

20109521D

SENATE BILL NO. 2

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 5, 2020)

(Patrons Prior to Substitute—Senators Ebbin and Morrissey [SB 815])

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

60 of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

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

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

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

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

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

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

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

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

92 "Child in need of supervision" means:

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

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

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

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

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

119 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed
120 a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been
121 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 and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal

183 status created by court order of joint custody as defined in § 20-107.2.

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

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

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

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

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

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

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

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

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

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

235 **§ 16.1-260. Intake; petition; investigation.**

236 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
237 a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
238 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
239 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
240 and the processing of petitions to initiate a case shall be the responsibility of the intake officer.
241 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own
242 motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may
243 complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement
244 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 ~~(1)~~ (A) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, ~~(2)~~ (B) create an

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

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

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

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

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

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

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

360 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
361 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;

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

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

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

366 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
367 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 *is* 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. 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.

§ 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.

"Board" means the Board of Pharmacy.

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

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

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

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a

single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as 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 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 its resin, or any extract containing one or more cannabinoids; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana shall 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.

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

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative,

or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain 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.

1044 "Prescription drug" means any drug required by federal law or regulation to be dispensed only
1045 pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of
1046 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

1047 "Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a
1048 controlled substance or marijuana.

1049 "Proprietary medicine" means a completely compounded nonprescription drug in its unbroken,
1050 original package which does not contain any controlled substance or marijuana as defined in this chapter
1051 and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general
1052 public by or under the authority of the manufacturer or primary distributor, under a trademark, trade
1053 name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of
1054 this chapter and applicable federal law. However, this definition shall not include a drug that is only
1055 advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic,
1056 a drug that may be dispensed only upon prescription or the label of which bears substantially the
1057 statement "Warning — may be habit-forming," or a drug intended for injection.

1058 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei
1059 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or
1060 radionuclide generator that is intended to be used in the preparation of any such substance, but does not
1061 include drugs such as carbon-containing compounds or potassium-containing salts that include trace
1062 quantities of naturally occurring radionuclides. The term also includes any biological product that is
1063 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

1064 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.
1065 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food
1066 and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to
1067 42 U.S.C. § 262(k).

1068 "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any
1069 person, whether as an individual, proprietor, agent, servant, or employee.

1070 "Therapeutically equivalent drug products" means drug products that contain the same active
1071 ingredients and are identical in strength or concentration, dosage form, and route of administration and
1072 that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration
1073 pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent
1074 edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as
1075 the "Orange Book."

1076 "Third-party logistics provider" means a person that provides or coordinates warehousing of or other
1077 logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale
1078 distributor, or dispenser of the drug or device but does not take ownership of the product or have
1079 responsibility for directing the sale or disposition of the product.

1080 "USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

1081 "Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party
1082 logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or
1083 devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI
1084 prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be
1085 subject to any state or local tax by reason of this definition.

1086 "Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers
1087 or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer
1088 pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security
1089 Act.

1090 "Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed
1091 partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

1092 The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter
1093 shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses
1094 or lenses for the eyes.

1095 The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be
1096 defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

1097 **§ 54.1-3401. (Effective July 1, 2020) Definitions.**

1098 As used in this chapter, unless the context requires a different meaning:

1099 "Administer" means the direct application of a controlled substance, whether by injection, inhalation,
1100 ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his
1101 authorized agent and under his direction or (ii) the patient or research subject at the direction and in the
1102 presence of the practitioner.

1103 "Advertisement" means all representations disseminated in any manner or by any means, other than
1104 by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the
1105 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.

"Board" means the Board of Pharmacy.

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

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

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

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

1167 represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous
1168 system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect
1169 on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance
1170 analog" does not include (a) any substance for which there is an approved new drug application as
1171 defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally
1172 recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and
1173 Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular
1174 person, any substance for which an exemption is in effect for investigational use for that person under
1175 § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that
1176 substance is pursuant to such exemption; or (c) any substance to the extent not intended for human
1177 consumption before such an exemption takes effect with respect to that substance.

1178 "DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor
1179 agency.

1180 "Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by
1181 this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI
1182 prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a
1183 manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor,
1184 warehouser, nonresident warehouser, third-party logistics provider, or nonresident third-party logistics
1185 provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

1186 "Device" means instruments, apparatus, and contrivances, including their components, parts, and
1187 accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in
1188 man or animals or to affect the structure or any function of the body of man or animals.

1189 "Dialysis care technician" or "dialysis patient care technician" means an individual who is certified
1190 by an organization approved by the Board of Health Professions pursuant to Chapter 27.01
1191 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner,
1192 physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis
1193 treatments in a Medicare-certified renal dialysis facility.

1194 "Dialysis solution" means either the commercially available, unopened, sterile solutions whose
1195 purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal
1196 dialysis, or commercially available solutions whose purpose is to be used in the performance of
1197 hemodialysis not to include any solutions administered to the patient intravenously.

1198 "Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the
1199 lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or
1200 compounding necessary to prepare the substance for that delivery. However, dispensing shall not include
1201 the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites
1202 operated by such practitioner or that practitioner's medical practice for the purpose of administration of
1203 such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For
1204 practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a
1205 practitioner to patients to take with them away from the practitioner's place of practice.

1206 "Dispenser" means a practitioner who dispenses.

1207 "Distribute" means to deliver other than by administering or dispensing a controlled substance.

1208 "Distributor" means a person who distributes.

1209 "Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia
1210 National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to
1211 any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or
1212 prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect
1213 the structure or any function of the body of man or animals; (iv) articles or substances intended for use
1214 as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug"
1215 does not include devices or their components, parts, or accessories.

1216 "Drug product" means a specific drug in dosage form from a known source of manufacture, whether
1217 by brand or therapeutically equivalent drug product name.

1218 "Electronic prescription" means a written prescription that is generated on an electronic application
1219 and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be
1220 transmitted in accordance with 21 C.F.R. Part 1300.

1221 "Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an
1222 electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy
1223 form.

1224 "FDA" means the U.S. Food and Drug Administration.

1225 "Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any
1226 such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

1227 "Immediate precursor" means a substance which the Board of Pharmacy has found to be and by
1228 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 its 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, nor shall marijuana include~~ the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds 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.

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

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

1290 "Official written order" means an order written on a form provided for that purpose by the U.S. Drug
1291 Enforcement Administration, under any laws of the United States making provision therefor, if such
1292 order forms are authorized and required by federal law, and if no such order form is provided then on
1293 an official form provided for that purpose by the Board of Pharmacy.

1294 "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to
1295 morphine or being capable of conversion into a drug having such addiction-forming or
1296 addiction-sustaining liability. It does not include, unless specifically designated as controlled under
1297 Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
1298 (dextromethorphan). It does include its racemic and levorotatory forms.

1299 "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

1300 "Original package" means the unbroken container or wrapping in which any drug or medicine is
1301 enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor
1302 for use in the delivery or display of such article.

1303 "Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is
1304 currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and
1305 that complies with all applicable requirements of federal and state law, including the Federal Food,
1306 Drug, and Cosmetic Act.

1307 "Person" means both the plural and singular, as the case demands, and includes an individual,
1308 partnership, corporation, association, governmental agency, trust, or other institution or entity.

1309 "Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application
1310 for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in
1311 a manner complying with the laws and regulations for the practice of pharmacy and the sale and
1312 dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy
1313 and the pharmacy's personnel as required by § 54.1-3432.

1314 "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

1315 "Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01,
1316 licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified
1317 optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator,
1318 or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and
1319 administer, or conduct research with respect to a controlled substance in the course of professional
1320 practice or research in the Commonwealth.

1321 "Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue
1322 a prescription.

1323 "Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word
1324 of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed
1325 physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such
1326 drugs or medical supplies.

1327 "Prescription drug" means any drug required by federal law or regulation to be dispensed only
1328 pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of
1329 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

1330 "Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a
1331 controlled substance or marijuana.

1332 "Proprietary medicine" means a completely compounded nonprescription drug in its unbroken,
1333 original package which does not contain any controlled substance or marijuana as defined in this chapter
1334 and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general
1335 public by or under the authority of the manufacturer or primary distributor, under a trademark, trade
1336 name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of
1337 this chapter and applicable federal law. However, this definition shall not include a drug that is only
1338 advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic,
1339 a drug that may be dispensed only upon prescription or the label of which bears substantially the
1340 statement "Warning — may be habit-forming," or a drug intended for injection.

1341 "Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei
1342 with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or
1343 radionuclide generator that is intended to be used in the preparation of any such substance, but does not
1344 include drugs such as carbon-containing compounds or potassium-containing salts that include trace
1345 quantities of naturally occurring radionuclides. The term also includes any biological product that is
1346 labeled with a radionuclide or intended solely to be labeled with a radionuclide.

1347 "Reference biological product" means the single biological product licensed pursuant to 42 U.S.C.
1348 § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food
1349 and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to
1350 42 U.S.C. § 262(k).

1351 "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 pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

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

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

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

§ 54.1-3446. Schedule I.

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

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

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

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

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

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

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

Acetyl fentanyl (other name: desmethoxy fentanyl);

Acetylmethadol;

Allylprodine;

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

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

1413	Ethylmethylthiambutene;
1414	Etonitazene;
1415	Etoxadine;
1416	Furethidine;
1417	Hydroxypethidine;
1418	Ketobemidone;
1419	Levomoramide;
1420	Levophenacymorphan;
1421	Morpheridine;
1422	MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
1423	N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);
1424	N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);
1425	N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);
1426	N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);
1427	N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);
1428	N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);
1429	N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);
1430	N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other names: 2-fluorofentanyl, ortho-fluorofentanyl);
1431	N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: 3-fluorofentanyl);
1432	N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl);
1433	N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);
1434	N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);
1435	N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: para-fluoroisobutyl fentanyl);
1436	N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-butanamide (other name: para-fluorobutylfentanyl);
1437	N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: para-fluorofentanyl);
1438	Noracymethadol;
1439	Norlevorphanol;
1440	Normethadone;
1441	Norpipanone;
1442	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-furancarboxamide (other name: Furanyl fentanyl);
1443	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-propenamide (other name: Acryl fentanyl);
1444	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-butanamide (other name: butyl fentanyl);
1445	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-pentanamide (other name: Pentanoyl fentanyl);
1446	N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide (other name: thiofentanyl);
1447	Phenadoxone;
1448	Phenampromide;
1449	Phenomorphan;
1450	Phenoperidine;
1451	Piritramide;
1452	Proheptazine;
1453	Properidine;
1454	Propiram;
1455	Racemoramide;
1456	Tilidine;
1457	Trimeperidine;
1458	N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-1,3-benzodioxole-5-carboxamide (other name: Benzodioxole fentanyl);
1459	3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900);
1460	2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-48800);
1461	2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-51754);
1462	N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidyl]-acetamide (other name: Ocfentanil);

- 1475 N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name:
 1476 4-methoxybutyrylfentanyl);
 1477 N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: Isobutyryl fentanyl);
 1478 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-cyclopentanecarboxamide (other name: Cyclopentyl
 1479 fentanyl);
 1480 N-phenyl-N-(1-methyl-4-piperidinyl)-propanamide (other name: N-methyl norfentanyl);
 1481 N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names:
 1482 3,4-methylenedioxy U-47700 or 3,4-MDO-U-47700);
 1483 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butanamide (other name: Crotonyl fentanyl);
 1484 N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl).
 1485 2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless
 1486 specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible
 1487 within the specific chemical designation:
 1488 Acetorphine;
 1489 Acetyldihydrocodeine;
 1490 Benzylmorphine;
 1491 Codeine methylbromide;
 1492 Codeine-N-Oxide;
 1493 Cyprenorphine;
 1494 Desomorphine;
 1495 Dihydromorphine;
 1496 Drotebanol;
 1497 Etorphine;
 1498 Heroin;
 1499 Hydromorphenol;
 1500 Methyl-desorphine;
 1501 Methyl-dihydromorphine;
 1502 Morphine methylbromide;
 1503 Morphine methylsulfonate;
 1504 Morphine-N-Oxide;
 1505 Myrophine;
 1506 Nicocodeine;
 1507 Nicomorphine;
 1508 Normorphine;
 1509 Pholcodine;
 1510 Thebacon.
 1511 3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture,
 1512 or preparation, which contains any quantity of the following hallucinogenic substances, or which
 1513 contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers,
 1514 and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision
 1515 only, the term "isomer" includes the optical, position, and geometric isomers):
 1516 Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine;
 1517 3-2-aminobutyl] indole; a-ET; AET);
 1518 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:
 1519 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);
 1520 3,4-methylenedioxy amphetamine;
 1521 5-methoxy-3,4-methylenedioxy amphetamine;
 1522 3,4,5-trimethoxy amphetamine;
 1523 Alpha-methyltryptamine (other name: AMT);
 1524 Bufotenine;
 1525 Diethyltryptamine;
 1526 Dimethyltryptamine;
 1527 4-methyl-2,5-dimethoxyamphetamine;
 1528 2,5-dimethoxy-4-ethylamphetamine (DOET);
 1529 4-fluoro-N-ethylamphetamine;
 1530 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
 1531 Ibogaine;
 1532 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
 1533 Lysergic acid diethylamide;
 1534 Mescaline;
 1535 Parahexyl (some trade or other names:

- 1536 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenz o [b,d] pyran; Synhexyl);
- 1537 Peyote;
- 1538 N-ethyl-3-piperidyl benzilate;
- 1539 N-methyl-3-piperidyl benzilate;
- 1540 Psilocybin;
- 1541 Psilocyn;
- 1542 Salvinorin A;
- 1543 Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is
- 1544 possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp
- 1545 product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3
- 1546 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed
- 1547 in compliance with state or federal law; (iii) marijuana; or (iv) dronabinol in sesame oil and
- 1548 encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug
- 1549 Administration;
- 1550 Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);
- 1551 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine;
- 1552 2,5-DMA);
- 1553 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts
- 1554 and salts of isomers;
- 1555 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4
- 1556 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
- 1557 N-hydroxy-3,4-methylenedioxyamphetamine (some other names:
- 1558 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
- 1559 4-bromo-2,5-dimethoxyamphetamine (some trade or other names:
- 1560 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
- 1561 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine;
- 1562 paramethoxyamphetamine; PMA);
- 1563 Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine,
- 1564 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
- 1565 Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy,
- 1566 PHP);
- 1567 Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine,
- 1568 2-thienyl analog of phencyclidine, TCPCP, TCP);
- 1569 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
- 1570 3,4-methylenedioxypropyrolvalerone (other name: MDPV);
- 1571 4-methylmethcathinone (other names: mephedrone, 4-MMC);
- 1572 3,4-methylenedioxymethcathinone (other name: methylone);
- 1573 Naphthylpyrovalerone (other name: naphyrone);
- 1574 4-fluoromethcathinone (other name: flephedrone, 4-FMC);
- 1575 4-methoxymethcathinone (other names: methedrone; bk-PMMA);
- 1576 Ethcathinone (other name: N-ethylcathinone);
- 1577 3,4-methylenedioxyethcathinone (other name: ethylone);
- 1578 Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
- 1579 N,N-dimethylcathinone (other name: metamfepramone);
- 1580 Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
- 1581 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
- 1582 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
- 1583 Alpha-pyrrolidinovaleophenone (other name: alpha-PVP);
- 1584 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
- 1585 3-fluoromethcathinone (other name: 3-FMC);
- 1586 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
- 1587 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
- 1588 4-Methylethcathinone (other name: 4-MEC);
- 1589 4-Ethylmethcathinone (other name: 4-EMC);
- 1590 N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
- 1591 Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);
- 1592 Alpha-methylamino-butyrophenone (other name: Buphedrone);
- 1593 Alpha-methylamino-valerophenone (other name: Pentedrone);
- 1594 3,4-Dimethylmethcathinone (other name: 3,4-DMMC);
- 1595 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);
- 1596 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I,
- 1597 25I-NBOMe, 2C-I-NBOMe);

- 1598 Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);
 1599 4-Fluoromethamphetamine (other name: 4-FMA);
 1600 4-Fluoroamphetamine (other name: 4-FA);
 1601 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);
 1602 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);
 1603 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);
 1604 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);
 1605 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);
 1606 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);
 1607 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);
 1608 (2-aminopropyl)benzofuran (other name: APB);
 1609 (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);
 1610 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names:
 1611 2C-C-NBOMe, 25C-NBOMe, 25C);
 1612 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names:
 1613 2C-B-NBOMe, 25B-NBOMe, 25B);
 1614 Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);
 1615 Benocyclidine (other names: BCP, BTCP);
 1616 Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);
 1617 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);
 1618 4-bromomethylcathinone (other name: 4-BMC);
 1619 4-chloromethylcathinone (other name: 4-CMC);
 1620 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);
 1621 Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);
 1622 Alpha-Pyrrolidinoheptiophenone (other name: PV8);
 1623 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);
 1624 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);
 1625 Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B);
 1626 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);
 1627 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);
 1628 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);
 1629 4-Chloroethylcathinone (other name: 4-CEC);
 1630 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);
 1631 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);
 1632 (2-Methylaminopropyl)benzofuran (other name: MAPB);
 1633 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone,
 1634 Dipentylone);
 1635 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9);
 1636 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);
 1637 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaldine);
 1638 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);
 1639 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentadron);
 1640 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);
 1641 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);
 1642 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);
 1643 4-methyl-alpha-ethylaminopentiophenone;
 1644 4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);
 1645 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);
 1646 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);
 1647 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);
 1648 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);
 1649 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);
 1650 2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine);
 1651 2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine);
 1652 2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP);
 1653 Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone);
 1654 N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE);
 1655 4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP);
 1656 N-ethyl-1,2-diphenylethylamine (other name: Ephedrine);
 1657 2,5-dimethoxy-4-chloroamphetamine (other name: DOC);
 1658 3,4-methylenedioxy-N-tert-butylcathinone.

- 1659 4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
1660 or preparation which contains any quantity of the following substances having a depressant effect on the
1661 central nervous system, including its salts, isomers and salts of isomers whenever the existence of such
1662 salts, isomers and salts of isomers is possible within the specific chemical designation:
- 1663 Clonazepam;
1664 Etizolam;
1665 Flualprazolam;
1666 Flubromazepam;
1667 Flubromazepam;
1668 Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate;
1669 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
1670 Mecloqualone;
1671 Methaqualone.
- 1672 5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
1673 or preparation which contains any quantity of the following substances having a stimulant effect on the
1674 central nervous system, including its salts, isomers and salts of isomers:
- 1675 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
1676 Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;
1677 4,5-dihydro-5-phenyl-2-oxazolamine);
1678 Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
1679 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
1680 Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
1681 Ethylamphetamine;
1682 Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);
1683 Fenethylamine;
1684 Methcathinone (some other names: 2-(methylamino)-propionophenone;
1685 alpha-(methylamino)-propionophenone; 2-(methylamino)-1-phenylpropan-1-one;
1686 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;
1687 methylcathinone; AL-464; AL-422; AL-463 and UR 1432);
1688 N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);
1689 N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N,
1690 N-alpha-trimethylphenethylamine);
1691 Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);
1692 Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate).
- 1693 6. Any substance that contains one or more cannabimimetic agents or that contains their salts,
1694 isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is
1695 possible within the specific chemical designation, and any preparation, mixture, or substance containing,
1696 or mixed or infused with, any detectable amount of one or more cannabimimetic agents.
- 1697 a. "Cannabimimetic agents" includes any substance that is within any of the following structural
1698 classes:
- 1699 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or
1700 alkenyl, whether or not substituted on the cyclohexyl ring to any extent;
- 1701 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of
1702 the indole ring, whether or not further substituted on the indole ring to any extent, whether or not
1703 substituted on the naphthoyl or naphthyl ring to any extent;
- 1704 3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not
1705 further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to
1706 any extent;
- 1707 1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not
1708 further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to
1709 any extent;
- 1710 3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring,
1711 whether or not further substituted in the indole ring to any extent, whether or not substituted on the
1712 phenyl ring to any extent;
- 1713 3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
1714 substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any
1715 extent;
- 1716 3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further
1717 substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any
1718 extent;
- 1719 N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring,
1720 whether or not further substituted on the indole ring to any extent, whether or not substituted on the

- 1721 adamantyl ring to any extent; and
- 1722 N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring,
- 1723 whether or not further substituted on the indazole ring to any extent, whether or not substituted on the
- 1724 adamantyl ring to any extent.
- 1725 b. The term "cannabimimetic agents" includes:
- 1726 5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);
- 1727 5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);
- 1728 5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);
- 1729 5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);
- 1730 1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);
- 1731 1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);
- 1732 1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);
- 1733 1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);
- 1734 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);
- 1735 (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-ter
- 1736 ahydrobenzo[c]chromen-1-ol (other name: HU-210);
- 1737 1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);
- 1738 1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);
- 1739 1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);
- 1740 1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);
- 1741 1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);
- 1742 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);
- 1743 1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);
- 1744 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);
- 1745 1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);
- 1746 Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other
- 1747 name: WIN 48,098);
- 1748 1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);
- 1749 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);
- 1750 1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
- 1751 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11,
- 1752 5-fluoro-UR-144);
- 1753 N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
- 1754 N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
- 1755 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
- 1756 (8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
- 1757 (8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
- 1758 (8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
- 1759 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
- 1760 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name:
- 1761 AB-FUBINACA);
- 1762 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
- 1763 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name:
- 1764 ADB-PINACA);
- 1765 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name:
- 1766 AB-CHMINACA);
- 1767 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:
- 1768 5-fluoro-AB-PINACA);
- 1769 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxa mide (other
- 1770 names: ADB-CHMINACA, MAB-CHMINACA);
- 1771 Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name:
- 1772 5-fluoro-AMB);
- 1773 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
- 1774 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
- 1775 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
- 1776 N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole- 3-carboxamide
- 1777 (other name: ADB-FUBINACA);
- 1778 Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name:
- 1779 MDMB-FUBINACA);
- 1780 Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names:
- 1781 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);

1782 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other
1783 names: AMB-FUBINACA, FUB-AMB);
1784 N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);
1785 N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);
1786 N-(adamantan-1-yl)-1-(5-chloropentyl)-1H-indazole-3-carboxamide (other name: 5-chloro-AKB48);
1787 Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);
1788 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name:
1789 AB-CHMICA);
1790 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);
1791 Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);
1792 Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);
1793 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:
1794 5-fluoro-ADB-PINACA);
1795 1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano
1796 CUMYL-BUTINACA).
1797 2. That the provisions of this act shall serve as the resolution of the General Assembly in
1798 expressing its opposition to 23 U.S.C. § 159(a)(3)(A).
1799 3. That the Governor shall provide the necessary certifications required pursuant to 23 U.S.C.
1800 § 159(a)(3)(B).
1801 4. That the Secretaries of Agriculture and Forestry, Finance, Health and Human Resources, and
1802 Public Safety and Homeland Security shall convene a work group to study the impact on the
1803 Commonwealth of legalizing the sale and personal use of marijuana. The work group shall consult
1804 with the Attorney General of Virginia, the Commissioner of the Department of Taxation, the
1805 Commissioner of the Virginia Department of Agriculture and Consumer Services, the Executive
1806 Director of the Board of Pharmacy, the Director for the Center for Urban and Regional Analysis
1807 at the Virginia Commonwealth University L. Douglas Wilder School of Government and Public
1808 Affairs, the Virginia State Crime Commission, the Virginia Association of Commonwealth's
1809 Attorneys, the Executive Director of Virginia NORML, a representative of the Virginia Alcoholic
1810 Beverage Control Authority, a representative of a current manufacturer of medical cannabis in
1811 Virginia, a medical professional, a member of a historically disadvantaged community, a
1812 representative of a substance abuse organization, and a representative of a community services
1813 board. In conducting its study, the work group shall review the legal and regulatory frameworks
1814 that have been established in states that have legalized the sale and personal use of marijuana and
1815 shall examine the feasibility of legalizing the sale and personal use of marijuana, the potential
1816 revenue impact of legalization on the Commonwealth, the legal and regulatory framework
1817 necessary to successfully implement legalization in the Commonwealth, and the health effects of
1818 marijuana use. The work group shall complete its work and report its recommendations to the
1819 General Assembly and the Governor by November 30, 2020.