chapter 1.2 (§ 19.2-11.5 et seq.).

73 4. Victim input.

74 a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim
75 impact statement prior to sentencing of a defendant and may provide information to any individual or
76 agency charged with investigating the social history of a person or preparing a victim impact statement
77 under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

78 b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding
79 pursuant to the provisions of § 19.2-265.01.

80 c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant
81 to §§ 19.2-264.4 and 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the
82 offense.

83 d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall
84 consult with the victim either verbally or in writing (i) to inform the victim of the contents of a
85 proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including
86 the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in
87 this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on
88 behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not
89 accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has
90 complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the
91 unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when
92 subpoenaed, or change of address without notice.

93 Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b
94 of any proceeding in which the plea agreement will be tendered to the court.

95 The responsibility to consult with the victim under this subdivision shall not confer upon the
96 defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the
97 defendant.

98 5. Courtroom assistance.

99 a. Victims and witnesses shall be informed that their addresses ~~and~~, any telephone numbers, *and*
100 *email addresses* may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except
101 when necessary for the conduct of the criminal proceeding.

102 b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in
103 accordance with §§ 19.2-164 and 19.2-164.1.

104 c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed
105 preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on
106 the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years
107 of age or younger at the time of the trial, that two-way closed-circuit television may be used in the
108 taking of testimony in accordance with § 18.2-67.9.

109 6. Post trial assistance.

110 a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the
111 case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the
112 case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known,
113 and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the
114 defendant.

115 b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had
116 custody of the defendant immediately prior to his release shall notify the victim as soon as practicable
117 that the defendant has been released.

118 c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to
119 retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if
120 the first trial did not take place.

121 B. For purposes of this chapter, "victim" means (i) a person who has suffered physical,
122 psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and
123 battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a
124 protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4,
125 attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation
126 of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of
127 any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person;
128 (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4
129 only, a current or former foster parent or other person who has or has had physical custody of such a
130 person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse,
131 parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the
132 victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian
133 who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

134 C. Officials and employees of the judiciary, including court services units, law-enforcement agencies,
135 the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided
136 with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness
137 assistance program. Each agency, officer or employee who has a responsibility or responsibilities to
138 victims under this chapter or other applicable law shall make reasonable efforts to become informed
139 about these responsibilities and to ensure that victims and witnesses receive such information and
140 services to which they may be entitled under applicable law, provided that no liability or cause of action
141 shall arise from the failure to make such efforts or from the failure of such victims or witnesses to
142 receive any such information or services.

143 **§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial**
144 **privilege.**

145 Upon request of any witness in a criminal prosecution under § 18.2-46.2, 18.2-46.3, or 18.2-248 or
146 of any violent felony as defined by subsection C of § 17.1-805, or any crime victim, neither a
147 law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor
148 the Department of Corrections, nor any employee of any of them, may disclose, except among
149 themselves, the residential address, *any* telephone number, *email address*, or place of employment of the
150 witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is
151 (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for
152 law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good
153 cause.

154 Except with the written consent of the victim of any crime involving any sexual assault, sexual
155 abuse, or family abuse or the victim's next of kin if the victim is a minor and the victim's death results
156 from any crime, a law-enforcement agency may not disclose to the public information that directly or
157 indirectly identifies the victim of such crime except to the extent that disclosure is (a) of the site of the
158 crime, (b) required by law, (c) necessary for law-enforcement purposes, or (d) permitted by the court for
159 good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme
160 Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or
161 sexual abuse, no appellate decision shall contain the first or last name of the victim.

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

164 **§ 19.2-269.2. Nondisclosure of addresses or telephone numbers of crime victims and witnesses.**

165 During any criminal proceeding, upon motion of the defendant or the attorney for the
166 Commonwealth, a judge may prohibit testimony as to the current residential or business address ~~or~~, *any*
167 telephone number, *or email address* of a victim or witness if the judge determines that this information
168 is not material under the circumstances of the case.