

20109945D

## HOUSE BILL NO. 972

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Second Joint Conference Committee  
on March 7, 2020)

(Patrons Prior to Substitute—Delegates Herring, Heretick [HB 265], Kory [HB 481], and Levine [HB 301])  
*A BILL to amend and reenact §§ 15.2-1627, 16.1-228, 16.1-260, 16.1-273, 18.2-247, 18.2-248.1, 18.2-250.1, 18.2-251, 18.2-251.02, 18.2-252, 18.2-254, 18.2-259.1, 19.2-392.2, 46.2-390.1, 54.1-3401, as it is currently effective and as it shall become effective, and 54.1-3446 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-389.3, relating to possession and consumption of marijuana; penalty.*

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

**1. That §§ 15.2-1627, 16.1-228, 16.1-260, 16.1-273, 18.2-247, 18.2-248.1, 18.2-250.1, 18.2-251, 18.2-251.02, 18.2-252, 18.2-254, 18.2-259.1, 19.2-392.2, 46.2-390.1, 54.1-3401, as it is currently effective and as it shall become effective, and 54.1-3446 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-389.3 as follows:**

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

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

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of § 18.2-250.1, 18.2-268.3, 29.1-738.2, or 46.2-341.26:3.

**§ 16.1-228. Definitions.**

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

"Abused or neglected child" means any child:

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

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

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

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

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

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in

60 the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims  
61 of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

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

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

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

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

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

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

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

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

93 "Child in need of supervision" means:

94 1. A child who, while subject to compulsory school attendance, is habitually and without justification  
95 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of  
96 any and all educational services and programs that are required to be provided by law and which meet  
97 the child's particular educational needs, (ii) the school system from which the child is absent or other  
98 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,  
99 and (iii) the school system has provided documentation that it has complied with the provisions of  
100 § 22.1-258; or

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

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

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

112 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an  
113 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of  
114 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but ~~shall~~ does not  
115 include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a  
116 crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, ~~the term shall include~~  
117 "delinquent act" includes a refusal to take a breath test in violation of § 18.2-268.2 or a similar  
118 ordinance of any county, city, or town. For purposes of §§ 16.1-241, 16.1-273, 16.1-278.8,  
119 16.1-278.8:01, and 16.1-278.9, "delinquent act" includes a violation of § 18.2-250.1.

120 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed  
121 a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been

terminated under the provisions of § 16.1-269.6.

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

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

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

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

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. ~~Such services shall include~~ "Independent living services" includes counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

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

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

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

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

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education

183 and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal  
184 status created by court order of joint custody as defined in § 20-107.2.

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

192 "Qualified individual" means a trained professional or licensed clinician who is not an employee of  
193 the local board of social services or licensed child-placing agency that placed the child in a qualified  
194 residential treatment program and is not affiliated with any placement setting in which children are  
195 placed by such local board of social services or licensed child-placing agency.

196 "Qualified residential treatment program" means a program that (i) provides 24-hour residential  
197 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that  
198 meets the clinical and other needs of children with serious emotional or behavioral disorders, including  
199 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this  
200 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site  
201 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts  
202 outreach with the child's family members, including efforts to maintain connections between the child  
203 and his siblings and other family; documents and maintains records of such outreach efforts; and  
204 maintains contact information for any known biological family and fictive kin of the child; (v) whenever  
205 appropriate and in the best interest of the child, facilitates participation by family members in the child's  
206 treatment program before and after discharge and documents the manner in which such participation is  
207 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months  
208 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an  
209 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that  
210 any child placed in the program receive an assessment within 30 days of such placement by a qualified  
211 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,  
212 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)  
213 identifies whether the needs of the child can be met through placement with a family member or in a  
214 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified  
215 residential treatment program, that would provide the most effective and appropriate level of care for the  
216 child in the least restrictive environment and be consistent with the short-term and long-term goals  
217 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and  
218 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to  
219 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,  
220 16.1-282.1, or 16.1-282.2.

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

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

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

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

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

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

234 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of  
235 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

236 **§ 16.1-260. Intake; petition; investigation.**

237 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of  
238 a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition  
239 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the  
240 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,  
241 and the processing of petitions to initiate a case shall be the responsibility of the intake officer.  
242 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own  
243 motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may  
244 complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement

of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

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

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

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

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan, provided that ~~(a)~~ (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and ~~(b)~~ (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall ~~(i)~~ (A) develop a plan for the juvenile, which may include restitution and the performance of community service, based

306 upon community resources and the circumstances which resulted in the complaint, ~~(2)~~ (B) create an  
307 official record of the action taken by the intake officer and file such record in the juvenile's case file,  
308 and ~~(3)~~ (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco  
309 parentis and the complainant that any subsequent complaint alleging that the child is in need of  
310 supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the  
311 court pursuant to § 16.1-241 will result in the filing of a petition with the court.

312 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,  
313 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has  
314 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such  
315 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,  
316 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a  
317 protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of  
318 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8,  
319 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such  
320 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to  
321 be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer  
322 believes that probable cause does not exist, or that the authorization of a petition will not be in the best  
323 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other  
324 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a  
325 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written  
326 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders  
327 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant  
328 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the  
329 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to  
330 § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

331 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall  
332 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be  
333 in need of supervision have utilized or attempted to utilize treatment and services available in the  
334 community and have exhausted all appropriate nonjudicial remedies which are available to them. When  
335 the intake officer determines that the parties have not attempted to utilize available treatment or services  
336 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the  
337 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility,  
338 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake  
339 officer determines that the parties have made a reasonable effort to utilize available community  
340 treatment or services may he permit the petition to be filed.

341 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an  
342 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in  
343 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate  
344 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic  
345 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake  
346 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate  
347 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the  
348 juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake  
349 officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a  
350 status offense, or a misdemeanor other than Class 1, his decision is final.

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

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

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

- 361 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299  
362 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
- 363 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- 364 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of  
365 Title 18.2;
- 366 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- 367 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,

pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

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

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

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

9. Robbery pursuant to § 18.2-58;

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

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

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

13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

14. A threat pursuant to § 18.2-60.

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

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

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

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

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

3. In the case of a misdemeanor violation of ~~§ 18.2-250.1~~, 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, *or a violation of § 18.2-250.1*, provided *that* the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 18.2-250.1 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided *that* such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 18.2-250.1 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

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

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

**§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.**

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 14 or A 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated

delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, ~~or~~ (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, *or* (c) a violation of § 18.2-250.1, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological, or economic injury as a result of the violation of law.

**§ 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.**

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse, and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the United States U.S. Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, ~~or its resin, or any extract containing one or more cannabinoids.~~ Marijuana ~~shall does~~ not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, ~~or the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis.~~ Marijuana ~~shall does~~ not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

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

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

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

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



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

(3) More than five pounds of marijuana is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years.

*There shall be a rebuttable presumption that a person who possesses no more than one ounce of marijuana possesses it for personal use.*

If such person proves that he gave, distributed, or possessed with intent to give or distribute marijuana only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the marijuana to use or become addicted to or dependent upon such marijuana, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

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

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

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

**§ 18.2-250.1. Possession of marijuana unlawful.**

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

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

Any person who violates this section is ~~guilty of a misdemeanor and shall be confined in jail not more than 30 days and fined not subject to a civil penalty of no more than \$500, either or both; any person, upon a second or subsequent conviction of a violation of this section, is guilty of a Class 1 misdemeanor \$25.~~ *A violation of this section is a civil offense. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02.*

B. *Any violation of this section shall be charged by summons. A summons for a violation of this section may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. No court costs shall be assessed for violations of this section. A person's criminal history record information as defined in § 9.1-101 shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange.*

C. *The procedure for appeal and trial of any violation of this section shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.*

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

~~E.~~ *E.* In any prosecution under this section involving marijuana in the form of cannabidiol oil or THC-A oil as those terms are defined in § 54.1-3408.3, it shall be an affirmative defense that the individual possessed such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the individual's diagnosed condition or disease, (ii) if such individual is the parent or legal

guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such individual has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease. If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.

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

Whenever any person who has not previously been convicted of any *criminal* offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, *or* pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 ~~or to possession of marijuana under § 18.2-250.1~~, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.

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

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

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. ~~In addition to any community service required by the court pursuant to clause (d), if the court does not suspend or revoke the accused's license as a term or condition of probation for a violation of § 18.2-250.1, the court shall require the accused to comply with a plan of 50 hours of community service.~~ Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§ 18.2-259.1, 22.1-315, and 46.2-390.1, and the driver's license forfeiture provisions of those sections shall be imposed. ~~However, if the court places an individual on probation upon terms and conditions for a violation of § 18.2-250.1, such action shall not be treated as a conviction for purposes of § 18.2-259.1 or 46.2-390.1, provided that a court (1) may suspend or revoke an individual's driver's license as a term or condition of probation and (2) shall suspend or revoke an individual's driver's license as a term or condition of probation for a period of six months if the violation of § 18.2-250.1 was committed while such person was in operation of a motor vehicle.~~ The provisions of this paragraph

shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

**§ 18.2-251.02. Drug Offender Assessment and Treatment Fund.**

There is hereby established in the state treasury the Drug Offender Assessment and Treatment Fund, which shall consist of moneys received from (i) fees imposed on certain drug offense convictions pursuant to § 16.1-69.48:3 and subdivisions A 10 and A 11 of § 17.1-275 and ~~§ 16.1-69.48:3~~ (ii) *civil penalties imposed for violations of § 18.2-250.1*. All interest derived from the deposit and investment of moneys in the Fund shall be credited to the Fund. Any moneys not appropriated by the General Assembly shall remain in the Drug Offender Assessment and Treatment Fund and shall not be transferred or revert to the general fund at the end of any fiscal year. All moneys in the Fund shall be subject to annual appropriation by the General Assembly to the Department of Corrections, the Department of Juvenile Justice, and the Commission on VASAP to implement and operate the offender substance abuse screening and assessment program; the Department of Criminal Justice Services for the support of community-based probation and local pretrial services agencies; and the Office of the Executive Secretary of the Supreme Court of Virginia for the support of drug treatment court programs.

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

The trial judge or court trying the case of (i) any person found guilty of ~~violating a criminal violation of~~ any law concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances and like substances; *or (ii) any juvenile penalized for a violation of § 18.2-250.1* shall condition any suspended sentence *or suspension of any civil penalty* by first requiring such person to agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by the supervising probation agency or by personnel of any program or agency approved by the supervising probation agency. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of such ~~criminal~~ proceedings. The judge or court shall order the person, as a condition of any suspended sentence *or suspended civil penalty*, to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services, by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

**§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

A. Whenever any person who has not previously been convicted of any *criminal* offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, stimulant, depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances, and like substances, the judge or court shall require such person to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall also order the person to undergo such treatment or education for substance abuse, if available, as the judge or court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program or agency licensed by the Department of Behavioral Health and Developmental Services or by a similar program or services available through the Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar program or services available through a local or regional jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

B. The court trying the case of any person alleged to have committed any *criminal* offense designated by this article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the commission of the offense was motivated by or closely related to the use of drugs and determined by the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse, licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment

specified as the penalty for conviction of such offense or, if sentence was determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. A charge of escape may be prosecuted in either the jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to commitment. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

C. The court trying a case in which commission of the *criminal* offense was related to the defendant's habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the substance abuse assessment, such person, upon his conviction, to any facility for the treatment of persons with substance abuse licensed by the Department of Behavioral Health and Developmental Services, if space is available in such facility, for a period of time not in excess of the maximum term of imprisonment specified as the penalty for conviction. Confinement under such commitment shall be, in all regards, treated as confinement in a penal institution and the person so committed may be convicted of escape if he leaves the place of commitment without authority. The court may revoke such commitment at any time and transfer the person to an appropriate state or local correctional facility. Upon presentation of a certified statement from the director of the treatment facility to the effect that the confined person has successfully responded to treatment, the court may release such confined person prior to the termination of the period of time for which such person was confined and may suspend the remainder of the term upon such conditions as the court may prescribe.

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

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

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

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

D. Any person who has been convicted under the laws of another state or the United States of a

violation substantially similar to a violation of this article and whose privilege to operate a motor vehicle in the Commonwealth is subject to revocation under the provisions of § 46.2-390.1 may petition the general district court of the county or city in which he resides for restricted driving privileges. Subject to the limitations provided in subsection C, if the court determines that there are compelling circumstances warranting an exception, the court may provide that any such person be issued a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1.

**§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.**

A. Records relating to the arrest, criminal charge, or conviction of a person for a violation of § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Virginia Criminal Sentencing Commission for research purposes; (viii) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (ix) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (x) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; and (xi) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5.

B. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.

C. Agencies, officials, and employees of the state and local governments shall not, in any application, interview, or otherwise, require an applicant for a license, permit, registration, or governmental service to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or conviction.

D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor for each violation.

**§ 19.2-392.2. Expungement of police and court records.**

798 A. If a person is charged with the commission of a crime, *a civil offense*, or any offense defined in  
799 Title 18.2, and

800 1. Is acquitted, or

801 2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and  
802 satisfaction pursuant to § 19.2-151, he may file a petition setting forth the relevant facts and requesting  
803 expungement of the police records and the court records relating to the charge.

804 B. If any person whose name or other identification has been used without his consent or  
805 authorization by another person who has been charged or arrested using such name or identification, he  
806 may file a petition with the court disposing of the charge for relief pursuant to this section. Such person  
807 shall not be required to pay any fees for the filing of a petition under this subsection. A petition filed  
808 under this subsection shall include one complete set of the petitioner's fingerprints obtained from a  
809 law-enforcement agency.

810 C. The petition with a copy of the warrant, *summons*, or indictment if reasonably available shall be  
811 filed in the circuit court of the county or city in which the case was disposed of by acquittal or being  
812 otherwise dismissed and shall contain, except where not reasonably available, the date of arrest and the  
813 name of the arresting agency. Where this information is not reasonably available, the petition shall state  
814 the reason for such unavailability. The petition shall further state the specific criminal charge *or civil*  
815 *offense* to be expunged, the date of final disposition of the charge as set forth in the petition, the  
816 petitioner's date of birth, and the full name used by the petitioner at the time of arrest.

817 D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or  
818 county in which the petition is filed. The attorney for the Commonwealth may file an objection or  
819 answer to the petition or may give written notice to the court that he does not object to the petition  
820 within 21 days after it is served on him.

821 E. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's  
822 fingerprints and shall provide that agency with a copy of the petition for expungement. The  
823 law-enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange  
824 (CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to  
825 the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the  
826 CCRE entry that the petitioner wishes to expunge, *if applicable*, and the set of fingerprints. Upon  
827 completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was  
828 conducted, upon the entry of an order of expungement or an order denying the petition for  
829 expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the  
830 date of the entry of the order, the petitioner requests the return of the fingerprint card in person from the  
831 clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of  
832 the fingerprint card.

833 F. After receiving the criminal history record information from the CCRE, the court shall conduct a  
834 hearing on the petition. If the court finds that the continued existence and possible dissemination of  
835 information relating to the arrest of the petitioner causes or may cause circumstances which constitute a  
836 manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and  
837 court records, including electronic records, relating to the charge. Otherwise, it shall deny the petition.  
838 However, if the petitioner has no prior criminal record and the arrest was for a misdemeanor violation  
839 *or the charge was for a civil offense*, the petitioner shall be entitled, in the absence of good cause  
840 shown to the contrary by the Commonwealth, to expungement of the police and court records relating to  
841 the charge, and the court shall enter an order of expungement. If the attorney for the Commonwealth of  
842 the county or city in which the petition is filed (i) gives written notice to the court pursuant to  
843 subsection D that he does not object to the petition and (ii) when the charge to be expunged is a felony,  
844 stipulates in such written notice that the continued existence and possible dissemination of information  
845 relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest  
846 injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

847 G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the  
848 decision of the court may appeal, as provided by law in civil cases.

849 H. Notwithstanding any other provision of this section, when the charge is dismissed because the  
850 court finds that the person arrested or charged is not the person named in the summons, warrant,  
851 indictment or presentment, the court dismissing the charge shall, upon motion of the person improperly  
852 arrested or charged, enter an order requiring expungement of the police and court records relating to the  
853 charge. Such order shall contain a statement that the dismissal and expungement are ordered pursuant to  
854 this subsection and shall be accompanied by the complete set of the petitioner's fingerprints filed with  
855 his petition. Upon the entry of such order, it shall be treated as provided in subsection K.

856 I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-402  
857 of an absolute pardon for the commission of a crime that a person did not commit, the court shall enter  
858 an order requiring expungement of the police and court records relating to the charge and conviction.  
859 Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon

the entry of such order, it shall be treated as provided in subsection K.

J. Upon receiving a copy of a writ vacating a conviction pursuant to § 19.2-327.5 or 19.2-327.13, the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of the order, it shall be treated as provided in subsection K.

K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

L. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

M. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and notice made within three years of the entry of such order.

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

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

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

**§ 54.1-3401. (Effective until July 1, 2020) Definitions.**

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

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

921 "Board" means the Board of Pharmacy.

922 "Bulk drug substance" means any substance that is represented for use, and that, when used in the  
923 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a  
924 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that  
925 are used in the synthesis of such substances.

926 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i)  
927 the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns  
928 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a  
929 partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more  
930 of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation  
931 of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the  
932 voting stock of which is actively traded on any securities exchange or in any over-the-counter market;  
933 (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned  
934 subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a  
935 corporation's charter.

936 "Co-licensed partner" means a person who, with at least one other person, has the right to engage in  
937 the manufacturing or marketing of a prescription drug, consistent with state and federal law.

938 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into a  
939 single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by  
940 a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or  
941 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in  
942 expectation of receiving a valid prescription based on observed historical patterns of prescribing and  
943 dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as  
944 an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the  
945 course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or  
946 chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a  
947 manufacturer's product drugs for the purpose of administration to a patient, when performed by a  
948 practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person  
949 supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised  
950 by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of  
951 § 54.1-2901 shall not be considered compounding.

952 "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of  
953 this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms  
954 are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled  
955 substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory  
956 authority in subsection D of § 54.1-3443.

957 "Controlled substance analog" means a substance the chemical structure of which is substantially  
958 similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a  
959 stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar  
960 to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a  
961 controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person  
962 represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous  
963 system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect  
964 on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance  
965 analog" does not include (a) any substance for which there is an approved new drug application as  
966 defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally  
967 recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and  
968 Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular  
969 person, any substance for which an exemption is in effect for investigational use for that person under  
970 § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that  
971 substance is pursuant to such exemption; or (c) any substance to the extent not intended for human  
972 consumption before such an exemption takes effect with respect to that substance.

973 "DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor  
974 agency.

975 "Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by  
976 this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI  
977 prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a  
978 manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor,  
979 warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics  
980 provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

981 "Device" means instruments, apparatus, and contrivances, including their components, parts, and  
982 accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in



man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or

1044 its resin, *or any extract containing one or more cannabinoids*; and every compound, manufacture, salt,  
1045 derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana ~~shall~~ *does* not include  
1046 ~~any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent~~  
1047 ~~of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber~~  
1048 ~~produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber,~~  
1049 ~~oil, or cake is combined with other parts of plants of the genus Cannabis.~~ Marijuana ~~shall~~ *does* not  
1050 include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to  
1051 subsection A of § 3.2-4115 or his agent, or (ii) a hemp product, as defined in § 3.2-4112, containing a  
1052 tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp,  
1053 as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

1054 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to  
1055 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and  
1056 needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with  
1057 no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for  
1058 peritoneal dialysis, and sterile water or saline for irrigation.

1059 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction  
1060 from substances of vegetable origin, or independently by means of chemical synthesis, or by a  
1061 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,  
1062 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof  
1063 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not  
1064 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and  
1065 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer,  
1066 derivative, or preparation thereof which is chemically equivalent or identical with any of these  
1067 substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain  
1068 cocaine or ecgonine.

1069 "New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a  
1070 new animal drug, the composition of which is such that such drug is not generally recognized, among  
1071 experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs,  
1072 as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling,  
1073 except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior  
1074 to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as  
1075 amended, and if at such time its labeling contained the same representations concerning the conditions  
1076 of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new  
1077 animal drug, the composition of which is such that such drug, as a result of investigations to determine  
1078 its safety and effectiveness for use under such conditions, has become so recognized, but which has not,  
1079 otherwise than in such investigations, been used to a material extent or for a material time under such  
1080 conditions.

1081 "Nuclear medicine technologist" means an individual who holds a current certification with the  
1082 American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification  
1083 Board.

1084 "Official compendium" means the official United States Pharmacopoeia National Formulary, official  
1085 Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

1086 "Official written order" means an order written on a form provided for that purpose by the U.S. Drug  
1087 Enforcement Administration, under any laws of the United States making provision therefor, if such  
1088 order forms are authorized and required by federal law, and if no such order form is provided then on  
1089 an official form provided for that purpose by the Board of Pharmacy.

1090 "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to  
1091 morphine or being capable of conversion into a drug having such addiction-forming or  
1092 addiction-sustaining liability. It does not include, unless specifically designated as controlled under  
1093 Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
1094 (dextromethorphan). It does include its racemic and levorotatory forms.

1095 "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

1096 "Original package" means the unbroken container or wrapping in which any drug or medicine is  
1097 enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor  
1098 for use in the delivery or display of such article.

1099 "Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is  
1100 currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and  
1101 that complies with all applicable requirements of federal and state law, including the Federal Food,  
1102 Drug, and Cosmetic Act.

1103 "Person" means both the plural and singular, as the case demands, and includes an individual,  
1104 partnership, corporation, association, governmental agency, trust, or other institution or entity.

1105 "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application

for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer

1167 pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security  
1168 Act.

1169 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed  
1170 partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

1171 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter  
1172 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses  
1173 or lenses for the eyes.

1174 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be  
1175 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

1176 **§ 54.1-3401. (Effective July 1, 2020) Definitions.**

1177 As used in this chapter, unless the context requires a different meaning:

1178 "Administer" means the direct application of a controlled substance, whether by injection, inhalation,  
1179 ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his  
1180 authorized agent and under his direction or (ii) the patient or research subject at the direction and in the  
1181 presence of the practitioner.

1182 "Advertisement" means all representations disseminated in any manner or by any means, other than  
1183 by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the  
1184 purchase of drugs or devices.

1185 "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer,  
1186 distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or  
1187 employee of the carrier or warehouseman.

1188 "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related  
1189 to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

1190 "Animal" means any nonhuman animate being endowed with the power of voluntary action.

1191 "Automated drug dispensing system" means a mechanical or electronic system that performs  
1192 operations or activities, other than compounding or administration, relating to pharmacy services,  
1193 including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of  
1194 all transaction information, to provide security and accountability for such drugs.

1195 "Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood  
1196 component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or  
1197 analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic  
1198 arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human  
1199 beings.

1200 "Biosimilar" means a biological product that is highly similar to a specific reference biological  
1201 product, notwithstanding minor differences in clinically inactive compounds, such that there are no  
1202 clinically meaningful differences between the reference biological product and the biological product that  
1203 has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency  
1204 of the product.

1205 "Board" means the Board of Pharmacy.

1206 "Bulk drug substance" means any substance that is represented for use, and that, when used in the  
1207 compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a  
1208 finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that  
1209 are used in the synthesis of such substances.

1210 "Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i)  
1211 the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns  
1212 or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a  
1213 partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more  
1214 of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation  
1215 of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the  
1216 voting stock of which is actively traded on any securities exchange or in any over-the-counter market;  
1217 (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned  
1218 subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a  
1219 corporation's charter.

1220 "Co-licensed partner" means a person who, with at least one other person, has the right to engage in  
1221 the manufacturing or marketing of a prescription drug, consistent with state and federal law.

1222 "Compounding" means the combining of two or more ingredients to fabricate such ingredients into a  
1223 single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by  
1224 a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or  
1225 therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in  
1226 expectation of receiving a valid prescription based on observed historical patterns of prescribing and  
1227 dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as  
1228 an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the

course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to

1290 any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or  
1291 prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect  
1292 the structure or any function of the body of man or animals; (iv) articles or substances intended for use  
1293 as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug"  
1294 does not include devices or their components, parts, or accessories.

1295 "Drug product" means a specific drug in dosage form from a known source of manufacture, whether  
1296 by brand or therapeutically equivalent drug product name.

1297 "Electronic prescription" means a written prescription that is generated on an electronic application  
1298 and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be  
1299 transmitted in accordance with 21 C.F.R. Part 1300.

1300 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an  
1301 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy  
1302 form.

1303 "FDA" means the U.S. Food and Drug Administration.

1304 "Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any  
1305 such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

1306 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by  
1307 regulation designates as being the principal compound commonly used or produced primarily for use,  
1308 and which is an immediate chemical intermediary used or likely to be used in the manufacture of a  
1309 controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

1310 "Interchangeable" means a biosimilar that meets safety standards for determining interchangeability  
1311 pursuant to 42 U.S.C. § 262(k)(4).

1312 "Label" means a display of written, printed, or graphic matter upon the immediate container of any  
1313 article. A requirement made by or under authority of this chapter that any word, statement, or other  
1314 information appear on the label shall not be considered to be complied with unless such word,  
1315 statement, or other information also appears on the outside container or wrapper, if any, of the retail  
1316 package of such article or is easily legible through the outside container or wrapper.

1317 "Labeling" means all labels and other written, printed, or graphic matter on an article or any of its  
1318 containers or wrappers, or accompanying such article.

1319 "Manufacture" means the production, preparation, propagation, conversion, or processing of any item  
1320 regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or  
1321 independently by means of chemical synthesis, or by a combination of extraction and chemical  
1322 synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its  
1323 container. This term does not include compounding.

1324 "Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a  
1325 repackager.

1326 "Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds, or  
1327 its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its  
1328 seeds, or its resin, or any extract containing one or more cannabinoids. Marijuana shall does not include  
1329 any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent  
1330 of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber  
1331 produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber,  
1332 oil, or cake is combined with other parts of plants of the genus Cannabis. Marijuana shall does not  
1333 include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to  
1334 subsection A of § 3.2-4115 or his agent, or (ii) a hemp product, as defined in § 3.2-4112, containing a  
1335 tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp,  
1336 as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

1337 "Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to  
1338 the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and  
1339 needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with  
1340 no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for  
1341 peritoneal dialysis, and sterile water or saline for irrigation.

1342 "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction  
1343 from substances of vegetable origin, or independently by means of chemical synthesis, or by a  
1344 combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,  
1345 or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof  
1346 which is chemically equivalent or identical with any of the substances referred to in clause (i), but not  
1347 including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and  
1348 any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer,  
1349 derivative, or preparation thereof which is chemically equivalent or identical with any of these  
1350 substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain  
1351 cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter

1413 and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general  
1414 public by or under the authority of the manufacturer or primary distributor, under a trademark, trade  
1415 name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of  
1416 this chapter and applicable federal law. However, this definition shall not include a drug that is only  
1417 advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic,  
1418 a drug that may be dispensed only upon prescription or the label of which bears substantially the  
1419 statement "Warning — may be habit-forming," or a drug intended for injection.

1420 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei  
1421 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or  
1422 radionuclide generator that is intended to be used in the preparation of any such substance, but does not  
1423 include drugs such as carbon-containing compounds or potassium-containing salts that include trace  
1424 quantities of naturally occurring radionuclides. The term also includes any biological product that is  
1425 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

1426 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.  
1427 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food  
1428 and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to  
1429 42 U.S.C. § 262(k).

1430 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any  
1431 person, whether as an individual, proprietor, agent, servant, or employee.

1432 "Therapeutically equivalent drug products" means drug products that contain the same active  
1433 ingredients and are identical in strength or concentration, dosage form, and route of administration and  
1434 that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration  
1435 pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent  
1436 edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as  
1437 the "Orange Book."

1438 "Third-party logistics provider" means a person that provides or coordinates warehousing of or other  
1439 logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale  
1440 distributor, or dispenser of the drug or device but does not take ownership of the product or have  
1441 responsibility for directing the sale or disposition of the product.

1442 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

1443 "Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party  
1444 logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or  
1445 devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI  
1446 prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be  
1447 subject to any state or local tax by reason of this definition.

1448 "Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers  
1449 or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer  
1450 pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security  
1451 Act.

1452 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed  
1453 partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

1454 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter  
1455 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses  
1456 or lenses for the eyes.

1457 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be  
1458 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

1459 **§ 54.1-3446. Schedule I.**

1460 The controlled substances listed in this section are included in Schedule I:

1461 1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers,  
1462 esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers  
1463 and salts is possible within the specific chemical designation:

1464 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1465 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

1466 2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl  
1467 fentanyl);

1468 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

1469 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);

1470 Acetyl fentanyl (other name: desmethyl fentanyl);

1471 Acetylmethadol;

1472 Allylprodine;

1473 Alphacetylmethadol (except levo-alpha-cetylmethadol, also known as levo-alpha-acetylmethadol,  
1474 levomethadyl acetate, or LAAM);



1475	Alphameprodine;
1476	Alphamethadol;
1477	Benzethidine;
1478	Betacetylmethadol;
1479	Betameprodine;
1480	Betamethadol;
1481	Betaprodine;
1482	Clonitazene;
1483	Dextromoramide;
1484	Diampromide;
1485	Diethylthiambutene;
1486	Difenoxin;
1487	Dimenoxadol;
1488	Dimepheptanol;
1489	Dimethylthiambutene;
1490	Dioxaphetylbutyrate;
1491	Dipipanone;
1492	Ethylmethylthiambutene;
1493	Etonitazene;
1494	Etoxidine;
1495	Furethidine;
1496	Hydroxypethidine;
1497	Ketobemidone;
1498	Levomoramide;
1499	Levophenacymorphan;
1500	Morpheridine;
1501	MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
1502	N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
1503	N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);
1504	N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
1505	N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
1506	N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
1507	N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);
1508	N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
1509	N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);
1510	N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);
1511	N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);
1512	N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
1513	N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
1514	N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluoroisobutyl fentanyl);
1515	N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutylfentanyl);
1516	N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);
1517	Noracymethadol;
1518	Norlevorphanol;
1519	Normethadone;
1520	Norpipanone;
1521	N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);
1522	N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);
1523	N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);
1524	N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);

- 1536 N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide (other name: thiofentanyl);
- 1537 Phenadoxone;
- 1538 Phenampromide;
- 1539 Phenomorphan;
- 1540 Phenoperidine;
- 1541 Piritramide;
- 1542 Proheptazine;
- 1543 Properidine;
- 1544 Propiram;
- 1545 Racemoramide;
- 1546 Tilidine;
- 1547 Trimeperidine;
- 1548 N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-1,3-benzodioxole-5 -carboxamide (other name:
- 1549 Benzodioxole fentanyl);
- 1550 3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
- 1551 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-48800);
- 1552 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-51754);
- 1553 N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidiny]-acetamide (other name: Ocfentanil);
- 1554 N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidiny]-butanamide (other name:
- 1555 4-methoxybutyrylfentanyl);
- 1556 N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidiny]-propanamide (other name: Isobutyryl fentanyl);
- 1557 N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-cyclopentanecarboxamide (other name: Cyclopentyl
- 1558 fentanyl);
- 1559 N-phenyl-N-(1-methyl-4-piperidiny)-propanamide (other name: N-methyl norfentanyl);
- 1560 N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names:
- 1561 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);
- 1562 N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-2-butenamide (other name: Crotonyl fentanyl);
- 1563 N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidiny]-propanamide (other name: 4-phenylfentanyl).
- 1564 2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless
- 1565 specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible
- 1566 within the specific chemical designation:
- 1567 Acetorphine;
- 1568 Acetyldihydrocodeine;
- 1569 Benzylmorphine;
- 1570 Codeine methylbromide;
- 1571 Codeine-N-Oxide;
- 1572 Cyprenorphine;
- 1573 Desomorphine;
- 1574 Dihydromorphine;
- 1575 Drotebanol;
- 1576 Etorphine;
- 1577 Heroin;
- 1578 Hydromorphanol;
- 1579 Methyl-desorphine;
- 1580 Methyl-dihydromorphine;
- 1581 Morphine methylbromide;
- 1582 Morphine methylsulfonate;
- 1583 Morphine-N-Oxide;
- 1584 Myrophine;
- 1585 Nicocodeine;
- 1586 Nicomorphine;
- 1587 Normorphine;
- 1588 Pholcodine;
- 1589 Thebacon.
- 1590 3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture,
- 1591 or preparation, which contains any quantity of the following hallucinogenic substances, or which
- 1592 contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers,
- 1593 and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision
- 1594 only, the term "isomer" includes the optical, position, and geometric isomers):
- 1595 Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine;
- 1596 3-2-aminobutyl] indole; a-ET; AET);
- 1597 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:

- 1598 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB; 2C-B; Nexus);
- 1599 3,4-methylenedioxy amphetamine;
- 1600 5-methoxy-3,4-methylenedioxy amphetamine;
- 1601 3,4,5-trimethoxy amphetamine;
- 1602 Alpha-methyltryptamine (other name: AMT);
- 1603 Bufotenine;
- 1604 Diethyltryptamine;
- 1605 Dimethyltryptamine;
- 1606 4-methyl-2,5-dimethoxyamphetamine;
- 1607 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 1608 4-fluoro-N-ethylamphetamine;
- 1609 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
- 1610 Ibogaine;
- 1611 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
- 1612 Lysergic acid diethylamide;
- 1613 Mescaline;
- 1614 Parahexyl (some trade or other names:
- 1615 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);
- 1616 Peyote;
- 1617 N-ethyl-3-piperidyl benzilate;
- 1618 N-methyl-3-piperidyl benzilate;
- 1619 Psilocybin;
- 1620 Psilocyn;
- 1621 Salvinorin A;
- 1622 Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is
- 1623 possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp
- 1624 product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3
- 1625 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed
- 1626 in compliance with state or federal law; (iii) marijuana; or (iv) dronabinol in sesame oil and
- 1627 encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug
- 1628 Administration;
- 1629 Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);
- 1630 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine;
- 1631 2,5-DMA);
- 1632 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts
- 1633 and salts of isomers;
- 1634 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4
- 1635 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
- 1636 N-hydroxy-3,4-methylenedioxyamphetamine (some other names:
- 1637 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
- 1638 4-bromo-2,5-dimethoxyamphetamine (some trade or other names:
- 1639 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
- 1640 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine;
- 1641 paramethoxyamphetamine; PMA);
- 1642 Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine,
- 1643 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
- 1644 Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy,
- 1645 PHP);
- 1646 Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine,
- 1647 2-thienyl analog of phencyclidine, TPCP, TCP);
- 1648 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
- 1649 3,4-methylenedioxypyrovalerone (other name: MDPV);
- 1650 4-methylmethcathinone (other names: mephedrone, 4-MMC);
- 1651 3,4-methylenedioxymethcathinone (other name: methylone);
- 1652 Naphthylpyrovalerone (other name: naphyrone);
- 1653 4-fluoromethcathinone (other name: flephedrone, 4-FMC);
- 1654 4-methoxymethcathinone (other names: methedrone; bk-PMMA);
- 1655 Ethcathinone (other name: N-ethylcathinone);
- 1656 3,4-methylenedioxyethcathinone (other name: ethylone);
- 1657 Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
- 1658 N,N-dimethylcathinone (other name: metamfetramone);

- 1659** Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);  
**1660** 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);  
**1661** 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);  
**1662** Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);  
**1663** 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);  
**1664** 3-fluoromethcathinone (other name: 3-FMC);  
**1665** 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);  
**1666** 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);  
**1667** 4-Methylethcathinone (other name: 4-MEC);  
**1668** 4-Ethylmethcathinone (other name: 4-EMC);  
**1669** N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);  
**1670** Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);  
**1671** Alpha-methylamino-butyrophenone (other name: Buphedrone);  
**1672** Alpha-methylamino-valerophenone (other name: Pentedrone);  
**1673** 3,4-Dimethylmethcathinone (other name: 3.4-DMMC);  
**1674** 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);  
**1675** 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I,  
**1676** 25I-NBOMe, 2C-I-NBOMe);  
**1677** Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);  
**1678** 4-Fluoromethamphetamine (other name: 4-FMA);  
**1679** 4-Fluoroamphetamine (other name: 4-FA);  
**1680** 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);  
**1681** 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);  
**1682** 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);  
**1683** 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);  
**1684** 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);  
**1685** 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);  
**1686** 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);  
**1687** (2-aminopropyl)benzofuran (other name: APB);  
**1688** (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);  
**1689** 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names:  
**1690** 2C-C-NBOMe, 25C-NBOMe, 25C);  
**1691** 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names:  
**1692** 2C-B-NBOMe, 25B-NBOMe, 25B);  
**1693** Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);  
**1694** Benocyclidine (other names: BCP, BTCP);  
**1695** Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);  
**1696** 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);  
**1697** 4-bromomethcathinone (other name: 4-BMC);  
**1698** 4-chloromethcathinone (other name: 4-CMC);  
**1699** 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);  
**1700** Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);  
**1701** Alpha-Pyrrolidinoheptiophenone (other name: PV8);  
**1702** 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);  
**1703** Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);  
**1704** Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);  
**1705** 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);  
**1706** 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);  
**1707** 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);  
**1708** 4-Chloroethcathinone (other name: 4-CEC);  
**1709** 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);  
**1710** 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);  
**1711** (2-Methylaminopropyl)benzofuran (other name: MAPB);  
**1712** 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone,  
**1713** Dipentylone);  
**1714** 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);  
**1715** 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);  
**1716** 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);  
**1717** 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);  
**1718** 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);  
**1719** 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);  
**1720** 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);

- 1721 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);  
 1722 4-methyl-alpha-ethylaminopentiophenone;  
 1723 4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);  
 1724 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);  
 1725 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);  
 1726 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);  
 1727 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);  
 1728 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);  
 1729 2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);  
 1730 2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);  
 1731 2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);  
 1732 Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);  
 1733 N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);  
 1734 4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);  
 1735 N-ethyl-1,2-diphenylethylamine (other name: Ephedrine);  
 1736 2,5-dimethoxy-4-chloroamphetamine (other name: DOC);  
 1737 3,4-methylenedioxy-N-tert-butylcathinone.  
 1738 4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture  
 1739 or preparation which contains any quantity of the following substances having a depressant effect on the  
 1740 central nervous system, including its salts, isomers and salts of isomers whenever the existence of such  
 1741 salts, isomers and salts of isomers is possible within the specific chemical designation:  
 1742 Clonazepam;  
 1743 Etizolam;  
 1744 Flualprazolam;  
 1745 Flubromazepam;  
 1746 Flubromazolam;  
 1747 Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate;  
 1748 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);  
 1749 Mecloqualone;  
 1750 Methaqualone.  
 1751 5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture  
 1752 or preparation which contains any quantity of the following substances having a stimulant effect on the  
 1753 central nervous system, including its salts, isomers and salts of isomers:  
 1754 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);  
 1755 Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;  
 1756 4,5-dihydro-5-phenyl-2-oxazolamine);  
 1757 Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,  
 1758 2-aminopropiophenone, norephedrine), and any plant material from which Cathinone may be derived;  
 1759 Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);  
 1760 Ethylamphetamine;  
 1761 Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);  
 1762 Fenethylamine;  
 1763 Methcathinone (some other names: 2-(methylamino)-propiophenone;  
 1764 alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one;  
 1765 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrine; N-methylcathinone;  
 1766 methylcathinone; AL-464; AL-422; AL-463 and UR 1432);  
 1767 N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);  
 1768 N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N,  
 1769 N-alpha-trimethylphenethylamine);  
 1770 Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);  
 1771 Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate).  
 1772 6. Any substance that contains one or more cannabimimetic agents or that contains their salts,  
 1773 isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is  
 1774 possible within the specific chemical designation, and any preparation, mixture, or substance containing,  
 1775 or mixed or infused with, any detectable amount of one or more cannabimimetic agents.  
 1776 a. "Cannabimimetic agents" includes any substance that is within any of the following structural  
 1777 classes:  
 1778 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or  
 1779 alkenyl, whether or not substituted on the cyclohexyl ring to any extent;  
 1780 3-(1-naphthyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of  
 1781 the indole ring, whether or not further substituted on the indole ring to any extent, whether or not

- 1782 substituted on the naphthoyl or naphthyl ring to any extent;
- 1783 3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not
- 1784 further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to
- 1785 any extent;
- 1786 1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not
- 1787 further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to
- 1788 any extent;
- 1789 3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring,
- 1790 whether or not further substituted in the indole ring to any extent, whether or not substituted on the
- 1791 phenyl ring to any extent;
- 1792 3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
- 1793 substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any
- 1794 extent;
- 1795 3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
- 1796 substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any
- 1797 extent;
- 1798 N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring,
- 1799 whether or not further substituted on the indole ring to any extent, whether or not substituted on the
- 1800 adamantyl ring to any extent; and
- 1801 N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring,
- 1802 whether or not further substituted on the indazole ring to any extent, whether or not substituted on the
- 1803 adamantyl ring to any extent.
- 1804 b. The term "cannabimimetic agents" includes:
- 1805 5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);
- 1806 5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);
- 1807 5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);
- 1808 5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);
- 1809 1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);
- 1810 1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);
- 1811 1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);
- 1812 1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);
- 1813 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);
- 1814 (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-ter
- 1815 ahydrobenzo[c]chromen-1-ol (other name: HU-210);
- 1816 1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);
- 1817 1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);
- 1818 1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);
- 1819 1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);
- 1820 1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);
- 1821 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);
- 1822 1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);
- 1823 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);
- 1824 1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);
- 1825 Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other
- 1826 name: WIN 48,098);
- 1827 1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);
- 1828 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);
- 1829 1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
- 1830 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11,
- 1831 5-fluoro-UR-144);
- 1832 N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
- 1833 N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
- 1834 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
- 1835 (8-quinoliny)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
- 1836 (8-quinoliny)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
- 1837 (8-quinoliny)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
- 1838 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
- 1839 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name:
- 1840 AB-FUBINACA);
- 1841 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
- 1842 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name:
- 1843 ADB-PINACA);

1844 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name:  
 1845 AB-CHMINACA);  
 1846 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:  
 1847 5-fluoro-AB-PINACA);  
 1848 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other  
 1849 names: ADB-CHMINACA, MAB-CHMINACA);  
 1850 Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name:  
 1851 5-fluoro-AMB);  
 1852 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);  
 1853 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);  
 1854 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);  
 1855 N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide  
 1856 (other name: ADB-FUBINACA);  
 1857 Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:  
 1858 MDMB-FUBINACA);  
 1859 Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names:  
 1860 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);  
 1861 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other  
 1862 names: AMB-FUBINACA, FUB-AMB);  
 1863 N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);  
 1864 N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);  
 1865 N-(adamantan-1-yl)-1-(5-chloropentyl)indazole-3-carboxamide (other name: 5-chloro-AKB48);  
 1866 Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);  
 1867 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name:  
 1868 AB-CHMICA);  
 1869 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);  
 1870 Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);  
 1871 Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);  
 1872 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:  
 1873 5-fluoro-ADB-PINACA);  
 1874 1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano  
 1875 CUMYL-BUTINACA).  
 1876 2. That the provisions of this act shall serve as the resolution of the General Assembly in  
 1877 expressing its opposition to 23 U.S.C. § 159(a)(3)(A).  
 1878 3. That the Governor shall provide the necessary certifications required pursuant to 23 U.S.C.  
 1879 § 159(a)(3)(B).  
 1880 4. That the Secretaries of Agriculture and Forestry, Finance, Health and Human Resources, and  
 1881 Public Safety and Homeland Security shall convene a work group to study the impact on the  
 1882 Commonwealth of legalizing the sale and personal use of marijuana. The work group shall consult  
 1883 with the Attorney General of Virginia, the Commissioner of the Department of Taxation, the  
 1884 Commissioner of the Virginia Department of Agriculture and Consumer Services, the Executive  
 1885 Director of the Board of Pharmacy, the Director for the Center for Urban and Regional Analysis  
 1886 at the Virginia Commonwealth University L. Douglas Wilder School of Government and Public  
 1887 Affairs, the Virginia State Crime Commission, the Virginia Association of Commonwealth's  
 1888 Attorneys, the Executive Director of Virginia NORML, a representative of the Virginia Alcoholic  
 1889 Beverage Control Authority, a representative of a current manufacturer of medical cannabis in  
 1890 Virginia, a medical professional, a member of a historically disadvantaged community, a  
 1891 representative of a substance abuse organization, and a representative of a community services  
 1892 board. In conducting its study, the work group shall review the legal and regulatory frameworks  
 1893 that have been established in states that have legalized the sale and personal use of marijuana and  
 1894 shall examine the feasibility of legalizing the sale and personal use of marijuana, the potential  
 1895 revenue impact of legalization on the Commonwealth, the legal and regulatory framework  
 1896 necessary to successfully implement legalization in the Commonwealth, and the health effects of  
 1897 marijuana use. The work group shall complete its work and report its recommendations to the  
 1898 General Assembly and the Governor by November 30, 2020.